

N° 1258.

**ALLEMAGNE ET
UNION DES RÉPUBLIQUES
SOVIÉTISTES SOCIALISTES**

Traité consulaire, avec protocole
final. Signé à Moscou, le 12
octobre 1925.

**GERMANY
AND UNION OF SOCIALIST
SOVIET REPUBLICS**

Consular Treaty, with Final Protocol.
Signed at Moscow, October 12,
1925.

¹ TRANSLATION.

No. 1258. — CONSULAR TREATY BETWEEN GERMANY AND THE UNION OF SOCIALIST SOVIET REPUBLICS, SIGNED AT MOSCOW, OCTOBER 12, 1925.

THE PRESIDENT OF THE GERMAN REICH, of the one part, and THE CENTRAL EXECUTIVE COMMITTEE OF THE UNION OF SOCIALIST SOVIET REPUBLICS, of the other part, with a view to concluding a consular treaty,

Have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE GERMAN REICH :

Count BROCKDORFF-RANTZAU, German Ambassador at Moscow ; and
Dr. Paul VON KOERNER, Wirklicher Geheimrat ;

THE CENTRAL EXECUTIVE COMMITTEE OF THE UNION OF SOCIALIST SOVIET REPUBLICS :

M. Maxime LITVINOFF, Acting People's Commissary for Foreign Affairs, Member of the Central Executive Committee of the Socialist Soviet Republics ; and

M. Jacob HANETZKY, Member of the Board of the People's Commissariat for Foreign Trade ;

Who, having communicated their full powers, which were found in good and due form, have agreed upon the following provisions :

SECTION I.

ADMISSION OF CONSULS.

Article 1.

Each of the Contracting Parties undertakes to admit into its territory consuls-general, consuls and vice-consuls of the other Party duly appointed by that Party in accordance with its own laws. Before appointment the consent of the other Party shall be obtained through the diplomatic channel.

The two Parties shall agree in each individual case on the various ports and commercial centres and the consular districts in respect of which such consuls shall be admitted.

Article 2.

Consuls-general, consuls and vice-consuls shall be entitled to discharge their official duties in the country to which they are deputed provided that they have been admitted in accordance with the forms prescribed as customary therein.

¹ Translated by the Secretariat of the League of Nations.

Upon presenting their commission they shall, as soon as possible, receive, free of charge, the exequatur or other warrant of admission. Their consular district shall be stated in the commission.

If in any particular case the State to which the consul is deputed considers that the exequatur or other warrant of admission must be withdrawn, it shall communicate its reasons in advance to the Government which has appointed the consul in question. The State to which he is deputed shall, however, be the sole judge of the adequacy of these reasons.

Article 3.

In the case of the death, inability to attend or absence of a consul-general, consul or vice-consul, his attachés, interpreters, chancery clerks or secretaries shall be authorised to conduct the consular business *ad interim*, provided that their official status shall have been notified in advance to the competent local authorities.

SECTION II.

PRIVILEGES AND IMMUNITIES OF CONSULAR OFFICIALS.

Article 4.

Consuls-general, consuls and vice-consuls shall be entitled to display on the building, in which the offices of their Consulate or Chancery are established, the arms of the State which has appointed them, with an inscription indicating the nature of their office. They shall further be entitled to fly the flag of their country on the above-mentioned building and on their private residence, as also upon all vehicles or vessels used by them in the performance of their duties.

Consuls-general, consuls and vice-consuls shall be entitled to the honours due to their official position, in particular, on all occasions when they represent their Government.

Article 5.

The consular archives shall at all times be inviolable. Under no pretext whatever shall the authorities of the State in which the Consulate is situated examine or seize any papers belonging to these archives. All official papers must be kept altogether separate from the private papers of the consular officials.

The authorities of the State to which the Consul is deputed shall not enter the offices and Chanceries without the consent of the chief consular official or of his deputy.

The authorities of the country to which the Consular officials are deputed shall not enter the residences of consuls-general, consuls and vice-consuls who are regular members of the consular service and who are nationals of the country which has appointed them, without the consent of these officials.

The offices and Chanceries and the private residences referred to in the second and third paragraphs, and the vehicles and vessels referred to in Article 4 shall not be used as places of asylum.

Article 6.

The consular representatives of both States and, in the case of consular representatives who are regular members of the consular service, also the officials attached to them and the persons in their service and in that of their officials, shall be exempt from all military obligations, contributions and billeting; they shall also be exempt in respect of the whole of their property from any confiscation, seizure or requisition, and, further, from any obligation of personal service laid

down by public law. Such exemptions shall only be granted if the persons in question are nationals of the country to whose consulate they are attached.

