

N° 651.

ALLEMAGNE, BELGIQUE,
GRANDE-BRETAGNE,
FRANCE, ITALIE
ET TCHÉCOSLOVAQUIE

Convention additionnelle à l'Acte de
navigation de l'Elbe, signée à Pra-
gue le 27 janvier 1923.

GERMANY, BELGIUM,
GREAT BRITAIN, FRANCE,
ITALY
AND CZECHOSLOVAKIA

Convention supplementary to the
Statute of Navigation of the Elbe,
signed at Prague, January 27, 1923.

¹ TRADUCTION. — TRANSLATION.No. 651. — CONVENTION ² SUPPLEMENTARY TO THE STATUTE OF NAVIGATION OF THE ELBE, SIGNED AT PRAGUE, JANUARY 27, 1923.

French official text communicated by the German Consul at Geneva and the «Service français de la Société des Nations». The registration of this Convention took place July 18, 1924.

With a view to draw up the provisions to be inserted in the Supplementary Convention provided for in articles 44 and 47 of the Convention ³ instituting the Statute of Navigation of the Elbe of February 22, 1922, GERMANY, acting on her own behalf and on behalf of the German States bordering on the Elbe, BELGIUM, FRANCE, GREAT BRITAIN, ITALY and CZECHOSLOVAKIA, have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE GERMAN REICH :

- M. Arthur SEELIGER, Minister Plenipotentiary ;
- M. Max PETERS, Secretary of State, Privy Councillor ;
- M. Hans Gottfried von NOSTITZ-DRZEWIECKI, sometime Minister Plenipotentiary, Privy Councillor ;
- M. Johann Daniel KRÖNIG, Councillor of State.

HIS MAJESTY THE KING OF THE BELGIANS :

- M. Jules BRUNET, Minister Plenipotentiary.

THE PRESIDENT OF THE FRENCH REPUBLIC :

- M. André CHARGUÉRAUD, President, Central Commission of the Rhine.

HIS MAJESTY THE KING OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND AND OF THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA :

- Mr. John Grey BALDWIN.

HIS MAJESTY THE KING OF ITALY :

- M. Girolamo SINIGALIA, Chief Inspector of State Railways.

THE PRESIDENT OF THE REPUBLIC OF CZECHOSLOVAKIA :

- M. Bohuslav MÜLLER, Minister Plenipotentiary ;
- M. Antonin KLIR, Professor at the Czech High School Polytechnic of Prague.

Who, having reciprocally communicated their full powers, found in good and due form, have agreed as follows :

¹ Communiquée par le Ministère des Affaires étrangères de Sa Majesté Britannique.

¹ Communicated by His Britannic Majesty's Foreign Office.

² The closure of the procès-verbal of the deposit of the instruments of ratification by all the Contracting Parties having taken place December 31, 1923, the Convention came into force April 1, 1924.

³ Page 219 of this Volume.

Article 1.

The tribunals provided for in article 44 of the Statute of Navigation of the Elbe of February 22, 1922, have jurisdiction, in so far as navigation above Hamburg and Harburg is concerned :

(i) To investigate and pronounce judgment on breaches of police regulations in respect of navigation ;

(ii) To decide disputes relative to :

- (a) Damage caused by masters, owners and raftsmen during a voyage or in coming alongside ;
- (b) The amount of salvage dues and other indemnities arising from shipwreck ;
- (c) The engagements and obligations existing between proprietors, masters, owners, raftsmen, pilots, hands and passengers ;
- (d) The payment of dues levied under article 42 of the Statute of Navigation above mentioned.

Article 2.

The competent tribunal according to article 1 is :

In the case of paragraph (i) the tribunal within whose jurisdiction the offence was committed ;

In the case of paragraph (ii) (a) and (b), the tribunal within whose jurisdiction the damage was caused or the assistance given ;

In the case of paragraph (ii) (c), the tribunal within whose jurisdiction the contract is to be performed ;

In the case of paragraph (ii) (d), the tribunal within whose jurisdiction the dues are payable.

Article 3.

No deposit or security, of any description whatsoever, can be imposed on foreigners by reason of their nationality or by reason of the fact that they are not domiciled or resident in the country. The same rule applies to any payment which might be demanded of foreigners as security for costs.

No master, owner or raftsman can be prevented from continuing his voyage by reason of proceedings instituted against him, once he has deposited the security demanded by the judge for the purpose of the trial.

Article 4.

The appeal to the Commission for which provision was made in article 46 of the Statute of Navigation lies in the cases, and under the conditions, laid down for appeals by the general legislation of the country in which the judgment of the court of first instance was delivered.

In the case, however, of a dispute arising between employers and employees, nationals of the same State, and tried by a tribunal of that country, an appeal to the Commission will only lie when all the parties agree to submit to the jurisdiction of the Commission.

Article 5.

If certain of the parties appeal to the competent courts of the country in which the judgment of the court of first instance has been delivered, while others appeal to the Commission, that court to which the earliest appeal in point of date has been made has jurisdiction.

Article 6.

Appeal to the Commission must be entered in the court of first instance within two weeks of promulgation of the judgment.

