

Italy

RIGHTS, PRIVILEGES, AND IMMUNITIES OF CONSULAR OFFICERS

Convention signed at Washington February 8, 1868

Senate advice and consent to ratification June 17, 1868

Ratified by the President of the United States June 22, 1868

Ratified by Italy July 19, 1868

*Ratifications exchanged at Washington September 17, 1868*¹

Entered into force September 17, 1868

Proclaimed by the President of the United States February 23, 1869

*Supplemented by additional article signed at Washington January 21
1869*²

*Superseded September 18, 1878, by convention of May 8, 1878*³

15 Stat. 605; Treaty Series 173

The President of the United States and His Majesty the King of Italy, recognizing the utility of defining the rights, privileges and immunities of Consular officers, in the two Countries, deem it expedient to conclude a Consular Convention for that purpose.

Accordingly, they have named:

The President of the United States, Wm. H. Seward, Secretary of State of the United States;

His Majesty the King of Italy, The Commander Marcello Cerruti, &c. &c.

Who, after communicating to each other their full powers, found in good and due form, have agreed upon the following Articles:

¹ For an additional article regarding the delay in the exchange of ratifications, see TS 175, *post*, p. 80.

² TS 175, *post*, p. 80.

³ TS 178, *post*, p. 91.

ARTICLE I

Each of the High Contracting Parties agrees to receive from the other, Consuls General, Consuls, Vice Consuls and Consular Agents, in all its ports, cities and places, except those where it may not be convenient to recognize such officers.

This reservation, however, shall not apply to one of the High Contracting Parties, without also applying to every other Power.

ARTICLE II

Consular officers, on the presentation of their Commissions in the forms established in their respective countries, shall be furnished with the necessary exequatur free of charge, and, on the exhibition of this instrument they shall be permitted to enjoy the rights, prerogatives and immunities granted by this Convention.

ARTICLE III

Consular officers, citizens or subjects of the State by which they are appointed, shall be exempt from arrest except in the case of offences which the local legislation qualifies as crimes, and punishes as such; from military billetings, from service in the militia or in the national guard, or in the regular army; and from all taxation, federal, state, or municipal. If, however, they are citizens or subjects of the State where they reside, or own property, or engage in business there, they shall be liable to the same charges of all kinds, as other citizens or subjects of the country, who are merchants or owners of property.

ARTICLE IV

No Consular officer who is a citizen or subject of the State by which he was appointed, and who is not engaged in business, shall be compelled to appear as a witness, before the Courts of the country where he may reside. When the testimony of such a Consular officer is needed, he shall be invited in writing to appear in Court; and if unable to do so, his testimony shall be requested in writing, or be taken orally, at his dwelling or office.

It shall be the duty of said Consular officer to comply with this request, without any delay which can be avoided.

In all criminal cases contemplated by the Sixth Article of the amendments to the Constitution of the United States, whereby the right is secured to persons charged with crimes, to obtain witnesses in their favor, the appearance in Court of said Consular officer shall be demanded with all possible regard to the Consular dignity, and to the duties of his office.

A similar treatment shall also be extended to United States Consuls in Italy in the like cases.

ARTICLE V

Consuls General, Consuls, Vice Consuls and Consular Agents, may place over the outer door of their offices or of their dwelling houses, the arms of their nation, with this inscription "Consulate or Vice Consulate or Consular Agency", of the United States or of Italy, &c. &c.

And they may also raise the flag of their country on their offices or dwellings, except in the Capital of the Country, when there is a Legation there.

ARTICLE VI

The Consular offices and dwellings shall be at all times inviolable. The local authorities shall not under any pretext, invade them. In no case shall they examine or seize the papers there deposited. In no case shall those offices or dwellings be used as places of asylum. When, however, a Consular officer is engaged in other business, the papers relating to the Consulate shall be kept separate.

ARTICLE VII

In the event of the death, incapacity or absence of Consul General, Consuls, Vice Consuls and Consular Agents, their Chancellors or Secretaries, whose official character may have previously been made known to the Department of State at Washington, or to the Minister for Foreign Affairs in Italy, may temporarily exercise their functions, and while thus acting, they shall enjoy all the rights, prerogatives and immunities, granted to the incumbents.

ARTICLE VIII

Consuls General, and Consuls, may, with the approbation of their respective Governments, appoint Vice Consuls and Consular Agents, in the cities, ports, and places within their Consular jurisdiction. These officers may be citizens of the United States, Italian subjects or other foreigners. They shall be furnished with a Commission by the Consul who appoints them, and under whose orders they are to act.

They shall enjoy the privileges stipulated for Consular officers in this Convention, subject to the exceptions specified in Articles III and IV.

ARTICLE IX

Consuls General, Consuls, Vice Consuls and Consular Agents, may complain to the authorities of the respective countries, whether federal or local, judicial or local, judicial or executive, within their consular district, of any infraction of the Treaties and Conventions between the United States and Italy, or for the purpose of protecting the rights and interests of their countrymen. If the complaint should not be satisfactorily redressed, the Consular officers aforesaid in the absence of a Diplomatic Agent, of their country, may apply directly to the Government of the country where they reside.

ARTICLE X

Consuls General, Consuls, Vice Consuls and Consular Agents, may take at their offices, at the residence of the parties, at their private residence, or on board ship, the depositions of the Captains and crews of vessels of their own country, of passengers, on board of them, and of any other citizen or subject of their nation.

They may also receive at their offices, conformably to the laws and regulations of their country, all contracts between the citizens and subjects of their country, and the citizens, subjects or other inhabitants of the country where they reside, and even all contracts between the latter, provided they relate to property situated or to business to be transacted in the territory of the nation to which said Consular officer may belong.