The immunities referred to in the first paragraph shall only apply to real property if such property is owned by the consular representative or the consuls, vice-consuls, Chancery clerks or chief secretaries attached to the Consulate, and if and in so far as such real property is utilised for the residence of the said persons or for the discharge of consular duties. These immunities shall not extend to real property belonging to honorary consuls.

Furthermore, persons enjoying the immunities mentioned in the first paragraph, with the exception of honorary consuls, shall be exempt from all taxes and levies of a direct or a personal character provided that they are nationals of the State to whose consulate they are attached. This exemption shall not extend to Customs duties, taxes on consumption and circulation (*Verkehrsabgaben*) or to real property situated in the State of residence, or business capital invested therein, or to the income therefrom. Neither shall such exemption extend to regularly recurrent emoluments or allowances paid from public funds in the State of residence in respect of present or past services or professional activities (salaries, pensions, half-pay, provident-fund benefits, etc.). These forms of income from such sources shall remain liable to taxation in the State of residence.

Article 7.

The persons exempted under Article 6, first paragraph, provided they are nationals of the State to whose consulate they are attached, shall be entitled to export or import their property at any time and in any form, with the exception of articles the import and export of which are forbidden by the laws of the country of residence, and in respect of which import or export licences may not be granted. The same shall apply to the estate of such persons in case of death.

The re-exportation of articles lawfully imported shall be allowed in all cases.

The provisions of the first and second paragraphs shall not apply to property used for trade purposes.

Article 8.

In the event of diplomatic relations being broken off between the Contracting States, the consular officials of both States and persons in their service, including their wives and children, in so far as such persons are not nationals of the country in which the consulate is situated, shall be free to leave the country within a fixed period, amounting to not less than six days.

The provisions of Articles 6 and 7 shall also apply to the property of such persons, and to their estate in case of death.

Article 9.

Coats-of-arms, flags and office furniture consigned to consular representatives for official use by the State which they represent shall be exempt from import and export duties.

Article 10.

Consuls-general, consuls and vice-consuls shall not be amenable in respect of the performance of their official duties to the jurisdiction of the country in which they have their official residence.

Article 11.

Consular officials entitled to the immunities provided for in Article 6, first paragraph, shall not be liable to arrest in the territory of the country to which they are deputed save in the execution

of a judicial sentence or in the case of prosecutions for an offence against the person, life or liberty of any human being or against public morals, or for counterfeiting or robbery (Raub), and if the offender has been found *in flagrante delicto*.

In case of the arrest or prosecution of a consular official, the diplomatic representative of his country shall be advised beforehand by the Government of the other Party provided there is no danger in the delay involved. Should previous information not be given on the ground that delay would be dangerous, the omission shall be made good as soon as possible.

Article 12.

The consular officials referred to in Article 11 shall be liable to be called as witnesses before the judicial authorities of the country of residence and must comply with an official request in writing to that effect from the said authorities. They shall not, however, be examined on matters relative to their official duties without the consent of their Government.

If the consul-general, consul or vice-consul, being a national of the Contracting Party which appointed him, is prevented from appearing by the exigencies of his service or by illness, the judicial authorities shall proceed to his residence in order to examine him orally, or to demand a written deposition in the form prescribed by the law of the country. The official shall be bound to comply with such a demand and shall, within the time notified to him, submit a written deposition furnished with his signature and official seal to the authorities of the country to which he is deputed.

Article 13.

Should a consul-general, consul or vice-consul die without leaving a duly authorised representative of his own country, the local authorities shall apply to the nearest consular or diplomatic representative of that country in order to have seals affixed to the consular archives. Should the nearest consular or diplomatic representative be prevented from doing so, the local authorities shall themselves proceed to seal the archives in the presence of the consular representative of a friendly Power and of two nationals of the State which appointed the deceased official.

The official record of such proceedings shall be drawn up in duplicate, one copy being sent to the nearest consular or diplomatic representative of the State which appointed the deceased official.

The procedure for the breaking of the seals with a view to handing over the archives to the new consular official shall be the same as that adopted for affixing the seals.

Article 14.

Each of the Contracting Parties undertakes, subject to reciprocity, to grant to the consular officials of the other Party all privileges and immunities which it may have granted or may grant in the future to consular officials of corresponding status and rank of any other Power.

