

April, 1938

**THE MARITIME LAW ASSOCIATION
OF THE UNITED STATES**

INTERNATIONAL MARITIME COMMITTEE

Paris Conference*

ANTWERP, 15TH JUNE 1937.
30, Rue des Escrimeurs.

We beg to give you a summary of the resolutions passed at the Paris Conference, which was held from the 18th to the 21st of May, 1937.

1.—RATIFICATION OF THE BRUSSELS CONVENTIONS.

As advised in our previous circular letters, serious progress has been achieved since our Oslo Conference. To the particulars already supplied, we may add that Rumania has just ratified the four Conventions and that the bill of ratification has been published in the Official Gazette.

On the other hand, the statements made at the Paris meeting by the delegates of the various national Associations and Committees justify our expectation that within a short delay, further ratifications will be forthcoming. The time approaches when the Conventions will be practically in force in nearly all the important maritime countries.

* This communication, together with the three annexed Draft Conventions, is referred to in the Annual Report of the Secretary dated April 22, 1938, and included in Document No. 239. The verbatim report of the proceedings of the Paris Conference referred to in paragraph numbered 8 of the communication has not been received by our Association.

2.—PENAL JURISDICTION IN MATTERS OF COLLISION.

3.—CIVIL JURISDICTION IN MATTERS OF COLLISION.

4.—PROVISIONAL ARREST OF SHIPS.

These questions were the subject matter of elaborate discussions which led to the adoption of three Draft-Conventions, the wording of which will be found in the schedule hereto.

The draft-conventions prepared by the international Sub-Committee on Penal and Civil Jurisdiction have undergone some alterations which, we believe, will facilitate their general adoption. The *forum arresti* has been limited, as it is in English law, to the case of arrest of the wrongdoing ship.

As regards penal jurisdiction, you will read with interest article II which refers to collisions in territorial waters: it is in conformity with the views of the Mercantile Marine Officers and Engineers.

As to the draft-convention on Provisional Arrest of ships, you will observe that the Paris Conference decided that this convention shall only apply to provisional arrest of ships by reason of a collision. In this manner, the draft-convention on Provisional Arrest very appropriately completes the Convention on Civil Jurisdiction and the Code already in force on Collisions at Sea.

The Belgian Government, on whom devolves the task of convening the Diplomatic Maritime Conference, has been advised of the results of our Paris meeting, and has taken due note of the international draft-Conventions prepared at Paris. It is now left to that Government to take, at the most favourable time, the initiative of proposing to the various States a further session of the Diplomatic Conference.

5.—THROUGH-BILLS-OF-LADING.

This matter was on the agenda not as a subject for discussion on its merits but in consequence of the wish expressed by the Swedish Association of Maritime Law to have it considered for future debate. The Chairman of the Swedish Association made it clear that the International Committee should not prepare an

obligatory Convention but merely elaborate a set of contractual rules to which parties would be at liberty to refer.

The Conference instructed the Permanent Bureau to obtain the views of the various national Associations and Committees on this proposal and then to decide as to further steps to be taken.

6.—COMMENTARY ON THE BRUSSELS INTERNATIONAL MARITIME CONVENTIONS.

The suggestion by our President as to this matter has been approved unanimously. The Permanent Bureau will not fail to obtain, for the preparation of this work, the co-operation of representatives of the various national Associations and Committees. Naturally the commentary will have a great value through this authorship and the material collected, but it will avoid to appear as a binding construction amounting to a supplementary convention.

7.—ASSISTANCE AND SALVAGE OF AND BY AIRCRAFT AT SEA.

The Conference considered the report prepared by the Maritime Law Association of the United States on the draft-convention of the CITEJA, and the communications received from this institution. It appears from the latter that the draft-convention has already been forwarded by the CITEJA to the French Government for the purpose of convening a diplomatic conference.

Under these circumstances, the Paris Conference was of opinion that, the CITEJA being divested of the matter, it was not possible to adopt the motion suggested by the Maritime Law Association of the United-States.

However, the Conference instructed the Permanent Bureau to request the various national Associations and Committees to study the report of the Maritime Law Association of the United States and also the draft-Convention of the CITEJA as well as the alternative draft prepared by the U. S. Association and to express their remarks and suggestions on the matter. The Permanent Bureau will then convene a meeting of the Sub-Committee which dealt with the subject in 1934 and invite each national Association to send a delegate to that meeting.

We therefore kindly request you to let us have, at your earliest convenience, the report of your Association on this very important question. It would be desirable that this report should reach us before the 1st of November next.

