

**CHAPTER 2. OTHER TREATIES RELATING TO SUPERVISION  
OF VESSELS ON THE HIGH SEAS, AND LEGISLATION  
CONNECTED THEREWITH**

**1. Protection of submarine cables**

(a) CONVENTION FOR THE PROTECTION OF SUBMARINE CABLES

*Signed at Paris, 14 March 1884. Entered into force 1 May 1888. Ratified, or acceded to, by Argentina, Australia, Belgium, Brazil, Canada, Costa Rica, Czechoslovakia, (Danzig,) Denmark, Dominican Republic, El Salvador, France, Germany, Greece, Guatemala, Hungary, Italy, Japan, (Morocco,) Netherlands, (Newfoundland,) New Zealand, Norway, Poland, Portugal, Romania, Spain, Sweden, (Tunis,) Turkey, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom, United States of America, Uruguay and Yugoslavia. Martens, "Nouveau Recueil général de Traités", 2nd series, vol. 11, p. 281. Translation from Malloy, "Treaties, Conventions, etc., between the United States of America and Other Powers", vol. 2, p. 1949*

His Excellency the President of the United States of America, His Majesty the Emperor of Germany, King of Prussia, His Excellency the President of the Argentine Confederation, His Majesty the Emperor of Austria, King of Bohemia, etc., Apostolical King of Hungary, His Majesty the King of the Belgians, His Majesty the Emperor of Brazil, His Excellency the President of the Republic of Costa Rica, His Majesty the King of Denmark, His Excellency the President of the Dominican Republic, His Majesty the King of Spain, His Excellency the President of the United States of Colombia, His Excellency the President of the French Republic, Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, His Excellency the President of the Republic of Guatemala, His Majesty the King of the Hellenes, His Majesty the King of Italy, His Majesty the Emperor of the Ottomans, His Majesty the King of the Netherlands, Grand Duke of Luxemburg, His Majesty the Shah of Persia, His Majesty the King of Portugal and the Algarves, His Majesty the King of Romania, His Majesty the Emperor of all the Russias, His Majesty the President of the Republic of Salvador, His Majesty the King of Servia, His Majesty the King of Sweden and Norway, and His Excellency the President of the Oriental Republic of Uruguay, desiring to secure the maintenance of telegraphic communication by means of submarine cables, have resolved to conclude a convention to that end, and have appointed as their Plenipotentiaries: . . .

Who, after having exchanged their full powers, which were found to be in good and due form, have agreed upon the following articles:

*Article I.* The present Convention shall be applicable, outside of the territorial waters, to all legally established submarine cables landed in the territories, colonies, or possessions of one or more of the high contracting parties.

*Article II.* The breaking or injury of a submarine cable, done willfully or through culpable negligence, and resulting in the total or partial interruption or embarrassment of telegraphic communication, shall be a punishable offence, but the punishment inflicted shall be no bar to a civil action for damages.

This provision shall not apply to ruptures or injuries when the parties guilty thereof have become so simply with the legitimate object of saving their lives or their vessels, after having taken all necessary precautions to avoid such ruptures or injuries.

*Article III.* The high contracting parties agree to insist, as far as possible, when they shall authorize the landing of a submarine cable, upon suitable conditions of safety, both as regards the track of the cable and its dimensions.

*Article IV.* The owner of a cable who, by the laying or repairing of that cable, shall cause the breaking or injury of another cable, shall be required to pay the cost of the repairs which such breaking or injury shall have rendered necessary, but such payment shall not bar the enforcement, if there be ground therefor, of article II of this Convention.

*Article V.* Vessels engaged in laying or repairing submarine cables must observe the rules concerning signals that have been or shall be adopted, by common consent, by the high contracting parties, with a view to preventing collisions at sea.

When a vessel engaged in repairing a cable carries the said signals, other vessels that see or are able to see those signals shall withdraw or keep at a distance of at least one nautical mile from such vessel, in order not to interfere with its operations.

Fishing gear and nets shall be kept at the same distance.

Nevertheless, a period of twenty-four hours at most shall be allowed to fishing vessels that perceive or are able to perceive a telegraph ship carrying the said signals, in order that they may be enabled to obey the notice thus given, and no obstacle shall be placed in the way of their operations during such period.

The operations of telegraph ships shall be finished as speedily as possible.

*Article VI.* Vessels that see or are able to see buoys designed to show the position of cables when the latter are being laid, are out of order, or are broken, shall keep at a distance of one quarter of a nautical mile at least from such buoys.

Fishing nets and gear shall be kept at the same distance.

*Article VII.* Owners of ships or vessels who can prove that they have sacrificed an anchor, a net, or any other implement used in fishing, in order to avoid injuring a submarine cable, shall be indemnified by the owner of the cable.

In order to be entitled to such indemnity, one must prepare, whenever possible, immediately after the accident, in proof thereof, a statement supported by the testimony of the men belonging to the crew; and the

captain of the vessel must, within twenty-four hours after arriving at the first port of temporary entry, make his declaration to the competent authorities. The latter shall give notice thereof to the consular authorities of the nation to which the owner of the cable belongs.

*Article VIII.* The courts competent to take cognizance of infractions of this convention shall be those of the country to which the vessel on board of which the infraction has been committed belongs.

It, is moreover, understood that, in cases in which the provision contained in the foregoing paragraph cannot be carried out, the repression of violations of this convention shall take place, in each of the contracting States, in the case of its subjects or citizens, in accordance with the general rules of penal competence established by the special laws of those States, or by international treaties.

*Article IX.* Prosecutions on account of the infractions contemplated in articles II, V and VI of this convention, shall be instituted by the State or in its name.

*Article X.* Evidence of violations of this convention may be obtained by all methods of securing proof that are allowed by the laws of the country of the court before which a case has been brought.

When the officers commanding the vessels of war or the vessels specially commissioned for that purpose, of one of the high contracting parties, shall have reason to believe that an infraction of the measures provided for by this Convention has been committed by a vessel other than a vessel of war, they may require the captain or master to exhibit the official documents furnishing evidence of the nationality of the said vessel. Summary mention of such exhibition shall at once be made on the documents exhibited.

Reports may, moreover, be prepared by the said officers, whatever may be the nationality of the inculpatated vessel. These reports shall be drawn up in the form and in the language in use in the country to which the officer drawing them up belongs; they may be used as evidence in the country in which they shall be invoked, and according to the laws of such country. The accused parties and the witnesses shall have the right to add or to cause to be added thereto, in their own language, any explanations that they may deem proper; these declarations shall be duly signed.

*Article XI.* Proceedings and trial in cases of infractions of the provisions of this Convention shall always take place as summarily as the laws and regulations in force will permit.

*Article XII.* The high contracting parties engage to take or to propose to their respective legislative bodies the measures necessary in order to secure the execution of this Convention, and especially in order to cause the punishment, either by fine or imprisonment, or both, of such persons as may violate the provisions of articles II, V and VI.

*Article XIII.* The high contracting parties shall communicate to each other such laws as may already have been or as may hereafter be enacted in their respective countries, relative to the subject of this Convention.

*Article XIV.* States that have not taken part in this Convention shall be allowed to adhere thereto, on their requesting to do so. Notice of

such adhesion shall be given, diplomatically, to the Government of the French Republic, and by the latter to the other signatory governments.

*Article XV.* It is understood that the stipulation of this Convention shall in no wise affect the liberty of action of belligerents.

*Article XVI.* This Convention shall take effect on such day as shall be agreed upon by the high contracting parties.

It shall remain in force for five years from that day, and, in case none of the high contracting parties shall have given notice, twelve months previously to the expiration of said period of five years, of its intention to cause its effects to cease, it shall continue in force for one year, and so on from year to year.

In case one of the Signatory Powers shall give notice of its desire for the cessation of the effects of the Convention, such notice shall be effective as regards that Power only.

*Article XVII.* This Convention shall be ratified; its ratification shall be exchanged at Paris as speedily as possible, and within one year at the latest.

*Note.* For the *procès-verbaux* of the Conferences of 1882 and 1883 which prepared this Convention, see Martens, *Nouveau Recueil général de Traités*, 2nd series, vol. 11, pp. 104-280. The texts of an Additional Article (excluding certain British colonies) and of a Protocol of Signature (containing reservations with respect to belligerent rights, by Belgium and the United Kingdom) may be found in Martens, *op. cit.*, pp. 286-8, and in *Hertslet's Commercial Treaties*, vol. 17, pp. 501-503. Supplementary provisions to this Convention are contained in the Declaration of 1 December 1886 and the Protocol of 7 July 1888, the texts of which are reproduced below. A conference "on the further protection of submarine cables" was held in London in 1913. *British Parliamentary Papers*, 1914, Cd. 7079.

The laws enacted, in pursuance of article 12 of the 1884 Convention, by the United Kingdom and the United States are reproduced below. Other laws deal mostly with punishment of offences, but some of them contain also references to the provisions of article 10 of the Convention. Several of these laws are reproduced in Martens, *Nouveau Recueil général de Traités*, 2nd series, vol. 11, pp. 290-307; *idem*, vol. 15, pp. 71-97; *idem*, vol. 16, pp. 541-44.

(b) DECLARATION INTERPRETING THE CONVENTION FOR THE PROTECTION OF SUBMARINE CABLES

*Signed at Paris, 1 December 1886 and 23 March 1887. Entered into force on 1 May 1888, Martens, "Nouveau Recueil général de Traités", 2nd series, vol. 15, p. 69. Translation from Malloy, "Treaties, Conventions, etc., between the United States of America and Other Powers", vol. 2, p. 1956*

The undersigned, Plenipotentiaries of the signatory Governments of the Convention of 14 March 1884, for the protection of submarine cables, having recognized the expediency of defining the sense of the terms of articles II and IV, of the said convention, have prepared by common accord the following declaration:

Certain doubts having arisen as to the meaning of the word "wilfully" inserted in article II of the convention of the 14th of March, 1884, it is understood that the imposition of penal responsibility, mentioned

in the said article, does not apply to cases of breaking or of injuries occasioned accidentally or necessarily in repairing a cable, when all precautions have been taken to avoid such breakings or damages.

It is likewise understood that article IV of the convention has no other object and is to have no other effect than to charge the competent tribunals of each country with the determination, conformably to their laws and according to circumstances, of the question of the civil responsibility of the owner of a cable, who, by the laying or repairing of such cable, causes the breaking or injury of another cable, and also of the consequences of that responsibility, if it is found to exist.

*Note.* This Declaration was prepared at the conferences held at Paris in May and December 1886, *procès-verbaux* of which were published by the French Ministry of Foreign Affairs. For the text of the Protocol signed at the first of these Conferences, see Malloy, *Treaties, Conventions, etc., between the United States and Other Powers*, vol. 2, p. 1957.

(c) FINAL PROTOCOL TO THE CONVENTION FOR THE  
PROTECTION OF SUBMARINE CABLES

*Signed at Paris, 7 July 1887. Entered into force on 1 May 1888. Martens, "Nouveau Recueil général de Traités", 2nd series, vol. 15, p. 70. Translation from Malloy, "Treaties, Conventions, etc., between the United States of America and Other Powers", vol. 2, p. 1958*

The undersigned, Plenipotentiaries of the Governments, parties to the Convention of 14 March 1884, for the protection of submarine cables, having met at Paris for the purpose of fixing, in pursuance of article 16 of that international instrument, a date for putting the said convention into execution, have agreed upon the following:

*Article I.* The International Convention of 14 March 1884, for the protection of submarine cables, shall go into operation on the 1st day of May, 1888, provided, however, that at that date those of the contracting Governments that have not yet adopted the measures provided for by article 12 of the said international instrument, shall have conformed to that stipulation.

*Article II.* The measures which shall have been taken by the said States in execution of article 12 aforesaid, shall be made known to the other contracting Powers through the French Government, which is charged with the examination of the said measures.

*Article III.* The Government of the French Republic is likewise charged with the examination of the similar legislative and reglementary provisions which are to be adopted in their respective countries, in pursuance of article 12, by such States as have not taken part in the Convention, and as may desire to avail themselves of the privilege of accession, for which provision is made in article 14.

In testimony whereof, the undersigned Plenipotentiaries have adopted this final protocol, which shall be considered as forming an integral part of the International Convention of 14 March, 1884.