Article 15.

The representatives of consuls-general, consuls and vice-consuls shall, during their temporary tenure of office, be entitled to the privileges and immunities attached to the post.

SECTION III.

CONSULAR POWERS.

Article 16.

It shall be the duty of consuls-general, consuls and vice-consuls to safeguard the rights and interests of the nationals of their country, and in particular, to protect and further their trade and shipping.

In the exercise of their official duties they shall be entitled to apply to the judicial and administrative authorities in their consular district and to make representations to them in case of infractions of the Treaties and Conventions in force between the two Parties or in case of violations of the general principles of international law. Should their representations not be entertained by the said authorities, they shall be entitled in the absence of a diplomatic representative to apply direct to the Government of the State to which they are deputed.

Article 17.

Consuls-general, consuls and vice-consuls shall be entitled, so far as they are authorised thereto by the laws of their own country :

(1) To receive depositions in their offices, in their own domiciles or in those of the parties concerned, or on board vessels of their own country, by nationals of the country they represent, or by members of the crew or by passengers in the said vessels ;

(2) To draw up or attest testamentary dispositions of nationals of the country which they represent ;

(3) To draw up or attest deeds-poll executed by nationals of the country which they represent, and deeds or contracts entered into between nationals of the said country, with the exception of deeds-poll and contracts referring to the conveyance of, or the imposition of servitudes on, real estate in the country in which their consular district is situated ;

(4) To attest the signatures of nationals of the country which they represent on deeds or contracts between these nationals and nationals of a third Power ;

(5) To draw up or attest deeds-poll and contracts of any kind whatever, irrespective of the nationality of the parties, provided that such deeds and contracts relate exclusively to objects situated in the territory of the country which the consular official represents or to business transactions to be concluded and carried out with the said country or to sea-going ships which fly the flag of the country which the consul in question represents ;

(6) To translate or authenticate all records of proceedings and documents of all kinds emanating from the authorities or officials of the country they represent.

All such deeds and contracts which have been drawn up or attested by consuls-general, consuls or vice-consuls and stamped with the official seal, also copies, extracts and translations of such documents attested by them and stamped with the official seal shall be regarded in the country in which the said officials exercise their functions as authentic or officially authenticated documents and shall have the same legal validity and shall be admitted as evidence in the same way as if they had been drawn up or attested by a public official of that country. If they refer to business to be transacted in the said country, records of proceedings or other documents shall be subject to the stamp duties or other charges laid down by the laws of that country.

Article 18.

Consuls-general, consuls and vice-consuls shall be entitled to issue passports to the nationals of the country which they represent and to give the visas necessary for entry into and for transit through that country.

Article 19.

Consuls-general, consuls and vice-consuls shall be entitled to perform marriages within the limits laid down by the law of the country they represent provided that both the parties are nationals of that country.

The officials concerned shall immediately notify the authorities of the country in which they reside of all marriages which they have performed.

Article 20.

Consuls-general, consuls and vice-consuls shall be entitled to draw up birth and death certificates in respect of nationals of the Contracting Party which they represent in conformity with the laws and regulations of that Party.

The persons concerned shall nevertheless be bound to notify the local authorities of births and deaths in accordance with the laws of the country.

Article 21.

Consuls-general, consuls and vice-consuls shall be entitled, in conformity with the laws in force in their own country, to appoint guardians and curators for nationals of the Party they represent. They shall also be entitled to supervise the manner in which the guardian or curator carries out his duties.

Article 22.

In case of the decease of a national of one of the Contracting Parties possessing property in the territory of the other, the duties of consuls shall be regulated by the provisions contained in the annex (agreement concerning inheritance).

Article 23.

Consuls-general, consuls and vice-consuls shall be entitled to facilitate the entry and clearance of vessels of their country and to render them official assistance while they remain in the consular district of these officials. For this purpose the latter shall be entitled, as soon as the vessels have been admitted to free pratique, to proceed in person or to send a deputy on board the said vessels; they may interrogate the members of the crew, examine the ship's papers, draw up the manifests, receive depositions from the members of the crew and the passengers concerning the voyage, destination and the events of the journey, and any other depositions which may be made, as provided in paragraph 1, sub-paragraph 1, of Article 17. They may also accompany members of the crew before the local Courts and administrative authorities and act as interpreters or intermediaries for them, if the presence of a consular official is not incompatible with the laws of the country.

Article 24.

