

ASSISTANCE AND SALVAGE AT SEA

Convention and protocol of signature signed at Brussels September 23, 1910

Senate advice and consent to ratification January 18, 1912

Ratified by the President of the United States March 14, 1912

Procès-verbal of first deposit of ratifications (including that of the United States) at Brussels dated February 1, 1913

Proclaimed by the President of the United States February 13, 1913

*Entered into force March 1, 1913*¹

37 Stat. 1658; Treaty Series 576

[TRANSLATION]

CONVENTION FOR THE UNIFICATION OF CERTAIN RULES WITH RESPECT TO ASSISTANCE AND SALVAGE AT SEA

His Majesty the German Emperor, King of Prussia, in the name of the German Empire; the President of the Argentine Republic; His Majesty the Emperor of Austria, King of Bohemia, etc. and Apostolic King of Hungary; His Majesty the King of the Belgians; the President of the United States of Brazil; the President of the Republic of Chile; the President of the Republic of Cuba; His Majesty the King of Denmark; His Majesty the King of Spain; the President of the United States of America; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions Beyond the Seas, Emperor of India; His Majesty the King of the Hellenes; His Majesty the King of Italy; His Majesty the Emperor of Japan; the President of the United Mexican States; the President of the Republic of Nicaragua; His Majesty the King of Norway; Her Majesty the Queen of the Netherlands; His Majesty the King of Portugal and of the Algarves; His Majesty the King of Roumania; His Majesty the Emperor of All the Russias; His Majesty the King of Sweden; the President of the Republic of Uruguay,

Having recognized the utility of establishing in common accord certain uniform rules with respect to Assistance and Salvage at Sea, have decided to conclude a Convention to that effect and appointed as their Plenipotentiaries, to wit:

¹ One month after date of procès-verbal of deposit of ratifications (see art. 18).

His Majesty the German Emperor, King of Prussia, in the name of the German Empire:

Mr. Kracker von Schwartzefeldt, Chargé d'Affaires of Germany at Brussels.

Dr. Struckmann, Regency High Privy Councillor, reporting Counsellor at the Department of Justice.

The President of the Argentine Republic:

His Excellency A. Blancas, Envoy Extraordinary and Minister Plenipotentiary of the Argentine Republic near the King of the Belgians.

His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary:

For Austria and Hungary:

His Excellency Count von Clary et Aldringen, His Envoy Extraordinary and Minister Plenipotentiary near the King of the Belgians.

For Austria:

Dr. Stephen Worms, Section Counsellor at the Imperial and Royal Austrian Ministry of Commerce.

For Hungary:

Dr. François de Nagy, Secretary of State on the retired list, Ordinary Professor at the Royal University of Budapest, Member of the Hungarian Chamber of Deputies.

His Majesty the King of the Belgians:

Mr. Beernaert, Minister of State, President of the International Maritime Committee.

Mr. Capelle, Envoy Extraordinary and Minister Plenipotentiary, Director General of Trade Relations and the Consular Service at the Ministry of Foreign Affairs.

Mr. Ch. Le Jeune, Vice President of the International Maritime Committee.

Mr. Louis Franck, Member of the House of Representatives, Secretary General of the International Maritime Committee.

Mr. P. Segers, Member of the House of Representatives.

The President of the United States of Brazil:

Dr. Roderigo Octavio de Langgaard Menezes, Professor of the Free Faculty of Judicial and Social Sciences of Rio de Janeiro, Member of the Brazilian Academy.

The President of the Republic of Chile:

His Excellency F. Puga-Borne, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Chile near His Majesty the King of the Belgians.

The President of the Republic of Cuba:

Mr. Francisco Zayas y Alfonso, Minister Resident of the Republic of Cuba at Brussels.

His Majesty the King of Denmark:

Mr. W. de Grevenkop Castenskiold, Minister Resident of Denmark at Brussels.