## (d) UNITED KINGDOM

*Submarine Telegraph Act, 6 August 1885. 48 & 49 Vict. c. 49; Great Britain, "The Statutes" (2nd edition), vol. 16, p. 312*

1. This Act may be cited as the Submarine Telegraph Act, 1885.

2. The Convention of the fourteenth of March one thousand eight hundred and eighty-four mentioned in the schedule to this Act as set forth in that schedule is hereby confirmed, and subject to the provisions of this Act the articles of such Convention (referred to in this Act as the Convention) shall be of the same force as if they were enacted in the body of this Act.

3. (1) A person shall not unlawfully and wilfully, or by culpable negligence, break or injure any submarine cable to which the Convention for the time being applies, in such manner as might interrupt or obstruct in whole or in part telegraphic communication.

(2) Any person who acts or attempts to act in contravention of this section shall be guilty of a misdemeanour, and on conviction:

(a) If he acted wilfully, shall be liable to penal servitude for a term not exceeding five years, or to imprisonment, with or without hard labour, for a term not exceeding two years, and to a fine either in lieu of or in addition to such penal servitude or imprisonment; and

(b) If he acted by culpable negligence, shall be liable to imprisonment for a term not exceeding three months, without hard labour, and to a fine not exceeding 100 pounds either in lieu of or in addition to such imprisonment.

(3) Where a person does any act with the object of preserving the life or limb of himself or of any other person, or of preserving the vessel to which he belongs or any other vessel, and takes all reasonable precautions to avoid injury to a submarine cable, such person shall not be deemed to have acted unlawfully and wilfully within the meaning of this section.

(4) A person shall not be deemed to have unlawfully and wilfully broken or injured any submarine cable, where in the *bona fide* attempt to repair another submarine cable injury has been done to such first-mentioned cable, or the same has been broken; but this shall not apply so as to exempt such person from any liability under this Act or otherwise to pay the cost of repairing such breakage or injury.

(5) Any person who within or (being a subject of Her Majesty) without Her Majesty's dominions in any manner procures, counsels, aids, abets, or is accessory to the commission of any offence under this section, shall be guilty of a misdemeanour, and shall be liable to be tried and punished for the offence as if he had been guilty as a principal.

4. [Repealed by 50 Vict. c. 3, s. 3.]

5. (1) It is hereby declared that the enactments of the Merchant Shipping Act, 1862, and the enactments amending the same, touching regulations as to lights and to signals and for the avoiding of collisions, shall extend to authorize regulations for carrying into effect articles 5 and 6 of the schedule to this Act, within as well as without the territorial waters of Her Majesty's dominions, and regulations may be made, applied, altered, and revoked, and the contravention thereof punished accordingly under the said enactments, and section 6 of the Sea Fisheries

Act, 1883, shall extend to the enforcement of the said regulations as regards sea fishing boats within the limits of that Act.

(2) If any vessel engaged in the laying or repairing of a submarine cable to which the Convention for the time being applies, interferes contrary to the said regulations or articles with any vessel engaged in fishing, or if the operations of any vessel in connexion with any such submarine cable are wilfully delayed so as to interfere with sea fishing, the master of the vessel, or the owner thereof, if it appear that he was in fault, shall be deemed guilty of a breach of the said regulations and may be punished accordingly.

6. (1) For the purpose of carrying into effect the Convention, a person commanding a ship of war of Her Majesty or of any foreign State for the time being bound by the Convention, or a ship specially commissioned for the purpose of the Convention by Her Majesty or by the government of such foreign State, may exercise and perform the powers and duties vested in and imposed on such officer by any article in the Schedule to this Act.

(2) If any person obstructs any such officer in such exercise or performance, or refuses or neglects to comply with any demand or direction lawfully made or given by him in pursuance of this Act, such person shall be liable, on summary conviction, to a fine not exceeding fifty pounds, or to be imprisoned for a term not exceeding two months, with or without hard labour.

(3) Any action, prosecution, or proceeding against any officer for any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of this Act, shall not lie or be instituted unless it is commenced within twelve months next after the act, neglect, or default complained of.

(4) In any such action tender of amends before the action was commenced may, in lieu of or in addition to any other plea, be pleaded. If the action was commenced after such tender, or is proceeded with after payment into court of any money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, he shall not recover any costs incurred after such tender or payment, and the defendants shall be entitled to costs, to be taxed as between solicitor and client, as from the time of such tender or payment.

(5) Every such action shall be brought in one of Her Majesty's superior courts in the United Kingdom (which courts shall have jurisdiction to try the same wherever the matter complained of occurred) or in a supreme court in India or in a court exercising in a British possession the like authority as the High Court in England, but in no other court whatsoever.

7. Part X of the Merchant Shipping Act, 1854 (which relates to legal procedure), and the enactments amending the same, so far as unrepealed, shall have effect as if enacted in this Act, and offences under this Act may be tried, and fines under this Act recovered accordingly, save that nothing in the said part shall authorize the award of any punishment not authorized by this Act, or the summary prosecution of any indictable offence under this Act.

8. (1) Any document drawn up in pursuance of article 7 or article 10 of the schedule to this Act shall be admissible in any proceeding, civil or criminal, as *prima facie* evidence of the facts or matters therein stated.

(2) If evidence contained in any such document was taken on oath in the presence of the person charged in such evidence, and such person had an opportunity of cross-examining the person giving such evidence and of making his reply to such evidence, the officer drawing up such document may certify the said facts or any of them.

(3) Any document or certificate in this section mentioned purporting to be signed by an officer authorized to act under the Schedule to this Act for carrying into effect the Convention, shall be admissible in evidence without proof of such signature, and, if purporting to be signed by any other person, shall, if certified by any such officer to have been so signed, be deemed until the contrary is proved to have been signed by such other person.

(4) If any person forges the signature of any such officer to any such document as above mentioned, or makes use of any such document knowing the signature thereto to be forged, such person shall be guilty of a misdemeanour and liable on summary conviction to imprisonment for a term not exceeding three months with or without hard labour, and on conviction on indictment to imprisonment with or without hard labour for a term not exceeding two years.

9. Where any offence against this Act has been committed by means of a vessel, or of any boat belonging to a vessel, the master of such vessel shall, until some other person is shown to have been in charge of and navigating such vessel or boat, be deemed to have been in charge of and navigating the same, and be liable to be punished accordingly.

10. The provisions of this Act shall be in addition to and not in derogation of any other provisions existing at common law or under Act of Parliament or under the law of a British possession for the protection of submarine cables; and nothing in this Act shall prevent any person being liable under any Act of Parliament, law of a British possession, or otherwise to any indictment, proceeding, punishment, or penalty other than is provided for any offence by this Act, so that no person shall be punished twice for the same offence; and nothing in this Act, nor any proceedings with respect to any matter, shall exempt a person from any liability in any action or suit with reference to the same matter so that no person shall be required to pay compensation twice in respect of the same injury.

11. This Act shall so far as such extension is consistent with the tenor of this Act extend to the whole of Her Majesty's dominions, and to all places within the jurisdiction of the Admiral of England, and to all places where Her Majesty has jurisdiction.

12. In this Act, unless the context otherwise requires:

The expression "vessel" means every description of vessel used in navigation in whatever way it is propelled; and any reference to a vessel shall include a reference to a boat belonging to such vessel.

The expression "master" includes every person having command or charge of a vessel.

The expression "British possession" includes any part of Her Majesty's dominions exclusive of the United Kingdom.

The expression "person" includes a body of persons corporate or unincorporate.

13. This Act...if the Convention ceases to be binding on Her Majesty, shall cease to be of any effect.



*Schedule*

Submarine Telegraphs Convention.

[For text see No. 1(a), above.]

(e) UNITED STATES

*Act to carry into effect the Convention for the protection of submarine cables, 29 February 1888, as amended. "U.S. Code" (1946 Edition), Title 47 (Telegraphs, Telephones, and Radiotelegraphs), sections 21-33, pp. 5208-5210*

*Section 21. Submarine cables; willful injury to; punishment*

Any person who shall willfully and wrongfully break or injure, or attempt to break or injure, or who shall in any manner procure, counsel, aid, abet, or be accessory to such breaking or injury, or attempt to break or injure, a submarine cable in such manner as to interrupt or embarrass, in whole or in part, telegraphic communication, shall be guilty of a misdemeanor, and, on conviction thereof, shall be liable to imprisonment for a term not exceeding two years, or to a fine not exceeding \$ 5,000, or to both fine and imprisonment, at the discretion of the court. (Feb. 29, 1888, ch. 17, section 1, 25 Stat. 41.)

*Section 22. Same; negligent injury; punishment*

Any person who by culpable negligence shall break or injure a submarine cable in such manner as to interrupt or embarrass, in whole or in part, telegraphic communication, shall be guilty of a misdemeanor, and, on conviction thereof, shall be liable to imprisonment for a term not exceeding three months, or to a fine not exceeding \$ 500, or to both fine and imprisonment, at the discretion of the court. (Feb. 29, 1888, ch. 17, section 2, 25 Stat. 41.)

*Section 23. Same; injury in efforts to save life excepted*

The provisions of sections 21 and 22 of this title shall not apply to a person who breaks or injures a cable in an effort to save the life or limb of himself or of any other person, or to save his own or any other vessel: *Provided*, That he takes reasonable precautions to avoid such breaking or injury. (Feb. 29, 1888, ch. 17, section 3, 25 Stat. 41.)

*Section 24. Vessels laying cables; signals; avoidance of buoys*

The master of any vessel which, while engaged in laying or repairing submarine cables, shall fail to observe the rules concerning signals that have been or shall be adopted by the parties to the convention described in section 30 of this title with a view to preventing collisions at sea; or the master of any vessel that, perceiving, or being able to perceive the said signals displayed upon a telegraph ship engaged in repairing a cable, shall not withdraw to or keep at distance of at least one nautical mile; or the master of any vessel that seeing or being able to see buoys intended to mark the position of a cable when being laid or when out of order or broken, shall not keep at a distance of at least a quarter of a nautical mile, shall be guilty of a misdemeanor, and on conviction

thereof, shall be liable to imprisonment for a term not exceeding one month, or to a fine of not exceeding \$ 500. (Feb. 29, 1888, ch. 17, section 4, 25 Stat. 41.)

*Section 25. Fishing vessels; duty to keep nets from cables*

The master of any fishing vessel who shall not keep his implements or nets at a distance of at least one nautical mile from a vessel engaged in laying or repairing a cable; or the master of any fishing vessel who shall not keep his implements or nets at a distance of at least a quarter of a nautical mile from a buoy or buoys intended to mark the position of a cable when being laid or when out of order or broken, shall be guilty of a misdemeanor, and on conviction thereof, shall be liable to imprisonment for a term not exceeding ten days, or to a fine not exceeding \$ 250, or to both such fine and imprisonment, at the discretion of the court. Fishing vessels, on perceiving or being able to perceive the said signals displayed on a telegraph ship, shall be allowed such time as may be necessary to obey the notice thus given, not exceeding twenty-four hours, during which period no obstacle shall be placed in the way of their operations. (Feb. 29, 1888, ch. 17, section 5, 25 Stat. 42.)

*Section 26. Duties of commanders of warships*

For the purpose of carrying into effect the convention described in section 30 of this title a person commanding a ship of war of the United States or of any foreign State for the time being bound by the convention, or a ship specially commissioned by the Government of the United States or by the government of such foreign State, may exercise and perform the duties with respect to requiring exhibition of documents evidencing the nationality of offending vessels and making reports of infractions vested in and imposed on such officer by the convention. (Feb. 29, 1888, ch. 17, section 6, 25 Stat. 42.)

*Section 27. Offending vessels to show nationality*

Any person having the custody of the papers necessary for the preparation of the statements provided for in article 10 of the said convention with respect to reports of infractions, by officers commanding vessels of war or vessels especially commissioned, who shall refuse to exhibit them or shall violently resist persons having authority according to article 10 of said convention to draw up statements of facts in the exercise of their functions, shall be guilty of a misdemeanor, and on conviction thereof shall be liable to imprisonment not exceeding two years, or to a fine not exceeding \$ 5,000, or to both fine and imprisonment, at the discretion of the court. (Feb. 29, 1888, ch. 17, section 7, 25 Stat. 42.)