The notice of appeal must contain the following information :

- (1) The judgment appealed against ;
- (2) The fact that the appeal is made to the Commission ;
- (3) The grounds of appeal and the decision which the Commission is asked to give.

The court will notify the fact that an appeal has been entered to the opposing party, who will have two weeks in which to make reply.

As soon as the tribunal has received the reply to the appeal, or the period for replying has elapsed, it shall transmit to the Commission all the documents in the case.

In the event of the appellant not complying with the formalities herein laid down, the appeal will be held to be null and void.

Article 7.

The courts of each country are competent to decide on questions as to provisional execution, stay of execution, and suspension of measures of execution, in relation to the judgment of the inferior court.

Article 8.

The Commission decides the appeals brought before it after consideration of the documents which form the dossier.

The Commission may proceed to a view, either itself or by certain of its members ; in this case the court concerned must be informed ; the court notifies the interested parties, participates in the view, and takes such steps as may be necessary to that end.

Should it be necessary to complete the procedure by hearing witnesses or experts, the Commission may, by *commission rogatoire*, request the competent courts to effect such hearing. It may either take part in the hearing or arrange to be represented by certain of its members.

The Commission shall refund to the competent court the allowances payable to witnesses and experts, as well as the expenses occasioned by the presence of the court at the view.

Article 9.

The Commission cannot decide an appeal unless at least three delegates, belonging to three different delegations, are present.

Judgment is given by majority vote, each delegate having one vote only. In case of an equality of votes the President has a casting vote.

Article 10.

Judgments shall contain the names of the judges and of the parties, the decisions requested by the parties, a summary statement of the points of fact and law, the reasons for the judgment, and the order made. Judgments shall be given in French and in the language of the judgment of the court of first instance ; they shall be signed by the President of the Commission and by the Secretary-General.

Article 11.

Litigants shall return to the Commission a statement of their disbursements and the costs of their representatives. The Commission shall fix the amount of such disbursements and costs.

It shall decide by its judgment upon the allocation of this amount and of the expenses and costs fixed by the court of first instance, as well as upon the allocation and repayment of such expenses as are repayable in virtue of paragraph 4 of Article 8.

Article 12.

The Commission shall inform the parties of its judgments and transmit them, with the dossiers, to the court of first instance.

These judgments are executory on the territory of each of the contracting States.

The notification and execution of such judgments shall be carried out in each country in the manner prescribed by the law of that country for the notification and execution of judgments which have not been pronounced by a national tribunal.

Article 13.

The present supplementary Convention shall have the same validity and duration as the Statute of Navigation of February 22, 1922, of which it shall be considered an integral part.

The present Convention shall be ratified. The ratifications shall be deposited with the Secretariat-General of the International Commission of the Elbe, with the least possible delay, and at the latest by December 31, 1923.

The present Convention shall come into force three months after the deposit of the ratifications.

In faith whereof the above-mentioned Plenipotentiaries have signed the present supplementary Convention, drawn up in a single copy, which shall be deposited in the archives of the International Commission of the Elbe, and of which an authenticated copy will be despatched to each of the signatory Powers.

Done at Prague, the January 27, 1923.

(L. S.) SEELIGER.
(L. S.) PETERS.
(L. S.) VON NOSTITZ.
(L. S.) KRÖNIG.
(L. S.) J. BRUNET.
(L. S.) A. CHARGUERAUD.
(L. S.) JOHN BALDWIN.
(L. S.) G. SINIGALIA.
(L. S.) Ing. BOHUSLAV MÜLLER.
(L. S.) Ing. DR. KLIR.

CLOSING PROTOCOL.

At the time of signing the Convention supplementary to the Statute of Navigation of the Elbe, and with a view to making its meaning clearer, the undersigned Plenipotentiaries have agreed as follows :

Ad Articles 1 and 2.

It is agreed that the tribunals referred to under article 1 (*ii*) and the corresponding provision in article 2 include equally the administrative authorities whose duty it is to decide disputes in connection with dues.

Ad Article 1 (i).

It is agreed that the regulations referred to in article 37 of the Statute of Navigation may prescribe the penalties for infractions of police regulations governing navigation.

Ad Articles 4 and 6.

It is agreed that as regards the application of the second paragraph of article 4 and the final paragraph of article 6 it is for the Commission to decide whether an appeal will lie.

Ad Articles 6 and 8.

It is agreed that in so far as it may consider it necessary for the purpose of the preliminary enquiry, the Commission can communicate directly with the parties, particularly with a view to the furnishing and communication of memoranda, by means of registered correspondence through the post together with acknowledgments of receipt.

In faith whereof, the undersigned have drawn up the present Protocol, which shall have the same validity and duration as the supplementary Convention to which it refers.

Done at Prague, the January 27, 1923.

SEELIGER.
PETERS.
VON NOSTITZ.
KRÖNIG.
J. BRUNET.
A. CHARGUERAUD.
JOHN BALDWIN.
G. SINIGALIA.
Ing. BOHUSLAV MÜLLER.
Ing. DR. KLIR.