In case of a legal enquiry (search, seizure, arrest, provisional detention, examination), execution of a warrant or any other official act necessitating measures of constraint in the port of one of the Contracting Parties on board a merchant vessel belonging to the other Party, the consul-general, consul or vice-consul who resides in that port or in the neighbourhood thereof and is in charge there of the interests of the country whose flag the vessel is flying must be notified of the exact time of the proceedings, and be invited to attend. If at the time indicated the consular official or his deputy fails to attend, the proceedings may take place in his absence. If the matter admits of no delay, or if the consular official does not reside in the port or in its neighbourhood, the proceedings may take place without his being previously informed; he shall nevertheless be notified as soon as possible and shall be informed at the same time of the reasons for which he was not notified earlier.

The above provisions shall also be applicable when members of the crew of a vessel have to be examined by the local authorities of the port or are required to make other statements on shore, unless the presence of a consular official would be incompatible with the laws of the country, or in the case of acts of voluntary jurisdiction and in particular of declarations drawn up at the request of a member of the crew of the vessel.

The consular official need not be notified when vessels are boarded in connection with Customs questions, passport or health control, or for the purpose of collecting navigation taxes.

Article 25.

Consuls-general, consuls and vice-consuls shall alone be responsible for the maintenance of order on board the merchant vessels of their country; they are alone entitled to deal with disputes arising between members of the crew, in particular, disputes relative to wages and the fulfilment of mutual obligations.

In case of disturbances occurring on board ship, the authorities of the country shall only be entitled to intervene if the disturbances are such as to constitute a breach of the peace or to disturb public order in the port or on shore, or if a person not belonging to the crew is involved. In all other cases the authorities of the country shall confine themselves to giving their assistance to the consular official and, in the absence of any such official, to the master of the vessel if the latter so request.

Article 26.

Consuls-general, consuls and vice-consuls shall be entitled to have members of the crews of warships or other vessels of their country, who have deserted the said ships or deliberately remained away from them, conducted to their ship or arrested with a view to their being sent back to their ship or conveyed to the country to which the ship belongs.

For this purpose the consular officials must apply in writing to the competent local authorities and prove by production of the official documents, in particular by certified extracts from the muster-roll of the crew, that the person wanted is a member of the crew of the vessel in question. In places in which there is no consular official, this request may be made by the master of the vessel subject to the same formalities. Surrender of the deserter may only be refused on the ground that he is a national of the country.

The local authorities shall detain arrested persons in the local prisons at the request and at the expense of the Consulate. If, within two months reckoned from the date of arrest, the consular official has not found an opportunity of sending the persons arrested back to their ship or of conveying them to the country whose flag the ship flies, they shall be released and cannot be again arrested for the same cause.

If the deserter has been guilty in the territory of the country in which he deserted of a crime or offence punishable under the laws of that country, his transfer to his ship may be postponed until the Courts of that country have given a decision on his case and till the sentence has been fully executed.

Article 27.

Should a vessel flying the flag of one of the Contracting Parties be wrecked on the coast of the other Party, the local authorities shall communicate the fact as soon as possible to the nearest consul-general, consul or vice-consul of the country to which the vessel belongs.

The local authorities shall only levy such charges in respect of measures taken for salvage or assistance as would be levied in similar circumstances on shipping of their own country.

Articles salvaged shall not be liable to Customs duties unless they come into the market for internal consumption under conditions laid down by the Customs regulations in force.

Article 28.

Except where otherwise agreed between the shipowners, freighters and underwriters, questions relating to damage suffered during the voyage by a vessel of one of the Contracting Parties, shall be settled by the consuls-general, consuls or vice-consuls of that Party if that vessel puts into a port within their consular district.

Such questions shall, however, be settled by the authorities of the country if the interests of a national of that country or of a third State are affected, and if no final settlement has been agreed upon.

Article 29.

The consular officials of each Contracting Party shall, subject to reciprocity, exercise in the territory of the other Party the same functions as the consular officials of the same category and rank of the most favoured nation.

SECTION IV.

FINAL PROVISIONS.

Article 30.

The provisions of Sections II and III of the present Treaty shall also apply to officials who are diplomatic representatives of their country and are entrusted with the exercise of consular duties, without prejudice to the privileges already enjoyed by these officials in accordance with the principles of international law.

Article 31.

The present Treaty, which has been drawn up in German and in Russian shall come into force one month after the exchange of ratifications and shall be valid for five years. The exchange of the instruments of ratification shall take place in Berlin.