Copies of such papers, and official documents of every kind, whether in the original, copy or translation duly authenticated and legalized by the Consuls General, Consuls, Vice Consuls, and Consular Agents, and sealed with their official seal, shall be received as legal documents, in Courts of Justice throughout the United States and Italy.

ARTICLE XI

Consuls General, Consuls, Vice Consuls and Consular Agents, shall have exclusive charge of the internal order of the merchant vessels of their nation, and shall alone take cognizance of differences which may arise either at sea or in port, between the captains, officers and crews without exception, particularly in reference to the adjustment of wages, and the execution of contracts. Neither the federal, state, or municipal authorities or Courts; in the United States, nor any Court or authority in Italy, shall on any pretext interfere in these differences, but shall render forcible aid to Consular officers when they may ask it, to search, arrest and imprison all persons composing the crew, whom they may deem it necessary to confine. Those persons shall be arrested at the sole request of the Consuls addressed in writing to either the federal, state or municipal Courts or authorities in the United States, or to any Court or authority in Italy, and supported by an official extract from the Register of the ship, or the list of the crew, and shall be held during the whole time of their stay in port, at the disposal of the Consular officers.

Their release shall be granted at the mere request of such officers made in writing. The expenses of the arrest and detention of those persons shall be paid by the Consular officers.

ARTICLE XII

In the conformity with the Act of Congress (5 [3] March 1855, "to regulate the carriage of passengers on steamships and other vessels"),⁴ all disputes

⁴ 10 Stat. 715.

and differences of any nature between the captains and their officers on one hand, and the passengers of their ships on the other, shall be brought to and decided by the Circuit or District Courts in the United States, to the exclusion of all other Courts or authorities.

ARTICLE XIII

The respective Consuls General, Consuls, Vice Consuls and Consular Agents, may arrest the officers, sailors and all other persons making part of the crew of ships of war, or merchant vessels of their nation, who may be guilty, or be accused of having deserted said ships and vessels, for the purpose of sending them on board, or back to their country. To that end, the Consuls of Italy in the United States may apply in writing to either the federal, state or municipal Courts or authorities, and the Consuls of the United States in Italy, may apply to any of the competent authorities, and make a request in writing for the deserters, supporting it by the exhibition of the Register of the vessel, and list of the crew, or by other official documents, to show that the persons claimed belong to the said crew. Upon such request alone, thus supported, and without the exaction of any oath from the Consular officers, the deserters, not being citizens, or subjects of the country where the demand is made at the time of their shipping, shall be given up. All the necessary aid and protection shall be furnished for the search, pursuit, seizure and arrest of the deserters who shall even be put and kept in the prisons of the country, at the request and expense of the Consular officers, until there may be an opportunity for sending them away. If, however, such an opportunity should not present itself, within the space of three months, counting from the day of the arrest, the deserter shall be set at liberty, nor shall he be again arrested for the same cause.

ARTICLE XIV

In the absence of an agreement to the contrary, between the owners, freighters and insurers, all damages suffered at sea by the vessels of the two countries whether they enter port voluntarily, or are forced by stress of weather, shall be settled by the Consuls General, Consuls, Vice Consuls and Consular Agents of the respective countries where they reside. If, however, any inhabitant of the country, or citizen or subject of a third power, shall be interested in the matter, and the parties cannot agree, the competent local authorities shall decide.

ARTICLE XV

All proceedings relative to the salvage of American vessels wrecked upon the coasts of Italy, and of Italian vessels wrecked upon the coasts of the United States, shall be directed by the Consuls General, Consuls and Vice Consuls of the two countries respectively, and, until their arrival, by the respective Consular Agents, whenever an Agency exists. In the places and

ports where an Agency does not exist, the local authorities until the arrival of the Consul in whose district the wreck may have occurred and who shall immediately be informed of the occurrence, shall take all necessary measures for the protection of persons, and the preservation of property.

The local authorities shall not otherwise interfere than for the maintenance of order, the protection of the interests of the salvors, if they do not belong to the crews that have been wrecked, and to carry into effect the arrangements made for the entry and exportation of the merchandise saved.

It is understood that such merchandise is not to be subjected to any Custom House charges, unless it be intended for consumption in the country where the wreck may have taken place.

ARTICLE XVI

In case of the death of a citizen of the United States in Italy, or of an Italian subject in the United States, without having any known heirs or testamentary executor by him appointed, the competent local authorities shall inform the Consuls or Consular Agents of the nation to which the deceased belongs, of the circumstance, in order that the necessary information may be immediately forwarded to parties interested.

ARTICLE XVII

The present Convention shall remain in force for the space of ten (10) years, counting from the day of the exchange of the ratifications, which shall be made in conformity with the respective constitutions of the two countries, and exchanged at Washington, within the period of six (6) months, or sooner if possible.⁵

In case neither party gives notice twelve (12) months after the expiration of the said period of ten (10) years, of its intention to renew this Convention, it shall remain in force one (1) year, longer, and so on from year to year, until the expiration of a year from the day on which one of the Parties shall have given such notice.

In faith whereof, the respective Plenipotentiaries have signed this Convention, and have hereunto affixed their seals.

Done in duplicate at Washington, the eighth day of February, 1868, the ninety-second year of the Independence of the United States of America.

WILLIAM H. SEWARD	[SEAL]
MARCELLO CERRUTI	[SEAL]

⁵ For an additional article supplementing art. XVII, see TS 175, *post*, p. 80.