*Section 28. Penalties not to bar suits for damages*

The penalties provided in sections 21-33 of this title for the breaking or injury of a submarine cable shall not be a bar to a suit for damages on account of such breaking or injury. (Feb. 29, 1888, ch. 17, section 8, 25 Stat. 42.)

*Section 29. Master of offending vessel punishable*

When an offense against sections 21-33 of this title shall have been committed by means of a vessel, or of any boat belonging to a vessel, the master of such vessel shall, unless some other person is shown to have been in charge of and navigating such vessel or boat, be deemed to have been in charge of and navigating the same, and be liable to be punished accordingly. (Feb. 29, 1888, ch. 17, section 9, 25 Stat. 42.)

*Section 30. Definitions*

Unless the context of sections 21-33 of this title otherwise requires, the term "vessel" shall be taken to mean every description of vessel used in navigation, in whatever way it is propelled; the term "master" shall be taken to include every person having command or charge of a vessel; and the term "person" to include a body of persons, corporate or incorporate. The term "convention" shall be taken to mean the International Convention for the Protection of Submarine Cables, made at Paris on the 14th day of May [March], 1884, and proclaimed by the President of the United States on the 22nd day of May, 1885. (Feb. 29, 1888, ch. 17, section 10, 25 Stat. 42.)

*Section 31. Summary trials*

The provisions of chapter 8 of title 33 shall extend to the trial of offenses against the provisions of sections 24 and 25 of this title. (Feb. 29, 1888, ch. 17, section 11, 25 Stat. 42.)

*Section 32. Application*

The provisions of sections 21-33 of this title shall be held to apply only to cables to which the convention for the time being applies. (Feb. 29, 1888, ch. 17, section 12, 25 Stat. 42.)

*Section 33. Jurisdiction and venue of actions and offenses*

The district courts of the United States shall have jurisdiction over all offenses against sections 21-33 of this title and of all suits of a civil nature arising thereunder, whether the infraction complained of shall have been committed within the territorial waters of the United States or on board a vessel of the United States outside of said waters. From the decrees and judgments of the district courts in actions and suits arising under said sections appeals shall be allowed as provided by law in other cases. Criminal actions and proceedings for a violation of the provisions of said sections shall be commenced and prosecuted in the district court for the district within which the offense was committed, and when not committed within any judicial district, then in the district court for the district within which the offender may be found; and suits of a civil nature may be commenced in the district court for any district within which the defendant may be found and shall be served with process. (Feb. 29, 1888, ch. 17, section 13, 25 Stat. 42; Jan. 31, 1928, ch. 14, section 1, 45 Stat. 54.)

## 2. Liquor traffic in the North Sea

### (a) CONVENTION RESPECTING THE LIQUOR TRAFFIC IN THE NORTH SEA

*Signed at The Hague, 16 November 1887, Entered into force on 23 May 1894.  
Ratified by Belgium, Denmark, Germany, Netherlands and the United Kingdom.  
Martens, "Nouveau Recueil général de Traités", 2nd series, vol. 19, p. 414.  
Translation from "Hertslet's Commercial Treaties", vol. 10, p. 272*

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, His Majesty the German Emperor, King of Prussia, in the name of the German Empire, His Majesty the King of Belgium, His Majesty the King of Denmark, the President of the French Republic, and His Majesty the King of the Netherlands, having recognized the necessity of remedying the abuses arising from the traffic in spirituous liquors amongst the fishermen in the North Sea outside territorial waters, have resolved to conclude a Convention for this purpose, and have named as their Plenipotentiaries...

Who, after having communicated their full powers, found in good and due form, have agreed upon the following articles:

*Article I.* The provisions of the present Convention shall apply in the North Sea, outside territorial waters, and within the limits fixed by article IV of the Convention of The Hague of the 6th May, 1882, respecting the police of the fisheries to every person on board a ship or boat of any one of the high contracting parties.

*Article II.* The sale of spirituous liquors to persons on board or belonging to fishing boats is forbidden.

The purchase of those liquors by such persons is forbidden.

The exchange of spirituous liquors for any article, and especially for products of the fisheries, gear, or equipments of fishing boats, or fishing implements, is forbidden.

Every liquid obtained by distillation, and containing more than five litres of alcohol per hectolitre, shall be considered a spirituous liquor.

*Article III.* The liberty to deal with fishermen in provisions and other articles for their use (spirituous liquors excepted) shall be subject to a licence to be granted by the government of the country to which the vessel belongs. This licence must specify the following amongst other conditions:

1. The vessels may not have on board a quantity of spirits greater than what is deemed requisite for the consumption of her crew.

2. All exchange of the articles above indicated for products of the fisheries, gear, or equipment of fishing boats, or fishing implements is forbidden.

Vessels provided with this licence must carry a special and uniform mark to be agreed upon by the high contracting powers.

*Article IV.* The high contracting parties engage to take, or to propose to their respective Legislatures, the necessary measures for ensuring the execution of the present Convention, and especially for punishing, by either fine or imprisonment, or by both, those who may contravene articles II and III.

*Article V.* The tribunals competent to take cognizance of infractions of articles II and III are those of the country to which the accused vessel belongs. If vessels of different nationalities should be implicated in the same infraction, the Powers to which such vessels belong will mutually communicate to each other the judgments given by the tribunals.

*Article VI.* Prosecutions for infractions shall be instituted by the State, or in its name.

Infractions may be verified by all means of proof allowed by the legislation of the country of the court concerned.

*Article VII.* The superintendence shall be exercised by the cruisers of the high contracting parties which are charged with the police of the fisheries.

When the officers commanding these cruisers have reason to believe that an infraction of the measures provided for in the present Convention has been committed, they may require the captain or master to exhibit the official documents establishing the nationality of his vessel, and, where the case occurs, the licence. The fact of such documents having been exhibited shall then be endorsed upon them immediately.

Further, formal statements of the facts may be drawn up by the said officers, whatever may be the nationality of the accused vessel. These formal statements shall be drawn up according to the forms and in the language used in the country to which the officer belongs; they may be used as means of proof in the country where they are adduced, and conformably with the laws of that country. The accused and the witnesses shall be entitled to add or to have added thereto, in their own language, any explanations which they may think useful. These declarations must be duly signed.

Resistance to the directions of commanders of cruisers, or of those who act under their orders, shall, without taking into account the nationality of their cruisers, be considered as resistance to national authority.

The commander of the cruiser may, if the case appears to him sufficiently serious to justify the step, take the offending boat into a port of the nation to which she belongs.

*Article VIII.* The proceedings in respect of infractions of the provisions of the present Convention shall always take place as summarily as the laws and regulations will permit.

*Article IX.* The high contracting parties will communicate to each other, at the time of the exchange of the ratifications, the laws which shall have been made in their respective countries in relation to the object of the present Convention.

*Article X.* States which have not signed the present Convention may adhere to it on making a request to that effect. This adhesion shall be notified through the diplomatic channel to the Government of the Netherlands, and by the latter to the other Signatory Powers.

*Article XI.* The present Convention shall be brought into operation from and after a day to be agreed upon by the high contracting parties.

It shall remain in force for five years from that day, and, unless any of the high contracting parties shall, twelve months before the expiration

of the said period of five years, have given notice of its intention to terminate its operation, it shall remain in force for one year longer, and so on from year to year.

If the Convention of The Hague of the 6th May, 1882, respecting the police of the fisheries, should cease to be in force, article XXVI of the same Convention shall continue to operate as regards the object of the present arrangement.

*Article XII.* The present Convention shall be ratified; the ratifications shall be exchanged at The Hague as soon as possible, and if practicable, within a year.

*Note.* The *procès-verbaux* of the Conference which drafted the text of this Convention may be found in Martens, *Nouveau Recueil général de Traités*, 2nd series, vol. 14, pp. 473-540.

When the French Government gave notice that it "is unable for the moment to proceed to the ratification" of this Convention, the other parties agreed: to put it into force six weeks after the exchange of ratifications; to extend the faculty of accession to France; and to reduce the delays of five years and of twelve months in article XI of the Convention "to one year and to three months respectively". Protocol of 14 February 1893, Martens, *Nouveau Recueil général des Traités*, 2nd series, vol. 19, p. 421; *Hertslet's Commercial Treaties*, vol. 19, p. 439. For the *procès-verbal* of 11 April 1894, recording the deposit of the ratifications, see Martens, *op. cit.*, p. 422; Hertslet, *op. cit.*, p. 460.

Article 272 of the Treaty of Versailles of 28 June 1919 provided that: "Germany agrees that, notwithstanding any stipulation to the contrary contained in the Conventions relating to the North Sea fisheries and liquor traffic, all rights of inspection and police shall, in the case of fishing-boats of the Allied Powers, be exercised solely by ships belonging to those Powers."

#### (b) BELGIUM

*Act concerning the punishment of violations of the Convention respecting the liquor traffic in the North Sea, 2 June 1890.* "Moniteur belge", 30 April-1 May 1894; J. Servais and E. Mechelynck, "Les codes et les lois spéciales les plus usuelles en vigueur en Belgique," 27th edition (1947), p. 1760. Translation by the Secretariat of the United Nations

*Article 1.* Any person who, in contravention of article 2 of the International Convention of 16 November 1887 respecting the Liquor Traffic in the North Sea, sells spirituous liquors, or exchanges such liquors for other articles, shall be liable to imprisonment for not less than eight days nor more than one month and to a fine of not less than twenty-six nor more than 100 francs, or to one of these penalties only.

Any person who, under the same conditions, buys spirituous liquors or accepts them in exchange for other articles, shall be liable to imprisonment for not less than one nor more than seven days and to a fine of not less than one nor more than twenty-five francs, or to one of these penalties only.

If spirituous liquors are exchanged for the products of fishing, articles of equipment of fishing tackle, the persons who effected or accepted the exchange shall be liable to imprisonment for not less than fifteen days nor more than two months and to a fine of not less than twenty-six nor more than 200 francs, or to one of these penalties only.

*Article 2.* Any person who, in contravention of article 3 of the Convention, furnishes fishermen with articles other than spirituous liquors without a permit, shall be liable to imprisonment for not less than eight nor more than fifteen days and to a fine of not less than twenty-six nor more than fifty francs, or to one of these penalties only. Any vessel which, except in the case of *force majeure*, is unable to show its permit to any competent official who may request it shall be deemed to have committed an offence.

The permit shall be revocable at all times.

The above penalties shall also apply to the following:

Any person who effects or accepts the exchange of articles other than spirituous liquors for the products of fishing, articles of equipment, or fishing tackle.

Any person who, although holding a permit, keeps on board a quantity of spirituous liquors greater than the amount considered necessary for the consumption of the crew.

Any infringement of the regulations concerning the special mark to be borne by vessels holding the above permit shall be punishable by imprisonment for not less than one nor more than seven days and by a fine of not less than one nor more than twenty-five francs, or by one of these penalties only.

*Article 3.* Any person resisting the orders of the commanding officers of vessels reponsible for the supervision of the liquor traffic, or of persons acting under their orders, shall be sentenced to a fine of not less than fifty nor more than 500 francs; sentence of imprisonment for not less than eight days nor more than one year may also be passed, without prejudice to the penalties laid down in the Penal Code in cases of resistance to public authorities.

*Article 4.* In the case of a repeated offence, the sentence of imprisonment or fine may be doubled.

A repetition of the offence shall be deemed to have occurred if the author of an offence covered by this Act has already been sentenced for a similar offence within the preceding two years.

*Article 5.* Apart from officers of the judicial police, maritime commissaries and their agents, customs officials, commissioned captains commanding State vessels and officers commanding foreign cruising vessels, the latter within the limits laid down in the Convention, shall detect and report the offences covered by this Act.

Their reports shall be evidence until the contrary is proved.

*Article 6.* The district court of summary jurisdiction and the cantonal police court within the competence of which the home port of the accused person's vessel is situated shall be competent, respectively, according to the case, to pass judgment on the offences covered by the above articles.

*Article 7.* The provisions of this Act shall also apply, within the territorial waters of Belgium, to persons on board any ship or vessel, whatever its nationality may be.

The officials listed in article 5, with the exception of the commanding officers of foreign cruising vessels, shall be competent to detect and report offences committed in territorial waters.

