



# Consolato Generale d'Italia

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## MODEL UN BADEN-WÜRTTEMBERG

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### HAUS DER WIRTSCHAFT

### STUTTGART

#### Presentation:

*“Diplomacy and diplomatic tasks,  
with a special reference to consular functions”*

by

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First of all let me thank Mr. Fieber for his kind invitation to this event and for having select our Consulate General in representation of the diplomatic structures in Stuttgart.

The purpose of my intervention is not to give an academic lecture, nor to speak officially on the behalf of the Italian Ministry of Foreign Affairs. What I would rather do is to give a short presentation, in the form of a concise exposition, followed by a short debate in the atmosphere of a friendly conversation.

The choice of giving this short presentation in English produces two advantages: the first is to avoid the consecutive translation, which inevitably “freezer things down”; rather than to “break the ice”, and, last but not the least, to get you closer to the UN working language.

This gives me also the opportunity to point out the difference between working language and official languages. Although in fact official language in many international organization tend to go up to five (including French, Spanish, Portuguese, Arabic and Chinese-Mandarin), the main working language in most international organizations remains English. I do not know the exact origin of this prominence: probably it is due to the transition from the “secret diplomacy” in the XIX century, when the main actors of diplomacy were European aristocrats, who mostly spoke French as their “internal language”, to the “open diplomacy” launched by the US President Wilson and then endorsed in the international organizations after the First World War and, more massively, after the II World War, when English was taught to be more appropriate to this new course of diplomacy.

We came accidentally across the difference between “secret” and “open” diplomacy. The first is typical of the international relations of the European Powers between the XVII and the XIX century, with special regard to the so called “European Concert” which dominated the European scenario and the balance between the Powers after the Vienna Congress of 1815 till the burst of the First World War. The supreme and paradigmatic example of this kind of diplomacy is the system of relations and balances known as the “Bismarck system”, whose intersection of alliances and counter-alliances was able to grant Europe 30 years of peace after the great *debacle* of Sedan. After

the First World War things start changing and President Wilson, in the famous Speech before the Congress, announced a Programme of 14 points for the Reconstruction of Peace, one of them provided the idea of a multilateral, theoretically global organization, The *Société des Nations*, having as its main mission the keeping and maintenance of peace. So the “secret contacts and negotiations” of the Bismarck diplomacy are now substituted, in this vision, by a more modern form of “open”, multilateral diplomacy, the only which could cope with the new threats to international security, which would ultimately end up with the creation of the United Nations after the Second World War.

I think most of you know about the facts and events which brought to the creation of this organization, as well as the ideology and the set of values which underlie beneath the external structure and the decision procedures of the organization, so I have no need to go through it now.

Italy is historically strongly committed to the UN Organization and the UN spirit. As you know, the Charter contains a certain *sfavor* towards the countries defeated in the Second World War. That is shown by par. 3 and 4, which make the difference between “*Membres de droit*” (Members by law -par. 3: i.e. the winning Powers and their allies having participated in the San Francisco Conference) and “*Membres à demande*”, (Members by request - par. 4: i.e. the States who lost the War, which have to show to be “peace lover” and whose application has to be accepted by the General Assembly voting in its components’ majority). A confirmation of this *sfavor* is shown by par. 107, which allows reparation and retaliation measures against the losing Powers, even in derogation to the provisions of the Charter. Post-fascist Italy had therefore to work hard to become a Member of the Organization and had to show that endorsed the UN value in her democratic identity. To this purpose, the Italian Constitution, precisely its art. 11, states that “Italy consent, in the same conditions of the other States, to those limitations of sovereignty which should appear necessary to establish an order capable of ensuring peace and justice among the Nations and promotes and supports the international organizations which endorse this aim”. Italy also supported, in the 1950s, the admission of the Federal Republic of Germany to the NATO and, subsequently, to the UN system, as well as the admission of the socialist countries and the massive admission of the new post-colonial independent States (mostly ACP area) after the great independence wave in the 1960s. Furthermore Italy has always supported the “collegial principle” (one State-one vote) governing the General Assembly and its sub-articulations, even when cases were brought against herself in the same Assembly (see the example of the Alto-Adige/Südtirol case in the 1960s). As the fourth contributor to the expenses of the organization, Italy is an active actor in all the structure of the organization, including its peace-keeping military mission. So far I spoke about history. For the current activity of the Italian Government to the UN, the press release and the proposal of reform of the Security Council you may refer to the site of the Permanent Mission of Italy to the UN in New York [www.italyun.esteri.it](http://www.italyun.esteri.it).

