

No. 487

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**BOLIVIA, BRAZIL, COLOMBIA,  
EL SALVADOR, NICARAGUA, PANAMA,  
UNITED STATES OF AMERICA, VENEZUELA**

**Protocol on uniformity of powers of attorney which are to  
be utilized abroad. Opened for signature at the Pan  
American Union in Washington, on 17 February 1940**

*Official texts: English, French, Portuguese and Spanish.*

*Filed and recorded at the request of the United States of America on 3 March 1953.*

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**BOLIVIE, BRÉSIL, COLOMBIE,  
SALVADOR, NICARAGUA, PANAMA,  
ÉTATS-UNIS D'AMÉRIQUE, VENEZUELA**

**Protocole sur l'uniformité des procurations destinées à  
être employées à l'extérieur. Ouvert à la signature à  
l'Union panaméricaine à Washington, le 17 février 1940**

*Textes officiels anglais, français, portugais et espagnol.*

*Classé et inscrit au répertoire à la demande des États-Unis d'Amérique le 3 mars  
1953.*

No. 487. PROTOCOL<sup>1</sup> ON UNIFORMITY OF POWERS OF ATTORNEY WHICH ARE TO BE UTILIZED ABROAD. OPENED FOR SIGNATURE AT THE PAN AMERICAN UNION IN WASHINGTON, ON 17 FEBRUARY 1940

The Seventh International Conference of American States approved the following resolution (No. XLVIII) :

“ The Seventh International Conference of American States, resolves :

“ 1—That the Governing Board of the Pan American Union shall appoint a Commission of five experts, to draft a project for simplification and uniformity of powers of attorney, and the juridical personality of foreign companies, if such uniformity is possible. If such uniformity is not possible, the Commission shall suggest the most adequate procedure for reducing to a minimum both the number of different systems of legislation on these subjects and the reservations made to the several conventions.

“ 2—The report should be issued in 1934, and be given to the Governing Board of the Pan American Union in order that it may submit it to the consideration of all the Governments, members of the Pan American Union, for the purposes indicated.”

The committee of experts appointed by the Governing Board of the Pan American Union pursuant to the above resolution prepared a draft of uniform legislation governing powers of attorney to be utilized abroad, which was submitted by the Governing Board to the governments, members of the Pan American Union, and revised in accordance with the observations of the said governments.

A number of the governments of the American Republics have indicated that they are prepared to subscribe to the principles of the said draft, and to give them conventional expression, in the following terms :

<sup>1</sup> In accordance with article XII, the Protocol came into force with regard to the following States on the dates indicated :

Brazil . . . . .	6 February 1941	United States of America . . . . .	16 April 1942
El Salvador . . . . .	6 February 1941	Colombia . . . . .	10 June 1943
Venezuela . . . . .	3 November 1941		

*Article I*

Powers of attorney granted in the countries, comprising the Pan American Union, for utilization abroad, shall conform to the following rules :

1—If the power of attorney is executed by or on behalf of a natural person, the attesting official (notary, registrar, clerk of court, judge or any other official upon whom the law of the respective country confers such functions) shall certify from his own knowledge to the identity of the appearing party and to his legal capacity to execute the instrument.

2—If the power of attorney is executed in the name of a third person, or if it is delegated or if there is a substitution by the agent, the attesting official, in addition to certifying, in regard to the representative who executes the power of attorney, or delegates or makes a substitution, to the requirements mentioned in the foregoing paragraph, shall also certify that such representative has in fact the authority to represent the person in whose name he appears, and that this representation is legal according to such authentic documents as for this purpose are exhibited to said attesting official and which the latter shall mention specifically, giving their dates, and their origin or source.

3—If the power of attorney is executed in the name of a juridical person, in addition to the certification referred to in the foregoing paragraphs, the attesting official shall certify, with respect to the juridical person in whose name the power is executed, to its due organization, its home office, its present legal existence, and that the purposes for which the instrument is granted are within the scope of the objects or activities of the juridical person; which declarations shall be based on the documents which for that purpose are presented to the official, such as the instrument of organization, bylaws, resolutions of the board of directors or other governing body, and such other legal documents as shall substantiate the authority conferred. The attesting official shall specifically mention these documents, giving their dates and their origin.