Such offences shall be judged by the district court of summary jurisdiction or by the cantonal police court within the competence of which they have been committed.

(c) DENMARK

*Act No. 35, to prohibit the sale of alcoholic liquor to fishermen in the North Sea outside territorial waters, 23 March 1888. 'Danmarks Lov, 1665-1946'' (Copenhagen, 1946), p. 314. Translation by the Secretariat of the United Nations*

1. It shall not be lawful for any person being a member of the crew of a Danish ship or accompanying such ship to sell or by any other means supply liquor to fishermen or other persons aboard or belonging to the vessel, whether Danish nationals or aliens, who are in the North Sea fisheries within the boundaries laid down by article 4 of the Hague Convention of 6 May 1882 for regulating the Police of the North Sea Fisheries, but outside the territorial waters of an adjacent State. Furthermore, it shall not be lawful for any persons aboard or belonging to such Danish vessels to buy or in any other way procure alcoholic liquor. Any beverage produced by distillation and containing more than 5/100 alcohol shall be deemed to be alcoholic liquor.

2. If any Danish national desires by way of a commercial transaction to supply the above-mentioned fishermen with wares other than alcoholic liquor he shall obtain from the chief constable of the place of departure a permit which shall set forth the name of the vessel on which he intends to do business and shall be drawn up on the form prescribed by the Ministry of the Interior. It shall not be lawful to keep on board any vessel as above mentioned a greater quantity of alcoholic liquor than the chief constable considers necessary for the use of the crew, and all bartering with the above-mentioned fishermen for fish, fishing equipment and tackle, is prohibited. The permit shall be issued for one voyage only, and vessels having such permits shall show the special uniform markings prescribed by the Ministry of the Interior.

3. A contravention of the provisions of this Act shall be punishable by a fine not exceeding 200 kronor. Cases in which the offender is liable to a fine of this nature shall be tried as police offences in the Maritime and Commercial Court of Copenhagen.

Resistance to the directions and injunctions of commanders of cruisers charged with the police of the fisheries or of any person acting under their orders, shall, without taking into account the nationality of the cruiser, be deemed to constitute resistance to the authorities of the nation of the fishing vessel.

4. This Act shall come into force on the day on which the contracting States decide that the agreement signed at The Hague on 16 November 1887 respecting regulations against abuses in the liquor traffic with fishermen in the North Sea outside territorial waters, shall come into operation.

The Act shall cease to have effect upon the expiration of the above mentioned agreement.



## (d) UNITED KINGDOM

*North Sea Fisheries Act, 29 June 1893. 56 & 57 Vict. c. 17; "Halsbury's Statutes of England" (2nd edition, 1949), vol. 10. p. 236*

1. *Confirmation of Convention.* The Convention set out in the schedule to this Act (hereinafter referred to as the scheduled Convention) is, with the Protocol thereto annexed hereby confirmed, and the articles thereof shall be of the same force as if they were enacted in the body of this Act.

2. *Penalty for supplying, exchanging, or otherwise selling spirits.* If within the North Sea limits but outside territorial waters any person on board or belonging to a British vessel supplies spirituous liquors to any person on board or belonging to a sea fishing boat he shall be liable:

(a) If the liquors are supplied in exchange for any article not belonging to the person supplied, to a fine not exceeding fifty pounds, or, in the discretion of the court, to imprisonment for a term not exceeding three months, with or without hard labour; and

(b) If the liquors are sold otherwise than by way of exchange for any such article, to a fine not exceeding thirty pounds, or in the discretion of the court, to imprisonment for a term not exceeding three months, with or without hard labour.

3. *Penalty for purchasing spirits by exchange or otherwise.* If within the North Sea limits but outside territorial waters any person on board or belonging to a British sea fishing boat purchases spirituous liquors, he shall be liable:

(a) If he gives any article not belonging to him in exchange for the liquors, to a fine not exceeding fifty pounds, or, in the discretion of the court, to imprisonment for a term not exceeding three months, with or without hard labour; and

(b) If he purchases the liquors otherwise than by way of exchange for any such article, to a fine not exceeding ten pounds.

4. *Penalty for breach of licence.* If within the North Sea limits but outside territorial waters any person on board or belonging to a British vessel deals with any person on board or belonging to a sea fishing boat in any provisions or other articles for his use, except spirituous liquors, without a licence granted in pursuance of article 3 of the scheduled Convention, or without carrying on his vessel the mark agreed upon in pursuance of that article, or in contravention of any conditions of a licence so granted, he shall be liable to a fine not exceeding twenty pounds, and his licence may be revoked.

5. *Power to make regulations as to licences and other matters.* Her Majesty the Queen may from time to time by Order in Council make regulations for any of the following purposes:

(a) For prescribing the mode in which licences under article 3 of the scheduled Convention are to be granted, renewed, and revoked; and

(b) For prescribing the mode of application for such licences, and the conditions under which, and the time for which, the licences are to be granted; and

(c) Generally for giving effect to any of the provisions of this Act or any of the articles of the scheduled convention.

6. *Enforcement of Act.* For the purpose of enforcing the provisions of this Act in the case of British and foreign vessels, whether within or beyond the North Sea limits, all British and foreign sea fishery officers respectively within the meaning of the Sea Fisheries Act, 1883, shall have the same powers and be entitled to the same protection, as they have and are entitled to for the purpose of enforcing the provisions of that Act in the case of British and foreign sea fishing boats respectively.

Provided that in the case of a vessel not being either a sea fishing boat or a vessel habitually employed in dealing with fishermen the power of a sea fishery officer to take the vessel to any port shall not be exercised, unless the sea fishery officer is satisfied that its exercise is necessary for the suppression of grave disorder.

7. *Legal proceedings.* Sections 16, 18, 19, 20, 21, and 22 of the Sea Fisheries Act, 1883, shall apply in the case of offences, fines, and legal proceedings under this Act in the same manner as they apply in the case of offences, fines, and legal proceedings under that Act, and in those sections as so applied the expression "sea fishing boat" shall include any vessel.

8. *Evidence.* Section 17 of the Sea Fisheries Act, 1883, shall apply in the case of any formal statement drawn up in pursuance of article 7 of the scheduled Convention in the same manner as it applies in the case of any document drawn up in pursuance of the Convention set out in the first schedule to that Act.

9. *Definitions.* In this Act:

The expression "North Sea limits" shall mean the limits of the North Sea as fixed by article 4 of the Convention set out in the first schedule to the Sea Fisheries Act, 1883.

The expression "territorial waters" shall mean the territorial waters of Her Majesty's dominions as defined by the Territorial Waters Jurisdiction Act, 1878.

The expression "sea fishing boat" shall have the same meaning as in the Sea Fisheries Act, 1883.

The expression "vessel" shall include ship, boat, lighter, and craft of every kind, whether navigated by steam or otherwise.

The expression "spirituous liquors" shall include every liquid obtained by distillation and containing more than five per centum of alcohol.

10. *Continuance and application of Act.* (1) (*Repealed by the S.L.R. Act, 1908 (c. 49).*)

(2) The provisions of this Act relating to the sea fishery officers of any foreign State bound by the Convention set out in the first schedule to the Sea Fisheries Act, 1883, shall continue in operation notwithstanding the termination of the operation of that Convention as respects that foreign State.

(3) So much of this Act as has effect outside territorial waters shall, if the scheduled Convention ceases to be binding on Her Majesty, cease to apply to the vessels and officers of any foreign State bound by the scheduled Convention, but, subject as aforesaid, this Act shall continue in force notwithstanding the determination of the scheduled Convention.

(4) A notification in the *London Gazette* shall be sufficient evidence of the adhesion of any foreign State to the scheduled Convention, and

of the application of this Act to the vessels and officers of any foreign States.

11. (*Repealed by the S.L.R. Act, 1908 (c. 49).*)

12. *Short title.* This Act may be cited as the North Sea Fisheries Act, 1893.

#### *Schedule*

#### Convention respecting the Liquor Traffic in the North Sea.

*Note.* This Act re-enacts, with slight modifications, the repealed North Sea Fisheries Act of 5 July 1888 (51 & 52 Vict., c. 18). Regulations under section 5 of this Act were made by an Order in Council, 30 April 1894. *Hertslet's Treaties and Conventions between Great Britain and Foreign Powers*, vol. 19, p. 462.

### 3. African slave trade

#### (a) GENERAL ACT OF THE BRUSSELS CONFERENCE RELATIVE TO THE AFRICAN SLAVE TRADE

*Signed at Brussels, 2 July 1890. Entered into force 2 April 1892. Ratified, or acceded to, by Austria, Belgium (and Congo), Denmark, Ethiopia, France (with a reservation concerning articles XXI-XXIII and XLII-LXI), Germany, Hungary, Iran, Italy, Liberia, Netherlands, Norway, Portugal, Spain, Sweden, Turkey, Union of Soviet Socialist Republics, United Kingdom (and Zanzibar) and United States. Martens, "Nouveau Recueil général de Traités", 2nd series, vol. 16, p. 3. Translation from Malloy, "Treaties, Conventions, etc., between the United States and Other Powers", vol. 2, pp. 1974-1982*

#### Chapter III. Repression of the Slave-trade by Sea

##### Section I. General provisions

*Article XX.* The signatory Powers recognize the desirability of taking steps in common for the more effective repression of the slave trade in the maritime zone in which it still exists.

*Article XXI.* This zone extends, on the one hand, between the coasts of the Indian Ocean (those of the Persian Gulf and of the Red Sea included), from Beloochistan to Cape Tangalane (Quilimane); and, on the other hand, a conventional line which first follows the meridian from Tangalane till it intersects the 26th degree of south latitude; it is then merged in this parallel, then passes round the Island of Madagascar by the east, keeping twenty miles off the east and north shore, till it intersects the meridian at Cape Ambre. From this point the limit of the zone is determined by an oblique line, which extends to the coast of Beloochistan, passing twenty miles off Cape Ras-el-Had.

*Article XXII.* The signatory Powers of the present general act, among whom exist special conventions for the suppression of the slave trade, have agreed to restrict the clauses of those conventions concerning the reciprocal right of visit, of search and of seizure of vessels at sea, to the above-mentioned zone.

*Article XXIII.* The same Powers also agree to limit the above-mentioned right to vessels whose tonnage is less than 500 tons. This stipulation shall be revised as soon as experience shall have shown the necessity thereof.

*Article XXIV.* All other provisions of the conventions concluded for the suppression of the slave trade between the aforesaid Powers shall remain in force provided they are not modified by the present general act.

*Article XXV.* The Signatory Powers engage to adopt efficient measures to prevent the unlawful use of their flag, and to prevent the transportation of slaves on vessels authorized to fly their colours.

*Article XXVI.* The Signatory Powers engage to adopt all measures necessary to facilitate the speedy exchange of information calculated to lead to the discovery of persons taking part in operations connected with the slave trade.

*Article XXVII.* At least one international bureau shall be created; it shall be established at Zanzibar. The high contracting parties engage to forward to it all the documents specified in article XLI, as well as all information of any kind likely to assist in the suppression of the slave trade.

*Article XXVIII.* Any slave who has taken refuge on board a ship of war bearing the flag of one of the Signatory Powers, shall be immediately and definitively set free. Such freedom, however, shall not withdraw him from the competent jurisdiction if he has been guilty of any crime or offence at common law.

*Article XXIX.* Any slave detained against his will on board of a native vessel shall have the right to demand his liberty. His release may be ordered by any agent of any of the Signatory Powers on whom the present general act confers the right of ascertaining the status of persons on board of such vessels, although such release shall not withdraw him from the competent jurisdiction if he has committed any crime or offence at common law.

## Section II.—Regulation concerning the use of the flag and supervision by cruisers

### *1. Rules for granting the flag to native vessels, and as to crew lists and manifests of black passengers on board*

*Article XXX.* The Signatory Powers engage to exercise a strict surveillance over native vessels authorized to carry their flag in the zone mentioned in article XXI, and over the commercial operations carried on by such vessels.

*Article XXXI.* The term “native vessel” applies to vessels fulfilling one of the following conditions:

1. It shall present the outward appearance of native build or rigging.
2. It shall be manned by a crew of whom the captain and a majority of the seamen belong by origin to one of the countries on the coasts of the Indian Ocean, the Red Sea, or the Persian Gulf.