Let us now come back to the more general concept of “diplomacy”, before we pass over to describe the diplomatic tasks.

In an informal or social sense, diplomacy is the employment of tact to gain strategic advantage, i.e. a set of tools being the phrasing of statement in a non-confrontational, polite manner. Sociologists use also, in literature, the terms “informal diplomacy”, “cultural diplomacy” and “paradiplomacy”, all of them referring to a meaning similar to that of common language.

In a more technical sense, diplomacy can be defined as the art and practice of conducting negotiations between representatives of groups or States. It usually refers to international diplomacy as the conduct of international relations through the intercession of professional diplomats with regards to issue of peace-keeping, trade, war, economics and culture. International treaties are usually negotiated by diplomats prior to endorsement by national politicians.

The word “diplomacy” stems from Greek word “*δίπλωμα*”, which literally means “folded in two”. In ancient Greece, a diploma was a certificate certifying the completion of a course of study, typically folded in two. In the days of the Roman Empire, the word “*diploma*” was used to describe official travel documents, such as passports and passes for imperial roads, that were stamped on

metal plates. Later the meaning was extended to cover other official documents such as treaties with foreign tribes.

The origin of modern diplomacy within the international spectrum of politics, could often be traced back to the States of Northern Italy. This was during the earlier Renaissance, where the first diplomatic Embassies were established. Milan played an incredible part in such a process, by sending a representative to the Court of France as early as in 1455. This conduct became a praxis in all the European Powers by the end of the XVI century, where permanent delegations were no longer be in suspicion of espionage. In the 1700s the French called their body of officials, attached to foreign relations, "*corps diplomatique*", i.e. they transposed the name of the documents to the name of the officials negotiating such documents.

Just to give you a rough idea of what diplomacy is about, with a special reference to the creation of the *Société des Nations* let me quote some sentences of famous State men, taken from the text by Henry Kissinger, "Diplomacy", which you find available in bookstores also in the German translation.

Talleyrand, p. 82, about the World order in absolutistic Europe in the so called *Ancien Régime*:

"If...the minimum of resisting power...were equal to the maximum of aggressive power...there would be a real equilibrium. But... the actual situation admits solely of an equilibrium which is artificial and precarious and which can only last so long as certain large States are animated by a spirit of moderation and justice".

Gladstone, p. 162, in opposition to the mainstream thinking of the Victorian order, seems to predict, at the end of the XIX century, the future development of international law which would eventually lead to the *Société des Nations*:

"certain it is that a new law of nations is gradually taking hold of the mind, and coming to sway the practice of the world; a law which recognises independence, which frowns upon aggression, which favours the pacific, not the bloody settlement of disputes, which aims at permanent and not temporary adjustments; above all, which recognises, as a tribunal of paramount authority, the general judgement of civilised mankind".

Wilson, p. 51, about the *Société des Nations*:

"...this age is an age...which rejects the standards of national selfishness that once governed the counsels of nations and demands that they shall give way to a new order of things in which the only questions will be: "Is it right?" "Is it just?" " Is it in the interest of mankind?  
...throughout this instrument (the *League Covenant*) we are depending primarily and chiefly upon one great force, and that is the moral force of public opinion of the world, the cleansing and clarifying and compelling influences of publicity...so that those things that are destroyed by the light may be properly destroyed by the overwhelming light of the universal expression of the condemnation of the world".

Having spoken about the general idea of diplomacy, let us have a look to who a diplomat is and what are her/his tasks.

First of all: how is a diplomat appointed? Which is her/his academic and professional training? So far, notwithstanding a provision of the Rome Constitutional Treaty (now substituted by the Lisboa Treaty) allowing the Commission and its "Relex Directorate" to set guides for the formation of a "Common External Service" of the EU, made up from various contribution from the Member States' national foreign services, nothing has been made, so, at the moment, we can speak only of national foreign services, which, on the other hand, have to be distinguished from the officers of the international organizations staff, which are regulated according to their organization's statute. Speaking about the Italian case, the Ministry of Foreign Affairs publishes each year a public competition, open to all graduates in law, political science and economics. The

competition involves five written papers (two language compositions and three “technical” papers on international and EU Law, history of the international relations and political and international economy). Each year about 20-25 of successful candidates, out of approximately 400 which take part in the competition, are appointed in the diplomatic service. Most of successful candidates already had previous experiences as *stagiaire* or JPO (Junior Professional Officer) in international organisations or multinational enterprises and have attended a one, two or three-years post-graduate academic programme with a specific focus to international careers.