If neither of the Contracting Parties has denounced the Treaty within one year before the expiration of the period of five years, it shall remain in force for one year from the date of its denunciation by either Party.

ANNEX TO ARTICLE 22.

(Agreement concerning inheritance.)

With regard to estates left by deceased nationals of one of the Contracting Parties in the territory of the other Party, the following provisions shall apply :

Paragraph 1.

In the case of the decease of a national of one of the Contracting Parties in the territory of the other, the competent local authorities shall immediately notify the competent consul of the State of which the deceased was a national, and communicate to him any information in their possession concerning the heirs, their places of residence, the value of the estate and what it consists of, and the existence of a will made by the deceased, if any.

If the place at which the death occurred is not situated within any consular district, the diplomatic representative of the State of which the deceased was a national shall be notified ; in such a case, the diplomatic representative shall assume the rights and duties of the consul arising out of the following provisions.

Similarly, if the consul of the State of which the deceased was a national first receives notification of the decease, he shall advise the local authorities.

The measures to be taken by the local authorities and by the consul in respect of movable property left by the deceased, shall be determined by Paragraphs 2 to 10, and in respect of real property by Paragraph 11.

Paragraph 2.

The taking of proper measures to safeguard the estate shall, in the first instance, be the duty of the competent local authorities. The latter may only take such measures as are necessary for maintaining the estate intact, such as the affixing of seals and the drawing up of an inventory. They shall invariably comply with the requests of the consul regarding measures of security.

The consul may, in accordance with the laws of the State he represents, either acting in conjunction with the local authorities or, if these authorities have not yet taken action, in their stead, either personally or through a representative appointed and legally empowered by him, affix his seal to the movable property and draw up an inventory of the estate. He shall for this purpose be entitled to obtain the assistance of the local authorities.

Except when prevented by special circumstances, the local authorities and the consul shall give each other an opportunity for co-operating in the measures for safeguarding the estate. If seals have been affixed, the local authorities whose co-operation has been requested shall, in particular, be entitled to add their seal to those already affixed. Should the local authorities not have taken part in these measures, a duly authenticated copy of the records of the proceedings and of the inventory of the estate shall be forwarded to them.

The same rules shall apply to the withdrawal of the measures of security, and especially to the removal of the seals, which should be effected conjointly by the local authorities and the consul. Either of these parties may, however, proceed alone to remove the seals if the other party gives its consent thereto or fails to attend in response to an invitation giving adequate notice of the time appointed. In the case of commercial, industrial or agricultural undertakings the affixing of seals shall, as a general rule, be omitted, in order that it may be possible for the undertaking to be operated.

Paragraph 3.

The local authorities shall make the announcements which are customary in the country or prescribed by law concerning the issue of probate and the summoning of heirs or creditors, and they shall inform the consular authorities of such notifications, without prejudice to the right of these authorities to issue similar notice.

Paragraph 4.

The settlement of the succession shall be left to the heirs and to the local authorities in accordance with the laws of the country. The consul shall, however, be entitled to take over the estate at any time.

In the case of settlement of the succession by the consular authorities, the provisions of Paragraphs 5 to 10 of the present Agreement shall apply.

Paragraph 5.

For the purposes of the settlement of the succession, the consul shall be entitled to demand that all property forming part of the estate, including the deceased's papers, shall be handed over to him by the local authorities, even if the said property is in the safe-keeping of these authorities. Similarly, the consul shall be entitled to require the handing over of any property forming part of the estate which is in the custody of other authorities, notaries, banking establishments, insurance companies and the like, or of private persons, subject to the same conditions as would have applied to such a demand if made by the deceased.

These provisions shall also apply to the testamentary dispositions made by the deceased, even if his testament has been taken into official custody, and without prejudice to the right of the authorities in whose custody it is to open it before handing it over. The consul shall, however, immediately deliver to the local authorities a duly authenticated copy of all testamentary dispositions which have come into his possession and have been opened.

Paragraph 6.

The consul shall keep within the country in which he exercises his functions all property forming part of the estate which he has taken over. It shall be his right and duty to take any measures which he may consider necessary in the interests of the heirs with a view to preserving the estate, or which may be necessary to comply with the obligations of the deceased or his heirs under public law. The consul shall, in particular, be bound to inform the competent authorities of the value of the estate. He may administer the estate either personally or through a representative appointed by him, and acting in his name and under his supervision. The consul shall be entitled to obtain the assistance of the local authorities.