*Article XXXII.* The authorization to carry the flag of one of the said Powers shall in future be granted only to such native vessels as shall satisfy at the same time the three following conditions:

1. Fitters-out or owners of ships must be either subjects of or persons protected by the Power whose flag they ask to carry.

2. They shall be obliged to prove that they possess real estate situated in the district of the authority to whom their application is addressed, or to furnish *bona fide* security as a guaranty of the payment of such fines as may be incurred.

3. The above-named fitters-out or owners of ships, as well as the captain of the vessel, shall prove that they enjoy a good reputation, and that in particular they have never been sentenced to punishment for acts connected with the slave trade.

*Article XXXIII.* This authorization granted shall be renewed every year. It may at any time be suspended or withdrawn by the authorities of the Power whose colours the vessel carries.

*Article XXXIV.* The act of authorization shall contain the statements necessary to establish the identity of the vessel. The captain shall have the keeping thereof. The name of the native vessel and the amount of its tonnage shall be cut and painted in Latin characters on the stern, and the initial or initials of the name of the port of registry, as well as the registration number in the series of the numbers of that port, shall be printed in black on the sails.

*Article XXXV.* A list of the crew shall be issued to the captain of the vessel at the port of departure by the authorities of the Power whose colours it carries. It shall be renewed at every fresh venture of the vessel, or, at the latest, at the end of a year, and in accordance with the following provisions:

1. The vessel shall be visaed at the departure of the vessel by the authority that has issued it.

2. No negro can be engaged as a seaman on a vessel without having previously been questioned by the authority of the Power whose colours it carries, or, in default thereof, by the territorial authority, with a view to ascertaining the fact of his having contracted a free engagement.

3. This authority shall see that the proportion of seamen and boys is not out of proportion to the tonnage or rigging.

4. The authorities who shall have questioned the men before their departure shall enter them on the list of the crew in which they shall be mentioned with a summary description of each of them alongside his name.

5. In order the more effectively to prevent any substitution, the seamen may, moreover, be provided with a distinctive mark.

*Article XXXVI.* When the captain of a vessel shall desire to take negro passengers on board, he shall make his declaration to that effect to the authority of the Power whose colours he carries, or in default thereof, to the territorial authority. The passengers shall be questioned, and after it has been ascertained that they embarked of their own free will, they shall be entered in a special manifest, bearing the description of each of them alongside of his name, and specially sex and height. Negro children shall not be taken as passengers unless they are accompanied

by their relations, or by persons whose respectability is well known. At the departure, the passenger roll shall be visaed by the aforesaid authority after it has been called. If there are no passengers on board, this shall be specially mentioned in the crew list.

*Article XXXVII.* At the arrival at any port of call or of destination, the captain of the vessel shall show to the authority of the Power whose flag he carries, or, in default thereof, to the territorial authority, the crew list, and, if need be, the passenger roll previously delivered. The authority shall check the passengers who have reached their destination or who are stopping in a port of call, and shall mention their landing in the roll. At the departure of the vessel, the same authority shall affix a fresh visa to the list and roll, and call the roll of the passengers.

*Article XXXVIII.* On the African coasts and on the adjacent islands, no negro passengers shall be taken on board of a native vessel, except in localities where there is a resident authority belonging to one of the Signatory Powers.

Throughout the extent of the zone mentioned in article XXI, no negro passenger shall be landed from a native vessel except at a place in which there is a resident officer belonging to one of the high contracting Powers, and unless such officer is present at the landing.

Cases of *vis major* that may have caused an infraction of these provisions shall be examined by the authority of the Power whose colours the vessel carries, or, in default thereof, by the territorial authority of the port at which the vessel in question calls.

*Article XXXIX.* The provisions of articles XXXV, XXXVI, XXXVII, and XXXVIII are not applicable to vessels only partially decked, having a crew not exceeding ten men, and fulfilling one of the two following conditions:

1. That it be exclusively used for fishing within the territorial waters.
2. That it be occupied in the petty coasting trade between the different ports of the same territorial Power, without going further than five miles from the coast.

These different boats shall receive, as the case may be, a special licence from the territorial or consular authority, which shall be renewed every year, and subject to revocation as provided in article XL, the uniform model of which licence is annexed to the present general act and shall be communicated to the international information office.

*Article XL.* Any act or attempted act connected with the slave trade that can be legally shown to have been committed by the captain, fitter-out, or owner of a ship authorized to carry the flag of one of the Signatory Powers, or having procured the licence provided for in article XXXIX, shall entail the immediate withdrawal of the said authorization or licence. All violations of the provisions of section 2 of chapter III shall render the person guilty thereof liable to the penalties provided by the special laws and ordinances of each of the contracting parties.

*Article XLI.* The Signatory Powers engage to deposit at the international information office the specimen forms of the following documents:

1. Licence to carry the flag;

2. The crew list;
3. The negro passenger list.

These documents, the tenor of which may vary according to the different regulations of each country, shall necessarily contain the following particulars, drawn up in one of the European languages:

1. As regards the authorization to carry the flag:
  - (a) The name, tonnage, rig, and the principal dimensions of the vessel;
  - (b) The register number and the signal letter of the port of registry;
  - (c) The date of obtaining the licence, and the office held by the person who issued it.
2. As regards the list of the crew:
  - (a) The name of the vessel, of the captain and the fitter-out or owner;
  - (b) The tonnage of the vessel;
  - (c) The register number and the port of registry, its destination, as well as the particulars specified in article XXV.

3. As regards the list of negro passengers:

The name of the vessel which conveys them, and the particulars indicated in article XXXVI, for the proper identification of the passengers.

The Signatory Powers shall take the necessary measures so that the territorial authorities or their consuls may send to the same office certified copies of all authorizations to carry their flag as soon as such authorizations shall have been granted, as well as notices of the withdrawal of any such authorization.

The provisions of the present article have reference only to papers intended for native vessels.

## *2. The stopping of suspected vessels*

*Article XLII.* When the officers in command of war vessels of any of the Signatory Powers have reason to believe that a vessel whose tonnage is less than 500 tons, and which is found navigating in the above named zone, is engaged in the slave trade or is guilty of the fraudulent use of a flag, they may examine the ship's papers.

The present article does not imply any change in the present state of things as regards jurisdiction in territorial waters.

*Article XLIII.* To this end, a boat commanded by a naval officer in uniform may be sent to board the suspected vessel after it has been hailed and informed of this intention.

The officers sent on board of the vessel which has been stopped shall act with all possible consideration and moderation.

*Article XLIV.* The examination of the ship's papers shall consist of the examination of the following documents:

1. As regards native vessels, the papers mentioned in article XLI.
2. As regards other vessels, the documents required by the different treaties or conventions that are in force.

The examination of the ship's papers only authorizes the calling of the roll of the crew and passengers in the cases and in accordance with the conditions provided for in the following article.

*Article XLV.* The examination of the cargo or the search can only take place in the case of vessels sailing under the flag of one of the Powers

that have concluded, or may herafter conclude the special conventions provided for in article XXII, and in accordance with the provisions of such conventions.

*Article XLVI.* Before leaving the detained vessel, the officer shall draw up a minute according to the forms and in the language in use in the country to which he belongs.

This minute shall be dated and signed by the officer, and shall recite the facts.

The captain of the detained vessel, as well as the witnesses, shall have the right to cause to be added to the minutes any explanations they may think expedient.

*Article XLVII.* The commander of a man-of-war who has detained a vessel under a foreign flag shall, in all cases, make a report thereof to his own government, and state the grounds upon which he has acted.

*Article XLVIII.* A summary of this report, as well as a copy of the minute drawn up by the officer on board of the detained vessel, shall be sent, as soon as possible, to the international information office, which shall communicate the same to the nearest consular or territorial authority of the Power whose flag the vessel in question has shown. Duplicates of these documents shall be kept in the archives of the bureau.

*Article XLIX.* If, in performing the acts of supervision mentioned in the preceding articles, the officer in command of the cruiser is convinced that an act connected with the slave trade has been committed on board during the passage, or that irrefutable proofs exist against the captain, or fitter-out, for accusing him of fraudulent use of the flag, or fraud, or participation in the slave trade, he shall conduct the arrested vessel to the nearest port of the zone where there is a competent magistrate of the Power whose flag has been used.

Each Signatory Power engages to appoint in the zone, and to make known to the international information office, the territorial or consular authorities or special delegates who are competent in the above mentioned cases.

A suspected vessel may also be turned over to a cruiser of its own nation, if the latter consents to take charge of it.

### *3. Of the examination and trial of vessels seized.*

*Article L.* The magistrate referred to in the preceding article, to whom the arrested vessel has been turned over, shall proceed to make a full investigation, according to the laws and rules of his country, in the presence of an officer belonging to the foreign cruiser.

*Article LI.* If it is proved by the inquiry that the flag has been fraudulently used, the arrested vessel shall remain at the disposal of its captor.

*Article LII.* If the examination shows an act connected with the slave trade, proved by the presence on board of slaves destined for sale, or any other offence connected with the slave trade for which provision is made by special convention, the vessel and cargo shall remain sequestered in charge of the magistrate who shall have conducted the inquiry.

The captain and crew shall be turned over to the tribunals designated by articles LIV and LVI. The slaves shall be set at liberty as soon as judgment has been pronounced.



In the cases provided for by this article, liberated slaves shall be disposed of in accordance with the special conventions concluded, or to be concluded, between the Signatory Powers. In default of such conventions, the said slaves shall be turned over to the local authority, to be sent back, if possible, to their country of origin; if not, this authority shall facilitate to them, in so far as may be in its power, the means of livelihood, and, if they desire it, of settling on the spot.

*Article LIII.* If it shall be proved by the inquiry that the vessel has been illegally arrested, there shall be clear title to an indemnity in proportion to the damages suffered by the vessel being taken out of its course.

The amount of this indemnity shall be fixed by the authority that has conducted the inquiry.

*Article LIV.* In case the officer of the capturing vessel does not accept the conclusions of the inquiry held in his presence, the matter shall be turned over to the tribunal of the nation whose flag the captured vessel has borne.

No exception shall be made to this rule, unless the disagreement arises in respect of the amount of the indemnity stipulated in article LIII, and this shall be fixed by arbitration, as specified in the following article.

*Article LV.* The capturing officer and the authority which has conducted the inquiry shall each appoint a referee within forty-eight hours, and the two arbitrators shall have twenty-four hours to choose an umpire. The arbitrators shall, as far as possible, be chosen from among the diplomatic, consular, or judicial officers of the Signatory Powers. Natives in the pay of the contracting governments are formally excluded. The decision shall be by a majority of votes, and be considered as final.

If the court of arbitration is not constituted in the time indicated, the procedure in respect of the indemnity, as in that of damages, shall be in accordance with the provisions of article LVIII, paragraph 2.

*Article LVI.* The cases shall be brought with the least possible delay before the tribunal of the nation whose flag has been used by the accused. However, the consuls or any other authority of the same nation as the accused, specially commissioned to this end, may be authorized by their government to pronounce judgment instead of the tribunal.

*Article LVII.* The procedure and trial of violations of the provisions of chapter III shall always be conducted in as summary a manner as is permitted by the laws and regulations in force in the territories subject to the authority of the Signatory Powers.

*Article LVIII.* Any decision of the national tribunal or authorities referred to in article LVI, declaring that the seized vessel did not carry on the slave trade, shall be immediately enforced, and the vessel shall be at perfect liberty to continue on its course.

In this case, the captain or owner of any vessel that has been seized without legitimate ground of suspicion, or subjected to annoyance, shall have the right of claiming damages, the amount of which shall be fixed by agreement between the governments directly interested, or by

arbitration, and shall be paid within a period of six months from the date of the judgment acquitting the captured vessel.

*Article LIX.* In case of condemnation, the sequestered vessel shall be declared lawfully seized for the benefit of the captor.

The captain, crew, and all other persons found guilty shall be punished according to the gravity of the crimes or offences committed by them, and in accordance with article V.

*Article LX.* The provisions of articles L to LIX do not in any way affect the jurisdiction or procedure of existing special tribunals, or of such as may hereafter be formed to take cognizance of offences connected with the slave trade.