What is the psychological profile of a diplomat? Generally speaking, she/he should be prepared to a flexibility in his/her personal and family life, as the posting of service might vary sensibly in the course of the career. Furthermore she/he should be prepared to be confronted to multicultural and multilingual environment, where each interlocutor has her/his own identity, which is worth respect, so a certain degree of sensitivity to the other’s points of view is expected.

What are the main tasks of a diplomat?

We should make a distinctions between the service in her/his own country (so called “metropolitan service”) and the service abroad (which has to be further divided into service in an Embassy, in a Permanent Mission to an international organization, in a special delegations and finally in a Consulate). In an Embassy diplomats are employed in the various field of politics, economics, commerce, culture and press and care about the respective bilateral relations with the hosting State. Some Embassy also have a consular chancery, to the head of which a diplomat might be appointed. In a Permanent Mission diplomats care about the preparation and the presentation of documents stating the policy of the sending State to the appropriate international organisations and assist State authorities visiting the organization or attending its meetings. In a special delegation diplomats are required to negotiate specific bilateral or multilateral issues with their counterparts (let us think about a negotiation Conference for multilateral treaties or a bilateral Commission for specific issues such as arbitral conciliation or borders determination) or to care of the relation with a non-recognized entity (see the case of Taiwan).

We come now to the consular service.

The title of **Consul** is used for the official representatives of the government of one State in the territory of another, normally acting to assist and protect the citizens of the consul's own country, and to facilitate trade, cultural exchange and friendship between the people of the country to whom he or she is accredited and the country of which he or she is a representative. This distinguishes the consul from the ambassador, who is, technically, a representative from one head of state to another. Thus, while there is only one ambassador representing a nation's head of state to another, and her/his duties revolve around diplomatic relations between the two countries, there may be several consuls, one in each main city, providing assistance with bureaucratic issues to both the citizens of the consul's own country travelling or living abroad, and to the citizens of the country the consul is in who wish to travel to or trade with the consul's country.

In classical Greece, some of the function of the modern consul were fulfilled by a *Proxenos*. Unlike the modern position, he was a citizen of the host *polis*. In the Roman Republic, the two Consuls were the highest magistrates. The term was then revived by the City-State of Genoa which, unlike Rome, bestowed it on various State officials, not necessarily restricted to the highest. Among these were Genoese officials stationed in various Mediterranean ports, whose role included duties similar to those of the modern Consul, i.e. helping Genoese merchants and sailors in difficulties with the local authorities. This institution, with its name, was eventually emulated by other powers.

Continuing in this short *excursus* in the history of the consular service, let me mention the role of the European consuls in the Ottoman Empire. These consuls began as informal relationships between merchants residing in the Empire and the Sultan. The relationships were defined by the concessions granted by the Sultan, regarding the religious freedom and the tax exemption of non-Muslim subjects. The religious implications of these relationships diminished over time as the

commercial aspects took over. The Italian City-States initially appointed resident ambassadors only to other Italian States to create some peace between the conflicting powers. From the twelfth-century onward the merchants from the Italian city states would organize and select a consul also to represent them in the Ottoman Empire, but soon after these consuls were more formally chosen by the government. By the fifteenth-century other Western European nations adopted similar practices and diplomacy has been characterized as a Western European phenomenon ever since. Another cause of the consular phenomena was the military hardening of borders which meant that Europeans could not infiltrate another area by force so they relied on economic and commercial ties to gain entry. In the early stages of these consular relationships the Ottomans' did not reciprocate in sending consuls to European capitals, partly because European Christians were less welcoming towards Muslims than Muslims were towards Christians. The consuls and the trading communities, of which they were in charge of, had wide implications for European-Ottoman relationships. Since consuls and merchants would remain in Istanbul (and other Ottoman cities) for longer periods of time, they would return home with a more accurate depiction of the Ottoman culture than the earlier negative depiction. Reporting home with political news was one of the consul's primary responsibilities which also helped in re-shaping the opinions of the Ottomans held by Europeans. A new respect—not necessarily for Ottoman people, but for the Ottoman accomplishments—eventually broke the old barriers and Ottomans appointed representatives to European states.