The consul shall have the right either personally or through authorised representatives to administer commercial, industrial or agricultural undertakings of the deceased or to wind them up if he considers such a step necessary in the interests of the heirs. In such a case the heirs must previously be consulted.

Paragraph 7.

The consul shall be entitled to have all perishable goods or property, the preservation of which would be difficult or costly, sold by public auction in the manner prescribed by the laws and customs of the country, or in the open market.

The consul shall also be entitled to collect immediately from the estate the cost of the last illness and of the funeral of the deceased, the wages of his servants, employees and workmen, rent and any other sums necessary for the proper administration of the estate and, in case of need, the sums required for the maintenance of the family of the deceased, as well as legal costs, consular dues and similar charges.

Paragraph 8.

Compulsory execution may be levied on property forming part of the estate even if such property is in the custody of the consul. Should this execution necessitate the handing over of property forming part of the estate, the competent authorities shall request the consul to deliver such property, and the consul shall be bound to accede to the request.

In the event of bankruptcy proceedings being opened by the competent local authorities in respect of the estate situated within the country, the consul shall, if requested to do so, hand over to the local authorities or to the receiver in bankruptcy all articles in his custody in so far as they form part of the bankrupt estate. In such an event the consul shall be entitled to defend any interests which nationals of his country may possess in the estate.

In the cases referred to in Paragraphs 1 and 2, no direct measures of constraint may be taken against the consul.

Paragraph 9.

At the expiry of a period of six months from the date of the death of the person leaving property, the consul may hand over the estate to the heirs who shall have proved their rights thereto or, if these rights have not been proved, to the competent authorities of his own country. He may, however, not effect this delivery until all public taxes owed by the deceased and the succession duties have been paid or security given therefor, or before a settlement shall have been made or security given in respect of claims on the estate which have been notified to the consul and supported by satisfactory evidence, as also in respect of debts which have been notified to him by nationals or inhabitants of the State in the territory of which the estate is situated. This obligation towards prospective heirs and creditors of the estate shall lapse if the consul is not notified within a further period of six months that the claim to the succession or the debt has been admitted or has been sued for in the Courts of Justice.

Paragraph 10.

If the consul does not demand delivery, the local authorities shall be bound to hand over to the heirs, at the expiration of a period of six months, all property which forms part of the estate and is in their custody, provided the heirs have proved their right to the succession. The local authorities shall be entitled to retain after the expiration of that period property forming part of the estate as security for the payment of succession duties or debts on the estate and the claims of heirs, under the same conditions as those under which the consul is bound to retain such property, in accordance with Paragraph 9.

If the rights of the heirs to the succession have not been proved within six months from the date of the decease, the local authorities shall hand the estate over to the consul, together with all documents relating thereto.

Paragraph 11.

With regard to immovable property, the competent authorities of the State in which the said property is situated shall alone have the right and duty to take all measures laid down by the laws of the country, and in the same manner as in the case of estates of nationals of their own country. A certified copy of the inventory of the immovable property shall be transmitted to the competent consul as soon as possible.

If the consul has taken in his custody a will containing clauses relating to immovable property, he shall deliver the original to the local authorities at their request.

Paragraph 12.

In all questions relative to the opening of a succession to movable or immovable property left by deceased nationals of either State in the territory of the other, or relating to the administration and winding-up of such property, the consul shall be entitled to represent the absent heirs who are nationals of his country and have not appointed authorised agents in the other State. He shall in no circumstances be required by anybody to prove by the production of a special warrant that he is authorised thereto.

Paragraph 13.

The legal situation as regards succession to movable property shall be determined by the laws of the country of which the deceased was a national at the time of his death.

With regard to immovable property the legal situation as regards the succession shall be determined by the laws of the country in whose territory the property in question is situated.

In the absence of an heir or heirs to an estate, any rights appertaining to the State or to juridical persons under public law shall be regarded as rights of succession within the meaning of the present Annex.

If the State of which a testator was a national, or juridical persons under public law in that State, should possess a right of succession or reversion or be beneficiaries under a legacy, the estate shall be sold and the proceeds thereof handed over to that State unless the State of residence waives the right to claim such sale.

The liquidation of the estate and the proceedings connected therewith shall be carried out by the consul of the State entitled to the succession in agreement with the competent authorities of the State of residence.

If the liquidation of the estate is not completed within two years from the date of the decease, the competent authorities of the State of residence shall, if they so request, be solely entitled to liquidate the estate.

Paragraph 14.

