

**May 20, 1948**

## **TREATY ON CIVIL RIGHTS AND CONSULAR PREROGATIVES BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE SPANISH STATE**

Note: The Agreement was concurred in by the Senate, S.R. No. 54, May 20, 1948. It entered Into force upon exchange of ratification by the Parties, December 22, 1948. It was proclaimed by the President, Proc. No. 119, s. 1949.

Reference: This Agreement is also published in I DFA TS No. 2, p. 198 and 70 UNTS, p. 143. The Presidential proclamation of the Agreement is published in 45 O.G. 554. (Feb. 1949)

The Government of the Republic of the Philippines and the Government of the Spanish State, being desirous of defining the rights, privileges, exemptions and immunities of the nationals and the consular officers of each High Contracting Party in the territories of the Other, have decided to conclude a treaty for that purpose and, to that end, have agreed as follows:

### **ARTICLE I**

The Filipinos in Spain and the Spaniards in the Philippines who are allowed to establish themselves in the territory of the Other High Contracting Party shall provide themselves with a document of identity issued by the diplomatic or consular agents of their country which certifies their nationality and other information's relative to their civil status. This document shall enable them to obtain the documents that, according to local laws and regulations, they should procure in order to enjoy the right of residence. However, the local authorities may forego the presentation of such document of identity in cases which they deem justifiable.

### **ARTICLE II**

The nationals of each of the High Contracting Parties, who are lawfully admitted for permanent residence, may establish themselves in the territories of the Other, in any place they deem convenient for the exercise of any peaceful or lawful pursuit, subject in all cases to compliance with local laws and regulations. They shall enjoy, in matters of procedure, the same treatment as is accorded to the nationals of the Other, with respect to the protection and security of their persons and property and in regard to all judicial, administrative and other legal proceedings.

### **ARTICLE III**

The properties of Filipino citizens in Spain and the properties of Spanish nationals in the Philippines shall not be taken for public use without just compensation, except as a punishment for crime.

### **ARTICLE IV**

1. When the Government of each of the High Contracting parties appoints a consular officer to exercise consular functions in the territories of the Other, it shall give notice thereof in writing to the Government of the High Contracting Party in whose

territory the appointee will act, requesting his recognition as such. The Government of each of the High Contracting Parties shall provide gratuitously the necessary exequatur to any consular officer of the Other Party upon the presentation of his consular patent or commission duly signed and sealed by the Chief of State of the country appointing him.

2. It is understood that the term "Consular Officer" used in this Treaty includes only consuls-general, consuls and vice-consuls who are not honorary.

3. Upon the incapacity, absence, or death of a consular officer having no subordinate consular officer at his post, the chancellor, administrative secretary, or any other ranking employee of the consulate, whose official status as such officer or employee in the consulate has previously been made known to the Government of the High Contracting Party in whose territory the consular function is being exercised, may temporarily exercise the consular functions of the incapacitated, absent or deceased consular officer, upon notification thereof by the diplomatic representative of his country to the competent local authorities who shall, if they find the substitute acceptable, issue such documents as according to local laws are requisite for the exercise of consular functions.

4. The consular officers of each High Contracting Party shall, upon their admission to the exercise of their duties, enjoy reciprocally, in the territories of the Other High Contracting Party, rights, privileges, exemptions and immunities no less favorable in any respect than those enjoyed by the consular officers of the same grade of any third country.

5. The officials of whatever class of each High Contracting party, whether national, provincial, or municipal, with whom the consular officers of the Other Party may have official intercourse, shall accord to such consular officers the highest consideration and protection in the exercise of their functions.

6. Substitute consular officers temporarily exercising consular functions under Paragraph 3 of this Article shall, while so acting, enjoy all the rights, privileges, exemptions, immunities, consideration and protection that were granted to the substituted officer, provided they are nationals of the country which appointed them.

7. A consular officer or a diplomatic officer of either High Contracting Party, a national of the country by which he is appointed and duly commissioned or accredited, may have, in the territories of the Other High Contracting Party, the rank also of a diplomatic officer or consular officer, as the case may be, it being understood that permission for him to exercise such dual functions shall have been duly granted by the Government of the High Contracting Party in the territories of which he shall exercise his functions.

## **ARTICLE V**

Consular officers and employees, nationals of the High Contracting Party by which they are appointed and who are not engaged in any private occupation for gain in the territories of the Other High Contracting Party where they exercise consular functions, shall be exempt from all forced billeting, whether military or otherwise; rendering service with the military, naval or air forces; the discharge of all types of administrative or police duties, and from the payment of direct taxes imposed on their persons or property by the State, Province or Municipality. They shall specifically be exempt from the payment of all taxes, national, state, provincial and municipal, on the salaries, allowances, fees or wages received by them in

compensation for consular services. However, they shall be subject to the payment of taxes, charges or assessments imposed on immovable property that they may personally own or possess in the territories of the High Contracting Party in which they exercise their consular functions, as well as to the payment of taxes on the income that they may derive from property of any kind situated within such territories.

## **ARTICLE VI**

No tax of any kind, national, state, provincial or municipal, shall be levied in the territories of either High Contracting Party on the Government of the High Contracting Party, or on any officer or employee of such High Contracting Party, in respect of any land or building acquired or leased by such Other High Contracting Party and used exclusively for the conduct of official business, except assessments levied for services or local public improvements by which the premises are benefited, provided the rights of each High Contracting Party to tax the owner of property leased to the Other High Contracting Party is not hereby abridged.

## **ARTICLE VII**

1. Movable properties, effects and objects of whatever kind, imported for official use in the consular offices and official consular residences of either High Contracting Party in the territories of the Other High Contracting Party shall be permitted entry into such territories free of all duty.