Mr. Herman Barclay Halkier, member of the bar of the Supreme Court of Denmark.

His Majesty the King of Spain:

His Excellency de Bager y Corsi, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians.

Don Juan Spottorno, Auditor General of the Royal Navy.

Don Ramon Sanchez Ocaña, Chief of Division of the Ministry of Justice, former Magistrate of the territorial audiencia court.

Don Faustino Alvarez del Manzano, Professor of the Central University of Madrid.

The President of the United States of America:

Mr. Walter C. Noyes, Judge of the Circuit Court of the United States at New York.

Mr. Charles C. Burlingham, attorney at law, of New York.

Mr. A. J. Montague, former Governor of the State of Virginia.

Mr. Edwin W. Smith, attorney at law of Pittsburgh.

The President of the French Republic:

His Excellency M. Beau, Envoy Extraordinary and Minister Plenipotentiary of the French Republic near His Majesty the King of the Belgians.

Mr. Lyon-Caen, member of the Institute, Professor of the Faculty of Law of Paris and of the School of Political Science, President of the French Association of Maritime Law.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions Beyond the Seas, Emperor of India:

His Excellency Sir Arthur Hardinge, K. C. B., K. C. M. G., His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians.

The Honorable Sir William Pickford, Justice of the High Court of London.

Mr. Leslie Scott, King's counsel, of London.

The Honorable Hugh Godley, barrister, of London.

His Majesty the King of the Hellenes:

Mr. George Diobouniotis, Professor of the University of Athens.

His Majesty the King of Italy:

Prince de Castagneto Caracciolo, Chargé d'Affaires of Italy at Brussels.

Mr. François Berlingieri, attorney at law, Professor of the University of Genoa.

Mr. François Mirelli, Councillor of the Court of Appeals of Naples.

Mr. César Vivante, Professor of the University of Rome.

His Majesty the Emperor of Japan:

His Excellency K. Nabeshima, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians.

Mr. Yoshiyuki Irie, Attorney and Counsellor of the Ministry of Justice of Japan.

Mr. Takeyuki Ishikawa, Chief of the Division of Maritime Affairs at the Office of Communications of Japan.

Mr. M. Matsuda, Second Secretary of the Legation of Japan at Brussels.

The President of the United Mexican States:

His Excellency Olarte, Envoy Extraordinary and Minister Plenipotentiary of the United Mexican States near His Majesty the King of the Belgians.

Mr. Victor Manuel Castillo, lawyer, Member of the Senate.

The President of the Republic of Nicaragua:

Mr. L. Vallez, Consul General of the Republic of Nicaragua at Brussels.

His Majesty the King of Norway:

His Excellency Dr. G. F. Hagerup, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians.

Mr. Christian Theodor Boe, Shipowner.

Her Majesty the Queen of the Netherlands:

Jonkheer P. R. A. Melvill van Carnbee, Chargé d'Affaires of the Netherlands at Brussels.

Mr. W. L. P. A. Molengraaf, LL.D., Professor of the University of Utrecht.

Mr. B. C. J. Loder, LL.D., Councillor of the Court of Cassation of The Hague.

Mr. C. D. Asser, Jr., LL.D., attorney at law of Amsterdam.

His Majesty the King of Portugal and of the Algarves:

Mr. Antonio Duarte de Oliveira Soares, Chargé d'Affaires of Portugal at Brussels.

His Majesty the King of Roumania:

His Excellency Djuvara, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians.

His Majesty the Emperor of All the Russias:

Mr. C. Nabokoff, First Secretary of the Embassy of Russia at Washington.

His Majesty the King of Sweden:

His Excellency Count J. J. A. Ehrensvar, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians.

Mr. Einar Lange, Manager of the Steamship Insurance Society of Sweden.

The President of the Republic of Uruguay:

His Excellency Luis Garabelli, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Uruguay near His Majesty the King of the Belgians.