Testamentary dispositions shall, as regards their form, be considered valid if effected in conformity with the laws of the place in which they were drawn up, or with the laws of the country of which the testator was a national at the time at which the will was drawn up. The same shall apply to the revocation of testamentary dispositions.

Paragraph 15.

A certificate concerning a matter of succession rights, in particular the rights of an heir or of an executor under a will (probate of a will or letters of administration) issued by the competent authority of the country of which the deceased was a national, in conformity with the laws of that country, shall be deemed sufficient, in the case of personal estate, to establish the legal position even in the territory of the other contracting State. An attestation by the consul or a diplomatic representative of the State of which the deceased was a national shall be deemed sufficient to establish the authenticity of such documents.

Paragraph 16.

The Courts of the country of which the testator was a national at the time of his death shall alone be competent to deal with actions brought to establish rights of succession, claims arising out of legacies and claims to legitimate shares of an estate as fixed by law, whenever such claims relate to movable property. The decisions of the Courts shall be recognised in the territory of the other State.

In the case of personal estate, the Courts of the State in whose territory the estate is situated shall alone be competent to deal with disputes of the kind referred to in the first paragraph.

Contested claims against the estate may be brought before the authorities of the country in which the property is situated, even if the action is brought against the other State.

Paragraph 17.

The above provisions shall also apply *mutatis mutandis* to movable and immovable property situated in the territory of one of the Contracting Parties and forming part of the estate of a national of the other Party who has died outside the said territory.

Paragraph 18.

If a member of the crew of a vessel belonging to one of the two countries should die in the territory of the other country, and if the deceased is not a national of the latter country, the amount of wages due to him and his personal effects shall be handed over to the consul of the country of which the vessel flies the flag.

If a national of one country should die when travelling in the territory of the other country, and if the deceased was not domiciled and had no habitual residence therein, the effects which he had with him shall be handed over to the consul of his own country.

The consul to whom the effects mentioned in the first and second paragraphs have been delivered shall deal with them in accordance with the laws of his country, after having discharged the debts contracted by the deceased during his stay in the other country.

Paragraph 19.

The Governments of the two Contracting Parties shall agree upon provisions regarding the application of the present Agreement to successions which have been opened before its coming into force, and have not yet been settled.

In faith whereof, the Plenipotentiaries have signed the present Agreement.

Done in duplicate at Moscow, October 12, 1925.

(Signed) BROCKDORFF-RANTZAU.

(Signed) VON KOERNER.

(Signed) M. LITVINOFF.

(Signed) HANETZKY.

FINAL PROTOCOL.

When concluding the above Consular Treaty, the two Contracting Parties have agreed upon the following provisions which shall form an integral part of the said Consular Treaty :

Ad Article 1.

(a) The Contracting Parties shall not, until further notice, avail themselves of their right to appoint honorary consuls in the territory of the other Party ;

(b) Consuls-general, consuls and vice-consuls in the regular consular service shall be nationals of the country which they represent.

Ad Article 6.

(a) Consular representatives, who are regular members of the consular service, the officials attached to them and persons in their service and in that of their officials, may not exercise any trade in the country of residence. The exercise of liberal professions shall not be regarded as a trade.

(b) The immunities granted under Article 6 to nationals of the country which the consul represents shall, until further notice, be also granted to nationals of other States who are in the consular service of the State which the consul represents, but who are not nationals of the State to which he is deputed.

(c) The provisions of the first paragraph of Article 6 shall also apply to the wives of the persons to whom the immunities referred to have been granted, and to their children, provided that they are minors and live with their parents.

Wives of the persons referred to in Article 6, third paragraph, and children under age living with their parents, shall be treated, as regards taxation, on the principles of the most-favoured-nation clause.

(d) An exemption from the German income tax shall only be granted within the limits laid down by the Decree of March 11, 1922, relative to the position in regard to income tax of members of foreign missions, etc. (*Legal Gazette of the Reich*, page 270.)

(e) When a consulate is being established, the number of persons to be entitled to the immunities provided for in Article 6 shall be fixed by mutual agreement between the two Contracting Parties. The number once fixed may only be increased with the consent of the other Party.

(f) The Government of the Union of the Socialist Soviet Republics shall, when establishing a consulate in the German Reich, communicate to the German Government a list of the officials and employees of the said consulate who are entitled to exercise official duties (*Beamtenfunktionen*).