*Article II*

The certification made by the attesting official pursuant to the provisions of the foregoing article, shall not be impugned except by proof to the contrary produced by the person challenging its accuracy.

For this purpose, it shall not be necessary to allege falsity of the document if the objection is founded only on an erroneous legal construction or interpretation made by the official in his certification.

*Article III*

It shall be unnecessary for the grantee of a power of attorney to signify therein his acceptance of the mandate; such acceptance being conclusively presumed by the grantee's acting under the power.

*Article IV*

Special powers of attorney to authorize acts of ownership granted in any of the countries of the Pan American Union, for use in another member country, must specify in concrete terms the nature of the powers conferred, to enable the grantee to exercise all the rights necessary for the proper execution of the power with respect to property as well as to the taking of all necessary steps before the tribunals or administrative authorities in defense thereof.

General powers of attorney for the administration of property shall be sufficient, if expressly granted with that general character, to empower the grantee to consummate all manner of administrative acts, including the prosecution and defense of law suits and administrative and judicial proceedings, in connection with the administration of the property.

General powers of attorney for lawsuits, collections or administrative or judicial proceedings, when so worded as to indicate that they confer all general powers and all such special powers as, according to the law, ordinarily require a special clause, shall be deemed to be granted without any limitation or restriction whatever.

The provisions of this article shall have the character of a special rule which shall prevail over such general rules to the contrary as the legislation of the respective country may establish.

*Article V*

Powers of attorney granted in any of the member countries of the Pan American Union, which are executed in conformity with the rules of this Protocol, shall be given full faith and credit, provided, however, that they are legalized in accordance with the special rules governing legalization.

*Article VI*

Powers of attorney granted abroad and in a foreign language may be translated into the language of the country of their destination and the translation incorporated as part of the text of the instrument thereof. In such case, the translation, so authorized by the grantor, shall be deemed accurate in every particular. The translation of the power of attorney may also be made in the country where the power is to be utilized, in accordance with the local usage or pertinent laws of such a country.

*Article VII*

Powers granted in a foreign country do not require as a prerequisite their registration or protocolization thereof in designated offices. However, this rule

will not prevail when the registration or protocolization of such instruments is required by the law as a special formality in specific cases.

#### *Article VIII*

Any person who may, pursuant to the pertinent legislation, intervene or become a party in a judicial or administrative proceeding for the defense of his interests, may be represented by a volunteer, on condition, however, that such representative shall furnish the necessary legal authority in writing, or that, pending the due substantiation of his authority, such representative shall furnish bond, at the discretion of the competent tribunal or administrative authority, to respond for the costs or damages which his action may occasion.

#### *Article IX*

In the case of powers of attorney, executed in any of the countries of the Pan American Union in accordance with the foregoing provisions, to be utilized in any other member country of the Union, notaries duly commissioned as such under the laws of their respective countries shall be deemed to have authority to exercise functions and powers equivalent to those accorded to native notaries by the laws and regulations of (name of country), without prejudice, however, to the necessity of protocolization of the instrument in the cases referred to in article VII.

#### *Article X*

What has been said in the foregoing articles with respect to notaries, shall apply with equal force to the authorities or officials that exercise notarial functions under the laws of their respective countries.

#### *Article XI*

The original of the present Protocol in Spanish, Portuguese, English and French, under the present date shall be deposited in the Pan American Union and opened for signature by the States, members of the Pan American Union.

#### *Article XII*

The present Protocol is operative as respects each High Contracting Party on the date of signature by such Party. It shall be open for signature on behalf of any of the States, members of the Pan American Union, and shall remain operative indefinitely, but any Party may terminate its own obligations hereunder three months after it has given to the Pan American Union notice of such intention.

Notwithstanding the stipulations of the foregoing paragraph any State desiring to do so may sign the present Protocol *ad referendum*, which Protocol in this case, shall not take effect, with respect to such State, until after the deposit of the instrument of ratification, in conformity with its constitutional procedure.

*Article XIII*

Any State desiring to approve the present Protocol with modifications may indicate, when signing the Protocol, the form in which the instrument will be given effect within its territory.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, having deposited their full powers found to be in due and proper form, sign this Protocol on behalf of their respective governments, and affix thereto their seals on the dates appearing opposite their signatures.