Who, duly authorized thereto, have agreed upon the following:

ARTICLE 1

Assistance and salvage of seagoing vessels in danger, of any things on board, of freight and passage money, and also services of the same nature rendered to each other by seagoing vessels and vessels of inland navigation are subject to the following provisions, without any distinction being drawn between the two kinds of service and in whatever waters the services have been rendered.

ARTICLE 2

Every act of assistance or salvage which has had a useful result gives a right to equitable remuneration.

No remuneration is due if the services rendered have no beneficial result.

In no case shall the sum to be paid exceed the value of the property saved.

ARTICLE 3

Persons who have taken part in salvage operations, notwithstanding the express and reasonable prohibition on the part of the vessel to which services were rendered, have no right to any remuneration.

ARTICLE 4

A tug has no right to remuneration for assistance to or salvage of the vessel she is towing or of the vessel's cargo except where she has rendered exceptional services which can not be considered as rendered in fulfilment of the contract of towage.

ARTICLE 5

Remuneration is due notwithstanding that the salvage services have been rendered by or to vessels belonging to the same owner.

ARTICLE 6

The amount of remuneration is fixed by agreement between the parties, and, failing agreement, by the court.

The proportion in which the remuneration is to be distributed among the salvors is fixed in the same manner.

The apportionment of the remuneration among the owner, master, and other persons in the service of each salving vessel is determined by the law of the vessel's flag.

ARTICLE 7

Every agreement as to assistance or salvage entered into at the moment and under the influence of danger can, at the request of either party, be annulled or modified by the court if it considers that the conditions agreed upon are not equitable.

In all cases, when it is proved that the consent of one of the parties is vitiated by fraud or concealment, or when the remuneration is, in proportion to the services rendered, in an excessive degree too large or too small, the agreement may be annulled or modified by the court at the request of the party affected.

ARTICLE 8

The remuneration is fixed by the court, according to the circumstances of each case, on the basis of the following considerations: (a) First, the measure of success obtained, the efforts and the deserts of the salvors, the danger run by the salvaged vessel, by her passengers, crew and cargo, by the salvors and by the salvaging vessel, the time expended, the expenses incurred and losses suffered, and the risks of liability and other risks run by the salvors, and also the value of the property exposed to such risks, due regard being had, the case arising, to the special adaptation of the salvor's vessel; (b) second, the value of the property salvaged.

The same provisions apply to the apportionment provided for by the second paragraph of Article 6.

The court may reduce or deny remuneration if it appears that the salvors have by their fault rendered the salvage or assistance necessary, or have been guilty of theft, receiving stolen goods, or other acts of fraud.

ARTICLE 9

No remuneration is due from the persons whose lives are saved, but nothing in this article shall affect the provisions of the national laws on this subject.

Salvors of human life who have taken part in the services rendered on the occasion of the accident, giving rise to salvage or assistance, are entitled to a fair share of the remuneration awarded to the salvors of the vessel, her cargo, and accessories.

ARTICLE 10

A salvage action is barred after an interval of two years from the day on which the operations of assistance or salvage are terminated.

The grounds upon which the said period of limitation may be suspended or interrupted are determined by the law of the court where the case is tried.

The High Contracting Parties reserve to themselves the right to provide by legislation in their respective countries that the said periods shall be extended in cases where it has not been possible to arrest the vessel assisted

or salvaged in the territorial waters of the State in which the plaintiff has his domicile or principal place of business.

ARTICLE 11

Every master is bound, so far as he can do so without serious danger to his vessel, her crew and passengers, to render assistance to everybody, even though an enemy, found at sea in danger of being lost.

The owner of the vessel incurs no liability by reason of contravention of the foregoing provision.

ARTICLE 12

The High Contracting Parties whose legislation does not forbid infringements of the preceding article bind themselves to take or to propose to their respective legislatures the measures necessary for the prevention of such infringements.