*Article LXI.* The high contracting parties engage to make known to one another, reciprocally, the instructions which they shall give, for the execution of the provisions of chapter III, to the commanders of their men-of-war navigating the seas of the zone referred to.

*Note.* For the text of the protocols of 2 July 1891, 2 January, 2 February and 30 March 1892, concerning the ratification of the General Act, see Martens, *Nouveau Recueil général de Traités*, 2nd series, vol. 17, p. 625; *idem*, vol. 22, p. 259; Malloy, *Treaties, Conventions, etc., between the United States and Other Powers*, vol. 2, p. 1991; *Hertslet's Commercial Treaties*, vol. 19, p. 784. The Convention of St. Germain, of 10 September 1920, abrogated the General Act of 1890 as between the parties to that Convention, i.e., as between Belgium, Ethiopia, France, Italy, Japan, Portugal, United Kingdom and United States. *League of Nations Treaty Series*, vol. 8, p. 25; Hudson, *International Legislation*, vol. 1, p. 343.

For an analysis of prior international agreements relating to the suppression of maritime trade in slaves, see the Belgian memorandum presented to the Brussels Conference in 1889, which is reproduced in Martens, *Nouveau Recueil général de Traités*, 2nd series, vol. 16, pp. 30-88.

#### 4. Trade in arms and ammunition

##### (a) CONVENTION ON THE CONTROL OF TRADE IN ARMS AND AMMUNITION

*Signed at St. Germain-en-Laye, 10 September 1919. Entered into force on 30 March 1921. Ratified, or adhered to, by Brazil (denounced in 1929), Bulgaria, Chile, China, (Estonia,) Ethiopia, Finland, Greece, Guatemala, Haiti, Iran, Muscat, Peru, Portugal, Thailand, Uruguay and Venezuela. Translation from "League of Nations Treaty Series", vol. 7, p. 331.*

The United States of America, Belgium, Bolivia, the British Empire, China, Cuba, Ecuador, France, Greece, Guatemala, Haiti, the Hedjaz, Italy, Japan, Nicaragua, Panama, Peru, Poland, Portugal, Romania, the Serb-Croat-Slovene State, Siam and Czechoslovakia;

*Whereas* the long war now ended, in which most nations have successively become involved, has led to the accumulation in various parts of the world of considerable quantities of arms and munitions of war, the dispersal of which would constitute a danger to peace and public order;

*Whereas* in certain parts of the world it is necessary to exercise special supervision over the trade in, and the possession of, arms and ammunition;

*Whereas* the existing treaties and conventions, and particularly the Brussels Act of 2 July 1890, regulating the traffic in arms and ammunition in certain regions, no longer meet present conditions, which require more elaborate provisions applicable to a wider area in Africa and the establishment of a corresponding régime in certain territories in Asia;

*Whereas* a special supervision of the maritime zone adjacent to certain countries is necessary to ensure the efficacy of the measures adopted by the various governments both as regards the importation of arms and ammunition into those countries and the export of such arms and ammunition from their own territory;

And with the reservation that, after a period of seven years, the present Convention shall be subject to revision in the light of the experience gained, if the Council of the League of Nations, acting if need be by a majority, so recommends;

Have appointed as their Plenipotentiaries:

. . .

Who, having communicated their full powers found in good and due form,

Have agreed as follows:

#### Chapter I. Export of Arms and Ammunition

*Article 1.* The high contracting parties undertake to prohibit the export of the following arms of war: artillery of all kinds, apparatus for the discharge of all kinds of projectiles explosive or gas-diffusing, flame-throwers, bombs, grenades, machine-guns and rifled small-bore breech-loading weapons of all kinds, as well as the exportation of the ammunition for use with such arms. The prohibition of exportation shall apply to all such arms and ammunition, whether complete or in parts.

Nevertheless, notwithstanding this prohibition, the high contracting parties reserve the right to grant, in respect of arms whose use is not prohibited by international law, export licences to meet the requirements of their governments or those of the government of any of the high contracting parties, but for no other purpose.

In the case of firearms and ammunition adapted both to warlike and also to other purposes, the high contracting parties reserve to themselves the right to determine from the size, destination, and other circumstances of each shipment for what uses it is intended and to decide in each case whether the provisions of this article are applicable to it.

*Article 2.* The high contracting parties undertake to prohibit the export of firearms and ammunition, whether complete or in parts, other than arms and munitions of war, to the areas and zone specified in article 6.

Nevertheless, notwithstanding this prohibition, the high contracting parties reserve the right to grant export licences on the understanding that such licences shall be issued only by their own authorities. Such authorities must satisfy themselves in advance that the arms or ammunition for which an export licence is requested are not intended for export to any destination, or for disposal in any way, contrary to the provisions of this Convention.

*Article 3.* Shipments to be effected under contracts entered into before the coming into force of the present Convention shall be governed by its provisions.

*Article 4.* The high contracting parties undertake to grant no export licences to any country which refuses to accept the tutelage under which it has been placed, or which, after having been placed under the tutelage of any Power, may endeavour to obtain from any other Power any of the arms or ammunition specified in articles 1 and 2.

*Article 5.* A Central International Office, placed under the control of the League of Nations, shall be established for the purpose of collecting and preserving documents of all kinds exchanged by the high contracting parties with regard to the trade in, and distribution of, the arms and ammunition specified in the present Convention.

Each of the high contracting parties shall publish an annual report showing the export licences which it may have granted, together with the quantities and destination of the arms and ammunition to which the export licences referred. A copy of this report shall be sent to the Central International Office and to the Secretary-General of the League of Nations.

Further, the high contracting parties agree to send to the Central International Office and to the Secretary-General of the League of Nations full statistical information as to the quantities and destination of all arms and ammunition exported without licence.

## Chapter II. Import of Arms and Ammunition. Prohibited Areas and Zone of Maritime Supervision

*Article 6.* The high contracting parties undertake, each as far as the territory under its jurisdiction is concerned, to prohibit the importation of the arms and ammunition specified in articles 1 and 2 into the following territorial areas, and also to prevent their importation and transportation in the maritime zone defined below:

(1) The whole of the continent of Africa with the exception of Algeria, Libya and the Union of South Africa.

Within this area are included all islands situated within 100 nautical miles of the coast, together with Prince's Island, St. Thomas Island and the Islands of Annobon and Socotra.

(2) Transcaucasia, Persia, Gwadar, the Arabian Peninsula and such continental parts of Asia as were included in the Turkish Empire on 4 August 1914.

(3) A maritime zone, including the Red Sea, the Gulf of Aden, the Persian Gulf, and the Sea of Oman, and bounded by a line drawn from Cape Guardafui, following the latitude of that cape to its intersection with longitude 57° east of Greenwich, and proceeding thence direct to the eastern frontier of Persia in the Gulf of Oman.

Special licences for the import of arms or ammunition into the areas defined above may be issued. In the African area they shall be subject to the regulations specified in articles 7 and 8 or to any local regulations of a stricter nature which may be in force. In the other areas specified in the present article, these licences shall be subject to similar regulations put into effect by the governments exercising authority there.

## Chapter III. Supervision on Land

## Chapter IV. Maritime Supervision

*Article 11.* Subject to any contrary provisions in existing special agreements, or in future agreements, provided that in all cases such agreements comply with the provisions of the present Convention, the sovereign State or Mandatory Power shall carry out all supervision and police measures within territorial waters in the prohibited areas and zone specified in article 6.

*Article 12.* Within the prohibited areas and maritime zone specified in article 6, no native vessel of less than 500 tons burden shall be allowed to ship, discharge, or tranship arms or ammunition.

For this purpose, a vessel shall be considered as a native vessel if she is either owned by a native, or fitted out or commanded by a native, or if more than half of the crew are natives of the countries bordering on the Indian Ocean, the Red Sea, the Persian Gulf, or the Gulf of Oman.

This provision does not apply to lighters or barges, nor to vessels which, without going more than five miles from the shore, are engaged exclusively in the coasting trade between different ports of the same State, Colony, Protectorate or territory under mandate, where warehouses are situated.

No cargo of arms or ammunition shall be shipped on the vessels specified in the preceding paragraph without a special licence from the territorial authority, and all arms or ammunition so shipped shall be subject to the provisions of the present Convention.

This licence shall contain all details necessary to establish the nature and quantity of the items of the shipment, the vessel on which the shipment is to be loaded, the name of the ultimate consignee, and the ports of loading and discharge. It shall also be specified thereon that the licence has been issued in conformity with the regulations of the present Convention.

The above regulations do not apply:

- (1) To arms or ammunition conveyed on behalf of the government, provided that they are accompanied by a duly qualified official.
- (2) To arms or ammunition in the possession of persons provided with a licence to carry arms, provided such arms are for the personal use of the bearer and are accurately described on his licence.

*Article 13.* To prevent all illicit conveyance of arms or ammunition within the zone of maritime supervision specified in article 6 (3), native vessels of less than 500 tons burden not exclusively engaged in the coasting trade between different ports of the same State, Colony, Protectorate or territory under mandate, not going more than five miles from the shore, and proceeding to or from any point within the said zone, must carry a manifest of their cargo or similar document specifying the quantities and nature of the goods on board, their origin and destination. This document shall remain covered by the secrecy to which it is entitled by the law of the State to which the vessel belongs and must not be examined during the proceedings for the verification of the flag unless the interested party consents thereto.

The provisions as to the above-mentioned documents shall not apply to vessels only partially decked, having a maximum crew of ten men, and exclusively employed in fishing within territorial waters.

*Article 14.* Authority to fly the flag of one of the high contracting parties within the zone of maritime supervision specified in article 6 (3) shall be granted only to such native vessels as satisfy all the three following conditions:

1. The owners must be nationals of the Power whose flag they claim to fly.

2. They must furnish proof that they possess real estate in the district of the authority to which their application is addressed, or must supply a solvent security as a guarantee for any fines to which they may become liable.

3. Such owners, as well as the captain of the vessel, must furnish proof that they enjoy a good reputation, and especially that they have never been convicted of illicit conveyance of the articles referred to in the present Convention.

The authorization must be renewed every year. It shall contain the indications necessary to identify the vessel, the name, tonnage, type of rigging, principal dimensions, registered number, and signal letters. It shall bear the date on which it was granted and the status of the official who granted it.

The name of the native vessel and the amount of her tonnage shall be incised and painted in Latin characters on the stern, and the initial letters of the name of the port of registry, as well as the registration number in the series of the numbers of that port, shall be painted in black on the sails.

*Article 15.* Native vessels to which, under the provisions of the last paragraph of article 13, the regulations relating to the manifest of the cargo are not applicable, shall receive from the territorial or consular authorities, as the case may be, a special licence, renewable annually and revocable under the conditions provided for in article 19.

This special licence shall show the name of the vessel, her description, nationality, port of registry, name of captain, name of owner and the waters in which she is allowed to sail.

*Article 16.* The high contracting parties agree to apply the following rules in the maritime zone specified in article 6 (3):

1. When a warship belonging to one of the high contracting parties encounters outside territorial waters a native vessel of less than 500 tons burden flying the flag of one of the high contracting parties, and the commander of the warship has good reason to believe that the native vessel is flying this flag without being entitled to do so, for the purpose of the illicit conveyance of arms or ammunition, he may proceed to verify the nationality of the vessel by examining the document authorizing the flying of the flag, but no other papers.

2. With this object, a boat commanded by a commissioned officer in uniform may be sent to visit the suspected vessel after she has been hailed to give notice of such intention. The officer sent on board the vessel shall act with all possible consideration and moderation; before leaving the vessel the officer shall draw up a *procès-verbal* in the form

and language in use in his own country. This *procès-verbal* shall state the facts of the case and shall be dated and signed by the officer.

Should there be on board the warship no commissioned officer other than the commanding officer, the above-prescribed operations may be carried out by the warrant, petty, or non-commissioned officer highest in rank.

The captain or master of the vessel visited, as well as the witnesses, shall be invited to sign the *procès-verbal*, and shall have the right to add to it any explanations which they may consider expedient.

3. If the authorization to fly the flag cannot be produced, or if this document is not in proper order, the vessel shall be conducted to the nearest port in the zone where there is a competent authority of the Power whose flag has been flown and shall be handed over to such authority.