We also invite you to start the study of the question of Through-Bills-of-Lading as defined above.

8.—PARIS REPORT.

You will receive as soon as possible the verbatim report of the proceedings of the Paris Conference.

9.—NEXT CONFERENCE.

The German Association has been kind enough to invite us to hold our next Conference in 1939 in Germany, either at Berlin or at Hamburg; and this invitation has been accepted with pleasure.

We are, Dear Sir,

Yours faithfully,

THE PERMANENT BUREAU.

Penal Jurisdiction in Matters of Collision

INTERNATIONAL DRAFT-CONVENTION ADOPTED BY THE PARIS
CONFERENCE (MAY, 1937).

ART. I.—In the event of a collision or any other accident of navigation on the high seas, the Master, as well as any other person in the service of the ship, wholly or partly responsible, can only be prosecuted under penal or disciplinary proceedings, in respect of such collision, before the Courts of the State of which the ship was flying the flag at the time of the collision or other accident of navigation.

ART. II.—The High contracting Parties mutually agree, without abandoning their sovereign right to institute penal proceedings

in respect of infringements committed within their own territorial waters, that the principle embodied in article I should, in practice, be followed when a collision or another accident occurs in the territorial waters of a State other than that of the flag of the responsible vessel.

ART. III.—In the case provided for in article I, no arrest or detention of the vessel shall be ordered as a penal sanction even as a measure of investigation, by any other authorities than those whose flag the ship was flying.

Civil Jurisdiction in Matters of Collision

INTERNATIONAL DRAFT-CONVENTION ADOPTED BY THE PARIS
CONFERENCE (MAY, 1937).

ART. 1.—The action for collision occurring between sea-going vessels, or between sea-going ships and inland navigation craft, can be introduced only, at the Plaintiff's option :

a) before the Court of the domicile of the Defendant or the port of registry of the defendant ship ;

b) before the Court of the place where the defendant ship has been arrested, even when the ship has been released against a guarantee before the action has been introduced ;

c) before the Court of the place of collision when the latter occurred within territorial waters.

ART. 2.—The preceding provisions do not in any way prejudice the right of the parties to have the matter brought before a Court they have chosen by mutual agreement or to refer it to arbitration.

ART. 3.—Counterclaims arising out of the same collision, can be introduced before the Court having to adjudicate on the principal action under the provisions of article 1.

ART. 4.—This Convention also applies to actions for compensation of damages which either by the carrying out or by omission of a manoeuvre, or by non-compliance with regulations, one ship may cause to another ship, or to the property or persons on board of such ships, even when there has been no actual collision.

ART. 5.—Nothing herein contained shall modify the laws and principles at present in force in the various Contracting States in regard to collisions involving warships or State-owned vessels exclusively employed on non-commercial public service.

Provisional Arrest of Ships in Matters of Collision

INTERNATIONAL DRAFT-CONVENTION ADOPTED BY THE PARIS CONFERENCE (MAY, 1937).

ART. I.—Any creditor of the Owner of a ship, by reason of a collision, may operate the provisional arrest of such ship, even when ready to sail.

This right may be exercised by the citizens of the Contracting States on the vessels flying the flag of one of the contracting States and which are found within the jurisdiction of the Court of one of them.

ART. II.—Arrest can only be effected under an authority of the Court.

The arresting creditor may be required to furnish such guarantee as may seem proper to make good the damage caused to the parties concerned in case the arrest should prove to be unlawful.

ART. III.—The Judge shall order the release of the arrest when adequate guarantee is supplied.

ART. IV.—The fact that release of the arrest against guarantee is requested, shall not be construed as an acknowledgment of liability or a renunciation to the benefit of the legal limitation of liability.

ART. V.—In the event of an unlawful arrest, the arrestor shall be ordered to refund the cost of the guarantee furnished for avoiding arrest or for obtaining the release thereof. The question whether the Arrestor has to make good other damage resulting from unlawful arrest, shall be determined by the law of the place of arrest.

ART. VI.—The forms of procedure relating to the provisional arrest of the ship as well as the incidental proceedings which it may entail, are governed by the law of the place of arrest.

ART. VII.—This Convention also applies to arrest effected for the purpose of obtaining compensation for damage which, either by the carrying out or by the omission of a manoeuvre, or by non-compliance with regulations, a ship has caused either to another ship or to property or persons on board of such ships, even if there has been no actual collision.

ART. VIII.—Nothing contained in this convention shall modify the laws and principles now in force in the various contracting States in regard to collisions involving warships and State-owned vessels exclusively employed on non-commercial public service.