The High Contracting Parties will communicate to one another, as soon as possible, the laws or regulations which have already been or may be hereafter promulgated in their States for the purpose of giving effect to the above undertakings.

ARTICLE 13

This convention does not affect the provisions of national laws or international treaties as regards the organization of services of assistance and salvage by or under the control of public authorities, nor, in particular, does it affect such laws or treaties on the subject of the salvage of fishing gear.

ARTICLE 14

This convention does not apply to ships of war or to Government ships appropriated exclusively to a public service.

ARTICLE 15

The provisions of this convention shall be applied as regards all persons interested when either the assisting or salvaging vessel or the vessel assisted or salvaged belongs to one of the contracting States, and in any other cases for which the national laws provide.

Provided always, that:

1. As regards persons interested who belong to a non-contracting State the application of said provisions may be made subject by each of the contracting States to the condition of reciprocity.

2. Where all the persons interested belong to the same State as the court trying the case, the provisions of the national law and not of the convention are applicable.

3. Without prejudice to any wider provisions of any national laws, article 11 only applies as between vessels belonging to the States of the High Contracting Parties.

ARTICLE 16

Any one of the High Contracting Parties shall have the right three years after this convention comes into force to call for a fresh conference with a view to seeking such ameliorations as may be brought therein, and particularly with a view to extending, if possible, the sphere of its application.

Any power exercising this right must notify its intention to the other powers, through the Belgian Government, which will see to the convening of the conference within six months.

ARTICLE 17

States which have not signed the convention are allowed to adhere to it on request. Such adhesion shall be notified through the diplomatic channel to the Belgian Government and by the latter to each of the other Governments. It shall become effective one month after the sending of the notification by the Belgian Government.

ARTICLE 18²

This convention shall be ratified.

After an interval of at most one year from the day on which the convention is signed, the Belgian Government shall place itself in communication with the Governments of the High Contracting Parties which have declared themselves prepared to ratify the convention with a view to deciding whether it is expedient to put it into force.

The ratification shall, if so decided, be deposited forthwith at Brussels, and the convention shall come into force a month afterwards.

The protocol shall remain open another year in favor of the States represented at the Brussels Conference. After this interval they can only adhere to it on conforming to the provisions of Article 17.

ARTICLE 19

In the case of one or other of the High Contracting Parties denouncing this convention, such denunciation should not take effect until a year after the day on which it has been notified to the Belgian Government, and the convention would remain in force as between the other Contracting Parties.

In witness whereof the plenipotentiaries of the respective High Contracting Parties have signed this convention and have affixed their seals thereto.

Done at Brussels, in a single copy, the 23rd September, 1910.

² The procès-verbal of first deposit of ratifications dated Feb. 1, 1913, provided that "the date of February 1, 1913, shall mark the commencement of the period of one month, stipulated in article 18 of the Convention, as regards its coming into force" (translation). It further provided that "States signatories of the Convention which were not able to deposit their ratifications on the date of February 1, 1913, shall have another year, commencing on that date, in which to carry out this formality" (translation). For complete text of procès-verbal, see British Treaty Series No. 4 (1913), p. 78.

For Germany:
KRACKER VON SCHWARTZENFELDT
DR. G. STRUCKMANN

For the Argentine Republic:
ALBERTO BLANCAS

For Austria and for Hungary:
S. CLARY ET ALDRINGEN

For Austria:
STEPHEN WORMS

For Hungary:
DR. FRANÇOIS DE NAGY

For Belgium:
A. BEERNAERT
CAPELLE
CH. LEJEUNE
LOUIS FRANCK
PAUL SEGERS

For the United States of Brazil:
RODRIGO OCTAVIO DE LANGGAARD
MENEZES

For Chile:
F. PUGA-BORNE

For the Republic of Cuba:
DR. F. ZAYAS

For Denmark:
W. GREVENKOP CASTENSKIOLD
HERMAN HALKIER

For Spain:
ARTURO DE BAGUER
JUAN SPOTTORNO
RAMON SANCHEZ DE OCAÑA
FAUSTINO A. DEL MANZANO

For the United States of America:
WALTER C. NOYES
CHARLES C. BURLINGHAM
A. J. MONTAGUE
EDWIN W. SMITH