Should the nearest competent authority representing the Power whose flag the vessel has flown be at some port at such a distance from the point of arrest that the warship would have to leave her station or patrol to escort the captured vessel to that port, the foregoing regulation need not be carried out. In such a case, the vessel may be taken to the nearest port where there is a competent authority of one of the high contracting parties of nationality other than that of the warship, and steps shall at once be taken to notify the capture to the competent authority representing the Power concerned.

No proceedings shall be taken against the vessel or her crew until the arrival of the representative of the Power whose flag the vessel was flying or without instructions from him.

4. The procedure laid down in paragraph 3 may be followed if, after the verification of the flag and in spite of the production of the manifest, the commander of the warship continues to suspect the native vessel of engaging in the illicit conveyance of arms or ammunition.

The high contracting parties concerned shall appoint in the zone territorial or consular authorities or special representatives competent to act in the foregoing cases, and shall notify their appointment to the Central Office and to the other contracting parties.

The suspected vessel may also be handed over to a warship of the nation whose flag she has flown, if the latter consents to take charge of her.

*Article 17.* The high contracting parties agree to communicate to the Central Office specimen forms of the documents mentioned in articles 12, 13, 14 and 15, as well as a detailed list of the licences granted in accordance with the provisions of this chapter whenever such licences are granted.

*Article 18.* The authority before whom the suspected vessel has been brought shall institute a full inquiry in accordance with the laws and rules of his country in the presence of an officer of the capturing warship.

If it is proved at this inquiry that the flag has been illegally flown, the detained vessel shall remain at the disposal of the captor, and those responsible shall be brought before the courts of his country.

If it should be established that the use of the flag by the detained vessel was correct, but that the vessel was engaged in the illicit conveyance of arms or ammunition, those responsible shall be brought before

the courts of the State under whose flag the vessel sailed. The vessel herself and her cargo shall remain in charge of the authority directing the inquiry.

*Article 19.* Any illicit conveyance or attempted conveyance legally established against the captain or owner of a vessel authorized to fly the flag of one of the Signatory Powers or holding the licence provided for in article 15 shall entail the immediate withdrawal of the said authorization or licence.

The high contracting parties will take the necessary measures to ensure that their territorial authorities or their consuls shall send to the Central Office certified copies of all authorizations to fly their flag as soon as such authorizations shall have been granted, as well as notice of withdrawal of any such authorization. They also undertake to communicate to the said Office copies of the licences provided for under article 15.

*Article 20.* The commanding officer of a warship who may have detained a vessel flying a foreign flag shall in all cases make a report thereon to his government, stating the grounds on which he acted.

An extract from this report, together with a copy of the *procès-verbal* drawn up by the officer, warrant officer, petty or non-commissioned officer sent on board the vessel detained shall be sent as soon as possible to the Central Office and at the same time to the government whose flag the detained vessel was flying.

*Article 21.* If the authority entrusted with the inquiry decides that the detention and diversion of the vessel or the measures imposed upon her were irregular, he shall fix the amount of the compensation due. If the capturing officer, or the authorities to whom he is subject, do not accept the decision or contest the amount of the compensation awarded, the dispute shall be submitted to a court of arbitration consisting of one arbitrator appointed by the government whose flag the vessel was flying, one appointed by the government of the capturing officer, and an umpire chosen by the two arbitrators thus appointed. The two arbitrators shall be chosen, as far as possible, from among the diplomatic, consular or judicial officers of the high contracting parties. These appointments must be made with the least possible delay, and natives in the pay of the high contracting parties shall in no case be appointed. Any compensation awarded shall be paid to the person concerned within six months at most from the date of the award.

The decision shall be communicated to the Central Office and to the Secretary-General of the League of Nations.

#### Chapter V. General Provisions

*Article 22.* The high contracting parties who exercise authority over territories within the prohibited areas and zone specified in article 6 agree to take, so far as each may be concerned, the measures required for the enforcement of the present Convention, and in particular for the prosecution and repression of offences against the provisions contained therein.

They shall communicate these measures to the Central Office and to the Secretary-General of the League of Nations, and shall inform them of the competent authorities referred to in the preceding articles.



*Article 23.* The high contracting parties will use their best endeavours to secure the accession to the present Convention of other States Members of the League of Nations.

This accession shall be notified through the diplomatic channel to the Government of the French Republic, and by it to all the signatory or adhering States. The accession will come into force from the date of such notification to the French Government.

*Article 24.* The high contracting parties agree that if any dispute whatever should arise between them relating to the application of the present Convention which cannot be settled by negotiation, this dispute shall be submitted to an arbitral tribunal in conformity with the provisions of the Covenant of the League of Nations.

*Article 25.* All the provisions of former general international Conventions, relating to the matters dealt with in the present Convention, shall be considered as abrogated in so far as they are binding between the Powers which are parties to the present Convention.

*Article 26.* The present Convention shall be ratified as soon as possible.

Each Power will address its ratification to the French Government, who will inform all the other Signatory Powers.

The ratifications will remain deposited in the archives of the French Government.

The present Convention shall come into force for each Signatory Power from the date of the deposit of its ratification, and from that moment that Power will be bound in respect of other Powers which have already deposited their ratifications.

On the coming into force of the present Convention, the French Government will transmit a certified copy to the Powers which under the Treaties of Peace have undertaken to accept and observe it, and are in consequence placed in the same position as the contracting parties. The names of these Powers will be notified to the States which accede.

*Note.* This Convention was accompanied by a protocol, stating that the signatory Governments "would regard it as contrary to the intention of the High Contracting Parties and to the spirit of this Convention that, pending the coming into force of the Convention, a Contracting Party should adopt any measure which is contrary to its provisions". *League of Nations Treaty Series*, vol. 7, p. 357.

(b) CONVENTION ON SUPERVISION OF INTERNATIONAL TRADE IN ARMS

*Opened for signature at Geneva, 17 June 1925. Not in force. Ratified by Australia, Bulgaria, Canada, China, Denmark, Egypt, France, Iraq, (Latvia,) Liberia, Netherlands, Poland, Spain, Sweden, United Kingdom and United States, but several of these ratifications were conditional on the ratifications of certain other States and, as these conditions were not fulfilled, they did not come into force. League of Nations doc. A.16.1925.IX; Hudson, "International Legislation", vol. 3, p. 1634*

Germany, the United States of America, Austria, Belgium, Brazil, the British Empire, Canada, the Irish Free State and India, Bulgaria, Chile, China, Colombia, Denmark, Egypt, Spain, Esthonia, Abyssinia,

Finland, France, Greece, Hungary, Italy, Japan, Latvia, Lithuania, Luxembourg, Nicaragua, Norway, Panama, the Netherlands, Persia, Poland, Portugal, Romania, Salvador, Siam, Sweden, Switzerland, the Kingdom of the Serbs, Croats and Slovenes, Czechoslovakia, Turkey, Uruguay and Venezuela,

*Whereas* the international trade in arms and ammunition and in implements of war should be subjected to a general and effective system of supervision and publicity;

*Whereas* such a system is not provided by existing Treaties and Conventions;

*Whereas* in relation to certain areas of the world a special supervision of this trade is necessary in order to render more effective the measures adopted by the various governments as regards both the import of such arms and ammunition and implements of war into these areas and their export therefrom; and

*Whereas* the export or import of arms, ammunition or implements, the use of which in war is prohibited by international law, must not be permitted for such purpose;

Have decided to conclude a Convention and have accordingly appointed as their Plenipotentiaries:

. . .

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

#### Chapter I. Categories

*Article 1.* For the purposes of the present Convention, five categories of arms, ammunition and implements are established:

Category I. Arms, ammunition and implements of war exclusively designed and intended for land, sea or aerial warfare

. . .

Category II. Arms and ammunition capable of use both for military and other purposes

. . .

Category III. Vessels of war and their armament

1. Vessels of war of all kinds.
2. Arms, ammunition and implements of war mounted on board vessels of war and forming part of their normal armament.

Category IV.

1. Aircraft, assembled or dismantled.
2. Aircraft engines.

Category V.

1. Gunpowder and explosives, except common black gunpowder.
2. Arms and ammunition other than those covered by categories I and II...

## Chapter II. Supervision and Publicity

*Article 2.* The high contracting parties undertake not to export or permit the export of articles covered by category I, except in accordance with the following conditions:

1. The export shall be for a direct supply to the government of the importing State or, with the consent of such government, to a public authority subordinate to it;

2. An order in writing, which shall be signed or endorsed by a representative of the importing government duly authorized so to act, shall have been presented to the competent authorities of the exporting country. This order shall state that the articles to be exported are required for delivery to the importing government or public authority as provided in paragraph 1.

*Article 3.* Nevertheless, export for supply to private persons may be permitted in the following cases:

1. Articles covered by category I exported direct to a manufacturer of war material for use by him for the requirements of his industry, provided their import has been duly authorized by the government of the importing country;

2. Rifles, muskets and carbines and their ammunition exported for supply to rifle associations formed for the encouragement of individual sport and duly authorized by their own government to use them, the import of which is not contrary to any other provisions of the present Convention. Such arms and ammunition shall be sent direct to the government of the importing country for transmission by such government to the associations for which they are supplied.

3. Samples of articles covered by category I exported for demonstration purposes direct to a trade representative of the exporting manufacturer, such representative being duly authorized by the government of the importing country to receive them.

In the above-mentioned cases, an order in writing, endorsed by the government of the importing country or by its representative duly authorized so to act, must have been presented to the authorities of the exporting country. It shall contain all the information necessary to show that the order is properly made under this article.

*Article 4.* Permission to export under articles 2 and 3 shall be signified by a licence. An export declaration, if filed with and approved by the competent authorities of the exporting country, may take the place of a licence.

. . .

Each separate consignment which crosses the frontier of the exporting country, whether by land, water or air, shall be accompanied by a document containing the particulars indicated above. This document may be either the licence or export declaration or a certified copy thereof or a certificate issued by the customs authorities of the exporting country, stating that the consignment is exported under licence or export declaration in accordance with the provisions of the present Convention.

*Article 5.* The articles covered by category II shall only be exported under cover of an export document, which may be either a licence issued by the competent authorities of the exporting country or an export declaration endorsed by or filed with them. If the legislation of the importing country requires the endorsement of a duly authorized representative of its government, and if this fact has been notified by the said government to the government of the exporting country, then such an endorsement must have been obtained and submitted to the competent authorities of the exporting country before the export may take place.

Neither the licence nor the export declaration shall entail any responsibility upon the government of the exporting country as to the destination or ultimate use of any consignment.

Nevertheless, if the high contracting parties consider, on account of the size, destination or other circumstances of a consignment, that the arms and ammunition consigned are intended for war purposes, they undertake to apply to such consignment the provisions of articles 2, 3 and 4.

*Article 6.* As a preliminary to a general system of publicity for armaments irrespective of their origin, the high contracting parties undertake to publish, within two months of the close of each quarter, a statistical return of their foreign trade during this quarter in the articles covered by categories I and II...

In all cases where the consignment comes from, or is sent to, a territory possessing an autonomous customs system, such territory shall be shown as the country of origin or destination.

The high contracting parties further undertake, so far as each may be concerned, to publish within the same time-limits a return containing the same information in respect of the consignments of articles covered by categories I and II to other territories placed under their sovereignty, jurisdiction, protection or tutelage, or under the same sovereignty, jurisdiction, protection or tutelage.

The first statistical return to be published by each of the high contracting parties shall be for the quarter beginning on the first day of January, April, July or October, subsequent to the date on which the present Convention comes into force with regard to the high contracting party concerned.

The high contracting parties undertake to publish as an annex to the above-mentioned return the text of the provisions of all statutes, orders or regulations in force within their territory dealing with the export and import of articles covered by article 1, and to include therein all provisions enacted for the purpose of carrying out the present Convention. Amendments and additions to these provisions shall be likewise published in annexes to subsequent quarterly returns.

*Article 7.* The high contracting parties, in all cases covered by category III, undertake to publish within two months of the close of each quarter a return for that quarter, giving the information detailed below for each vessel of war constructed, in course of construction or to be constructed within their territorial jurisdiction on behalf of the government of another State...

*Article 8.* Without prejudice to the provisions of article 7, if the transport of any vessel of war is carried out otherwise than by such vessel's own motive power or towage, the vessel, whether assembled or in component parts, and the armament thereof will become subject also to the provisions of this Convention as if they were included in category I.