Let me now come to the modern consular service.

The office of a Consul is termed a **Consulate**, and is usually subordinated to the State's main representation in that foreign country, nowadays usually an embassy, usually in the capital city of the host State. In the capital, the consulate may be a part of the embassy itself. A consul of higher rank is termed a "**consul-general**", and her/his office a "**consulate-general**". She or he typically has one or several **Deputy Consuls-General**, **Consuls** and **Vice-Consuls**, working under her/him. Consulates-general need not be in the capital city, but instead in the most appropriate main cities. In the case of Germany, many consulates-general are located in cities such as Frankfurt am Main and München.

Consuls of various ranks may have specific legal authority for certain activities, such as notarizing documents. As such, diplomatic personnel with other responsibilities may receive consular commissions.

Aside from those outlined in the 1963 Vienna Convention on consular relations, there are few formal requirements outlining what a consular official must do. For example, for some countries, consular officials may be responsible also for the issuance of visas; other countries may limit "consular services" only to providing assistance to compatriots.

To support the action of career consuls, honorary consular officers may be appointed. Honorary consuls are not career officials of the represented State; they are locally-engaged staff with the nationality of the sending country (see Chapter 1, Section 1, Article 22 of convention), and in smaller cities, or in cities that are very distant from full-time diplomatic missions, a foreign government which feels that some form of representation is nevertheless desirable may appoint a person who has not been part of their diplomatic service to fulfill this role. In some instances, the honorary consul may not be a citizen of the sending country, and may well combine the job with their own (often commercial) private activities. Many members of the public are not aware that honorary consuls are not full-time diplomats. When for the position of consul is appointed a diplomat, she or he joins usually a separate body of the foreign service kept apart from the diplomatic body (this is the case of the US). In Italy, contrary to those countries, the consular and diplomatic careers are not separated and form the unique Italian diplomatic service.

Contrary to popular belief, although many of the staff of consulates may be career diplomats, they do not generally have diplomatic immunity in a strict sense, unless they are also accredited as diplomats in embassies. Immunities and privileges for consuls and accredited staff of consulates under the relevant international conventions are generally limited to actions undertaken in their official capacity and, with respect to the consulate itself, to those required for official

duties. In practice, the extension and application of consular privileges and immunities can be subject to wide discrepancies from country to country.

Consulates are more numerous than diplomatic missions, since the latter are posted only in a foreign nation's capital (exceptionally even outside the country, in case of a multiple mandate, e.g. a minor power may well accredit a single Ambassador with several neighbouring states of modest relative importance that are not considered important allies), while consular ones are also posted in various cities throughout the country, especially centres of economic activity, or wherever there is a significant population of its citizens.

As said, activities of a consulate include protecting the interests of their citizens temporarily or permanently resident in the host country, issuing, legalising or authenticating administrative documents such as passports, birth/death/marriage certificates, contracts, delegations, visa to foreigners etc.. However, the principal role of a consulate lies traditionally in promoting trade—assisting companies to invest and to import and export goods and services both inwardly to their home country and outward to their host country – and in promoting cultural exchange, directly or by means of a structure attached to the Consulate, which, in the Italian case, is the Italian Cultural Institute.

To finish off, let me mention another function, supplementary to the traditional consular services, peculiar to our Consulates in Germany and those of other countries of outgoing migration: the support of the integration of Italian children in the German schools. I cannot go here through the various programmes set into action by our Consulate with the individual schools, the Kultusministerium and the Cabinet for Immigration of the Justizministerium, but I do want to point out that we make every effort to promote the success of Italian pupils in the German schools, as we strongly believe that it is the necessary condition for their full integration into the German society at a social and not only economical level.

## **RAFFAELE FESTA**

Born in Bari (I) on 12.04.76

Secondary education in Italy and Great Britain

Master Degree in Law – Pisa University

*Doctor Juris* in Comparative constitutional Law – Siena University

Publications on Comparative constitutional Law, with special reference to Italy and France

Study exchange programmes with various universities, *inter alia* Université de Paris-Nanterre

Solicitor/barrister before the Italian courts

Diplomat of the Italian Ministry of Foreign Affairs since December 2003

Officer at the Treaty and Legal Department of the Italian Ministry of Foreign Affairs till Dec. 2005

Italian Vice-Consul in Stuttgart from January 2006 to December 2007

Confirmed in Stuttgart with the functions of Consul since January 2008