2. Consular officers of either High Contracting Party and members of their families and suites, including employees in a consulate and their families, shall be exempt from the payment of any duty in respect of the entry into the territories of the Other High Contracting Party of their baggage and all other personal property, whether preceding or accompanying them to a consular post, either upon first arrival or upon subsequent arrivals, or imported at any time while assigned to or employed at such post.

3. It is understood, however,

(a) That the exemptions provided in Paragraph 2 of this Article shall only be applicable to consular officers and members of their suites, including employees in a consulate and their families, who are nationals of the High Contracting Party by which they are appointed or employed and not engaged in any private occupation for gain within the territories of the Other High Contracting Party;

(b) That in the case of each consignment of articles imported for the personal use of consular officers or members of their families or suites, including employees in a consulate and their families, at any time during their official residence within the territories in which they exercise their official functions, a request for entry free of duty shall be made through diplomatic channels; and

(c) That nothing herein shall be construed to permit the entry into the territory of either High Contracting Party of any article the importation of which is specifically prohibited by law.

## **ARTICLE VIII**

1. Consular officers, nationals of the High Contracting Party by which they are appointed and not engaged in any private occupation for gain within the territory of the country in which they exercise their functions, shall be exempt from arrest in such territories when charged before a court of justice with the commission of an offense designated by local legislation as a crime and subjecting the individual guilty thereof to punishment by imprisonment.

2. In criminal cases, the attendance at court by a consular officer as witness may be demanded by the complainant, the defense or the court. The demand shall be made with all possible respect for the consular dignity and the duties of the office and, when so made, there shall be compliance on the part of the consular officer.

3. In civil cases, consular officers shall be subject to the jurisdiction of the courts in the territories of the High Contracting Party which receives them. When the testimony of a consular officer who is a national of the High Contracting Party which appoints him and who is not engaged in any private occupation for gain is considered necessary, he shall not refuse to give his testimony and it shall be taken orally or in writing at his residence or office and with due regard for his convenience without unnecessary delays. The officer should, however, voluntarily give his testimony at court whenever it is possible to do so without serious interference with his official duties.

4. Consular officers and employees in a consulate, previously acknowledged as such, shall in no case be required to testify in criminal or civil cases regarding acts performed by them in their official capacity, nor be required to produce official consular archives in court or to testify as to their contents.

## **ARTICLE IX**

1. The consular officers of either High Contracting Party may, in the territory of the Other, place over the outer door of their respective offices and at the official residence of the principal consular officer, the flag and the coat of arms of their country, with an appropriate inscription designating the nature of the office or official residence. They may also fly their respective national flags over the cars, ships, boats or aircraft used by them in their capacity as such consular officers.

2. The places in which are kept official consular documents of whatever kind, the register, correspondence, and other official documents comprising the consular archives, shall at all times be inviolable, and the local authorities shall not, under any pretext whatsoever, invade such premises or make any examination or seizure of official consular papers or property kept therein.

3. When the consular officers are engaged in business within the territories in which they exercise their functions, their private or business papers shall be kept absolutely and entirely separate from the consular official documents which are pending action or on file with the consular archives.

4. Consular offices shall not be used as places of asylum.

## **ARTICLE X**

1. Consular officers of either High Contracting Party shall have the right, within their respective consular districts, to apply to or address the local authorities of any class, for the purpose of protecting their co-nationals in the enjoyment of rights accruing to them by treaties or agreements between the two countries, or otherwise. They

may complain against the infraction of those rights, and if their complaint is not attended to, or if the decision of the local authorities is not considered satisfactory, they may appeal to the Government of the State in which they exercise their functions through the diplomatic agent of their country or, in default thereof, through their consul general or consul at the capital of the State.

2. The consular officers of either High Contracting Party shall, within their respective districts, have the right to interview, to communicate with and to advise co-nationals, and to make the inquiries that they deem necessary regarding any incident affecting the interest of said co-nationals, whom they may assist in proceedings before, or in their relations with, the authorities in the territories of the Other High Contracting Party. The local authorities shall immediately inform the consular officers of the Other High Contracting Party of the detention, arrest, or imprisonment of their nationals, and the said consular officers shall, upon notification to the appropriate authorities, be permitted without delay to visit and communicate with such nationals.

3. Nationals of either High Contracting Party in the territories of the Other High Contracting Party shall have the right at all times to communicate with consular officers of their country. Notices and communications to their respective consular officers from nationals of either High Contracting Party who are under detention or arrest or in prison, or are awaiting trial in the territories of the Other High Contracting Party shall be forwarded without delay by the local authorities to such consular officers.

## **ARTICLE XI**

1. Consular officers in pursuance of the laws of their respective countries shall have the right, within their respective consular district, to take and attest the oaths, affirmations or depositions of any occupant of a vessel of their country, or of any national of their country, or of any person having permanent residence within the territories of their country; to authenticate signatures; to draw up, attest, certify and authenticate unilateral acts, translations, deeds, testamentary dispositions and contract of the nationals of the High Contracting Party by which the consular officers are appointed; and to draw up, attest, certify and authenticate unilateral acts, deeds, contracts, testamentary dispositions and written instruments of any kind, which are intended to have application, execution and legal effect principally in the territories of the High Contracting Party by which the consular officers are appointed.

2. Instruments and documents thus executed and copies and translations thereof, when duly authenticated by the consular officer under his signature and official seal, shall be received as evidence in the territories of either High Contracting Party as original documents or authenticated copies, as the case may be, and shall have the same force and effect as if drawn by or executed before a notary public or other public officer duly authorized in the territories of the High Contracting Party to which the consular officer was appointed; provided, always, that such document shall have been drawn and executed in conformity with the laws and regulations of the country where they are designed to take effect.

## **ARTICLE XII**