For France:
BEAU
CH. LYON-CAEN

For Great Britain:
ARTHUR H. HARDINGE
W. PICKFORD
LESLIE SCOTT
HUGH GODLEY

For Greece:
G. DIOBOUNIOTIS

For Italy:
PRINCE DE CASTAGNETO
FRANCESCO BERLINGIERI
FRANCESCO M. MIRELLI
PROF. CÉSAR VIVANTE

For Japan:
K. NABESHIMA
Y. IRIE
T. ISHIKAWA
M. MATSUDA

For the United Mexican States:
ENRIQUE OLARTE
VICTOR MANUEL CASTILLO

For Nicaragua:
LÉON VALLEZ

For Norway:
HAGERUP
CHR. TH. BOE

For the Netherlands:
P. R. A. MELVILL VAN CARNBEE
MOLENGRAAFF
LODER
C. D. ASSER

For Portugal:
A. D. DE OLIVEIRA SOARES

For Roumania:
T. G. DJUVARA

For Russia:
C. NABOKOFF

For Sweden:
ALBERT EHRENSVARD
EINAR LANGE

For Uruguay:
LUIS GARABELLI

PROTOCOL OF SIGNATURE

At the time of signing the Conventions for the unification of certain rules of law with respect to collisions^a and to assistance and salvage at sea, concluded this day, the undersigned Plenipotentiaries have agreed as follows:—

^a 1911 For. Rel. 19; S. Ex. K, 75th Cong., 1st sess. The United States did not become a party.

The provisions of the said Conventions shall be applicable to the colonies and possessions of the contracting Powers, subject to the following reservations:

1. The German Government reserves its decisions on the subject of its colonies. It reserves, for each one of these separately, the right of acceding to the Conventions and of denouncing them.

2. The Danish Government reserves the right of acceding to the said Conventions and of denouncing them for Iceland and the Danish colonies or possessions separately.

3. The Government of the United States of America reserves the right of acceding to the said Conventions and of denouncing them for the island possessions of the United States of America.

4. His Britannic Majesty's Government reserves the right of acceding to the said Conventions and of denouncing them for each of the British colonies, protectorates, and territories separately, as well as for the Island of Cyprus.

5. The Italian Government reserves the right of acceding eventually to the Conventions for the Italian dependencies and colonies.

6. The Netherland Government reserves the right of acceding eventually to the Conventions for the Netherland colonies and possessions.

7. The Portuguese Government reserves the right of acceding eventually to the Conventions for the Portuguese colonies.

These accessions may be notified either by a general declaration comprehending all the colonies and possessions, or by special declarations. For accessions and denunciations, the procedure indicated in the two present Conventions shall be observed in due course. It is understood, however, that the said accessions may also be declared in the *procès-verbal* of ratification.

In witness whereof, the undersigned Plenipotentiaries have drawn up the present Protocol, which shall have the same force and validity as if its provisions were inserted in the text of the Conventions to which it relates.

Done at Brussels, in a single copy, on September 23, 1910.

For Germany:

KRACKER VON SCHWARTZENFELDT
DR. G. STRUCKMANN

For the Argentine Republic:

ALBERTO BLANCAS

For Austria and Hungary:

S. CLARY ET ALDRINGEN

For Austria:

STEPHEN WORMS

For Hungary:

DR. FRANÇOIS DE NAGY

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G. DIOBOUNOTIS

For Italy:

PRINCE DE CASTAGNETO
FRANCESCO BERLINGIERI
FRANCESCO M. MIRELLI
PROF. CÉSAR VIVANTE

For Japan:

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T. ISHIKAWA
M. MATSUDA

For the United Mexican States:

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