(g) Consuls-general, consuls and vice-consuls shall be granted the permit to enter the State to which they are deputed, and the permit for residence in that State during the period in which they exercise their official duties at the same time as their warrant of admission. Other consular officials shall immediately receive such authorisation on the request of their Government through the Central Authority for Foreign Affairs in the country to which they are deputed, unless there are special reasons to the contrary in individual cases.

So far as the renting of premises is concerned, consular officials shall be on the same footing as the officials of the country of residence so long as they exercise their official duties therein.

If in one of the contracting countries more extensive general facilities in respect of permits to enter the country, permits for residence and the renting of premises, should be granted than those provided for above, such facilities shall also be granted to the consular officials of the other country.

The provisions of paragraphs 1-3 shall also apply to the wives of consular officials and to their children under age residing with their parents.

Ad Article 7.

Restrictions on money transactions shall not prevent the export of the proceeds which can be shown to be derived from property not exported.

Ad Article 9.

The term "office furniture" shall include all furniture and equipment intended for official use on the premises of the consulate, in particular, furniture, safes, office cupboards, typewriters and stationery of every kind, etc., whether stamped or otherwise.

Ad Article 11.

In the German Reich, the offences referred to in sections 8, 13, 16 (with the exception of paragraphs 218 to 220) 17, 18 and 20 of the special part of the German Penal Code shall be regarded as crimes within the meaning of the first paragraph of Article 11. In the Union of Soviet Socialist

Republics the offences referred to in Articles 85, paragraph 1, 142, 143, 149, paragraph 2, 161, 166, 167, 170, 183, paragraph 2 and 184, of the Penal Code of the Russian Federal Socialist Soviet Republics and in corresponding provisions in the Penal Codes of the Soviet Republics constituting the Union of the Soviet Socialist Republics, shall be regarded as crimes.

Furthermore, a consular official may be arrested in the German Reich if he has committed the crime of high treason within the meaning of paragraphs 89 to 91 of the German Penal Code, and in the Union of Soviet Socialist Republics, if he has committed the crime of military espionage within the meaning of Article 213 of the Penal Code of the Russian Federal Soviet Socialist Republics during a state of war with a third Power.

Ad Article 17.

The laws in force in the country to which consular officials are deputed relative to the recognition and validity of legal documents drawn up, attested or authenticated by them shall not be affected by the provisions of Article 17.

Ad Article 19.

Consuls-general, consuls and vice-consuls of the Union of Soviet Socialist Republics in the German Reich may, in so far as they are authorised thereto by the laws of their country, issue the official documents in connection with the divorce of persons who have contracted marriage before them at their joint request.

Ad Article 23.

Ship's papers must be left on board : the port authorities may not demand that they should be handed over to them. Should it be necessary to lay these papers before the port authorities, the said authorities must return them without delay. The consular official of the Party to which the vessel belongs shall have the right to demand from the port authorities the immediate return of the ship's papers which have been submitted to them.

The engagement and discharge of seamen shall be effected by the consular official of the Party to which the ship belongs.

AD ANNEX TO ARTICLE 22.

Ad Paragraph 11.

In view of the fact that the legislation of the Union of Soviet Socialist Republics does not make any distinction between movable and immovable property, the principle that the law applicable to immovable property is that of the place in which it is situated (*lex rei sitae*) shall apply in the Union of Soviet Socialist Republics to property of the following categories : buildings of every kind and hereditary building rights.

The provisions of the agrarian laws of both Parties relative to the right of usufruct in agricultural land shall not be affected by the present Treaty.

Ad Paragraph 13.

1. *Ad paragraph 2.* — Only the State in whose territory the immovable property forming part of the estate is situated shall have legal rights of succession or reversion. The same rule shall apply to the rights of succession or reversion of juridical persons in public law.

2. *Ad paragraphs 3 to 6.* These provisions shall apply to all rights recognised by German law or the laws of the Union of Soviet Socialist Republics, which are vested either jointly with the heirs or in their place in the State or juridical persons under public law in respect of the estate of nationals of that State.

3. *Ad paragraph 5.* The provisions of paragraph 5 shall more particularly apply in the case of the disposal of the whole of a commercial undertaking (partnership, blocks of shares, etc.) or the exercise of a right of vote in virtue of an interest in such an undertaking.

Ad paragraph 16.

Paragraph 16, third paragraph, shall only apply to cases in which claims are made against the State by heirs, legatees, or persons having a reversionary right.

(Signed) BROCKDORFF-RANTZAU.

(Signed) VON KOERNER.

(Signed) M. LITVINOFF.

(Signed) HANETZKY.