*Article 9.* The high contracting parties undertake to publish, within six months of the close of each quarter, a return for that quarter of the export of aircraft and aircraft engines, giving quantities exported and their allocation according to country of destination.

*Article 10.* Subject to the provisions of chapter III, the articles covered by categories IV and V may be exported without formalities or restrictions.

*Article 11.* The high contracting parties undertake not to apply a more favourable régime to imports of articles referred to in article 1 coming from territories of non-contracting States than that which they will apply to such imports coming from territories of contracting States, and to subject these imports, of whatever origin, to the same conditions of authorization and, so far as possible, of publicity.

### Chapter III. Special Zones

*Article 12.* The high contracting parties agree that the provisions of this chapter apply to the territorial and maritime zones hereinafter defined and referred to in the present Convention as the "special zones".

#### 1. *Land zone*

(a) The whole of the continent of Africa, with the exception of Egypt, Lybia, Tunisia, Algeria, the Spanish possessions in North Africa, Abyssinia, and of the Union of South Africa together with the territory under its mandate, and of Southern Rhodesia.

This zone also includes the adjacent islands which are situated within 100 marine miles from the coast thereof and also Prince's Island (Príncipe) in the Bight of Biafra, St. Thomas (São Thomé), Annobon and Socotra, but does not include the Spanish islands situated to the north of the parallel of 26° north latitude.

(b) The Arabian peninsula, Gwadar, Syria and Lebanon, Palestine and Transjordan, and Iraq.

#### 2. *Maritime zone*

A maritime zone, which includes the Red Sea, the Gulf of Aden, the Persian Gulf and the Gulf of Oman and is bounded by a line drawn from and following the latitude of Cape Guardafui to the point of intersection with longitude 57° east of Greenwich and proceeding thence direct to the point at which the eastern frontier of Gwadar meets the sea.

*Article 13.* The high contracting parties undertake not to export or to permit articles covered by categories I, II, IV and V to be exported to places within the special zones, unless a licence has been issued in conformity with the conditions defined in article 14.

An export declaration, if filed with and approved by the competent authorities of the exporting country, may take the place of a licence.

The high contracting parties also undertake, each in respect of any territory under its sovereignty, jurisdiction, protection or tutelage situated within the special zones, not to permit articles covered by the categories above mentioned to be imported into such territory unless their import has been authorized by the authorities of the territory concerned. Such articles shall only be admitted into territory within the special zones at such ports or other places as the authorities of the State, colony, protectorate or mandated territory concerned shall designate for this purpose.

*Article 14.* The high contracting parties undertake not to issue the export licences nor to approve the export declarations required under article 13 unless they are satisfied that the conditions stated in paragraph (a) or (b) hereof are fulfilled and also, as regards articles covered by categories I and II, the conditions laid down in articles 2, 3, 4 and 5.

(a) That, if an export is being made to territory under the sovereignty, jurisdiction, protection or tutelage of a high contracting party, articles covered by categories I, II and IV to which the licence or export declaration applies are required for lawful purposes and that the authorities of the territory to which they are consigned are willing to admit them; and that, in the case of articles covered by category V, a copy of the licence or export declaration has been sent to the authorities aforesaid before the export takes place.

(b) That, if an export is being made to territory which is not under the sovereignty, jurisdiction, protection or tutelage of a high contracting party, articles covered by categories I, II, IV and V are required for lawful purposes.

*Article 15.* The high contracting parties undertake to publish, in addition to the returns provided for in article 6 and article 9 in respect of articles covered by categories I, II and IV, a return of articles covered by category V exported to territory situated within the special zones. This return shall be published within the same time-limits and at the same intervals as those provided in the first paragraph of article 6, and shall contain, as far as possible, the same particulars.

*Article 16.* The trade in articles covered by categories I, II, IV and V within the special zones shall be placed under the supervision of officials of the authorities of the State, colony, protectorate or mandated territory concerned.

The admission and transit of and trade in such articles within the said zones shall also be subject to the provisions of section I, articles 1 and 2, of annex II of the present Convention, to which provisions the high contracting parties undertake to conform.

An authorization must be given by a duly authorized representative of the authorities aforesaid in each case before any such articles may be re-consigned to any place outside the territory to which they have been admitted.

*Article 17.* The manufacture, assembly and repair within the special zones of articles covered by categories I, II, IV and V shall be subject to the provisions of section I, article 3, of annex II of the present Convention, to which provisions the high contracting parties undertake to conform.

*Article 18.* The high contracting parties undertake, each in respect of any territory under its sovereignty, jurisdiction, protection or tutelage situated within the special zones, not to permit the transit by land across such territory of articles covered by categories I, II, IV and V when their destination is another territory also situated in the special zones, unless their transport to their destination is assured and the authorities of the latter territory have authorized their import.

The prohibition referred to in the above paragraph shall not apply to the transit of such articles through a territory situated in the special zones when their destination is territory of one of the high contracting parties not included in the said zones, provided that their transport to their destination is assured.

If, for the purposes of transport to a territory situated within the special zones, it is necessary to pass through a contiguous territory likewise situated within the said zones, the transit shall be permitted, subject always to the conditions laid down in the first paragraph hereof, at the request of the authorities of the importing territory, provided that such authorities guarantee that the articles in respect of which the request is made shall not at any time be sold, or otherwise transferred, contrary to the provisions of the present Convention. Nevertheless, if the attitude or the disturbed condition of the importing State constitutes a threat to peace or public order, permission for transit shall be refused to such State by the authorities of all such contiguous territories until this threat has ceased to exist.

*Article 19.* Subject to any contrary provisions in existing special agreements or in any future agreements, provided that in all cases such agreements otherwise comply with the provisions of the present Convention, the high contracting parties agree that in the special zones the authorities of the State, colony, protectorate or mandated territory concerned shall carry out within their territorial waters the supervision and police measures necessary for the application of the present Convention.

*Article 20.* The high contracting parties agree that within the special zones no native vessel, as hereinafter defined, of less than 500 tons (net tonnage) shall be allowed to ship, discharge or tranship articles covered by categories I, II, IV and V.

A vessel shall be deemed to be a native vessel if she is either owned, fitted out or commanded by a native of any country bordering on the Indian Ocean west of the meridian of 95° east of Greenwich and north of the parallel of 11° south latitude, the Red Sea, the Persian Gulf, or the Gulf of Oman, or if at least one-half of the crew are natives of such countries.

The provisions of paragraph 1 hereof do not apply to lighters or barges or to vessels engaged exclusively in the coasting trade between different ports of the same State, colony, protectorate or mandated territory where warehouses are situated. The conditions under which articles covered by categories I, II, IV and V may be carried by such vessels are laid down in article 1 of section II of annex II of the present Convention, to which the high contracting parties undertake to conform.

The provisions of this article and of section II, article 1 of annex II do not apply:

(a) To arms, ammunition or implements carried on behalf of a government either under an authorization or accompanied by a duly authorized official of such government; or

(b) To arms and ammunition in the possession of persons provided with a licence to carry arms on the condition that such arms are for the personal use of the bearer and are accurately described in such licence.

*Article 21.* The high contracting parties agree that, with the object of preventing all illicit conveyance within the special zones of articles covered by categories I, II, IV and V, all native vessels within the meaning of article 20 must carry a manifest of their cargo or a similar document specifying the quantities and nature of the goods on board, their origin and destination. This manifest shall remain covered by the secrecy to which it is entitled by the law of the State to which the vessel belongs, and must not be examined during proceedings for the verification of the flag, unless the interested party consents thereto.

The provisions of this article shall not apply to:

(a) Vessels exclusively engaged in the coasting trade between different ports of the same State, colony, protectorate or mandated territory; or

(b) Vessels engaged in carrying arms, ammunition and implements on behalf of a government under the conditions defined in article 20 (a) and proceeding to or from any point within the said zones; or

(c) Vessels only partially decked, having a maximum crew of ten men, and exclusively employed in fishing within territorial waters.

*Article 22.* The high contracting parties agree that no authorization to fly the flag of any of such high contracting parties shall be granted to native vessels of less than 500 tons (net tonnage) as defined in article 20, except in accordance with the conditions prescribed in section II, articles 3 and 4 of annex II of the present Convention. Such authorization, which shall be in writing, shall be renewed every year and shall contain the particulars necessary to identify the vessel, the name, tonnage, type of rigging, principal dimensions, registered number and signal letters if any. It shall bear the date on which it was granted and the status of the official who granted it.

*Article 23.* The high contracting parties agree to communicate to any other high contracting party who so requests the forms of the documents to be issued by them under articles 20 (a), 21 and 22 and section II, article 1 of annex II of the present Convention.

The high contracting parties further agree to take all necessary measures to ensure that the following documents shall be supplied as soon as possible to any other high contracting party who has requested the same:

(a) Certified copies of all authorizations to fly the flag granted under the provisions of article 22;

(b) Notice of the withdrawal of such authorizations;

(c) Copies of authorizations issued under section II, article 1 of annex II.

*Article 24.* The high contracting parties agree to apply in the maritime zone the regulations laid down in annex II, section II, article 5, of the present Convention.



*Article 25.* The high contracting parties agree that any illicit conveyance or attempted conveyance legally established against the captain or owner of a vessel authorized to fly the flag of one of the high contracting parties, or holding the licence provided for in section II, article 1 of annex II, of the present Convention, shall entail the immediate withdrawal of the said authorization or licence.

*Article 26.* The high contracting parties who have under their sovereignty, jurisdiction, protection or tutelage territory situated within the special zones, undertake, so far as each is concerned, to take the necessary measures to ensure the application of the present Convention and, in particular, the prosecution and punishment of offences against the provisions thereof, and to appoint the territorial and consular officers or competent special representatives for the purpose.

They will communicate these measures to such high contracting parties as shall have expressed the desire to be informed thereof.

*Article 27.* The high contracting parties agree that the provisions of articles 16 to 26 inclusive and of annex II of the present Convention establishing a certain régime of supervision in the special zones shall not be interpreted, as regards such high contracting parties as have no territory under their sovereignty, jurisdiction, protection or tutelage within or immediately adjacent to the said special zones, either as constituting an obligation to apply the régime defined in the above-mentioned provisions or as involving their responsibility with respect to the application of this régime.

However, the said high contracting parties shall conform to the provisions of articles 22, 23 and 25, which relate to the conditions under which native vessels under 500 tons (net tonnage) may be authorized to fly the flag of such high contracting parties.

## *Annex II. Supervision within the special zones*

### Section I.—Supervision on Land

### Section II.—Maritime supervision

*Article 1.* Cargoes of articles covered by categories I, II, IV and V shipped on board the lighters, barges or coasting vessels referred to in article 20, paragraph 3, must be covered by a special licence issued by the authorities of the State, colony, protectorate or mandated territory in which such cargoes are shipped, and containing the particulars specified in article 2 hereof. All articles so shipped shall in addition be subject to the provisions of the present Convention.

*Article 2.* Special licences referred to in article 1 of section II of the present Annex shall contain the following particulars:

- (a) A statement of the nature and quantity of the articles in respect of which the licence is issued.
- (b) The name of the vessel on which the cargoes are to be shipped.
- (c) The name of the ultimate consignee.
- (d) The ports of loading and discharge.

It shall be certified on such licences that they have been issued in conformity with the provisions of the present Convention.

*Article 3.* An authorization to fly the flag of a high contracting party may only be granted by the authorities mentioned in paragraph (b) below, and subject to the three following conditions:

(a) The owners must be nationals of the Power whose flag they claim to fly or companies who are nationals under the laws of that Power.

(b) The owners must have furnished proof that they are *bona fide* owners of real estate in the territory of the authorities to whom the application for a licence is addressed, or have given to such authorities sufficient guarantees for the payment of any fines to which they may become liable.

(c) The owners and the captain of the vessel must have furnished proof that they enjoy a good reputation and, in particular, that they have never been convicted of illicit conveyance of arms or ammunition or implements of war.

*Article 4.* All native vessels before they are authorized to fly the flag of a high contracting party shall have complied with the following regulations for the purpose of their identification at sea:

(a) The initial letters of the port of registration of the native vessel, followed by the vessel's registration number in the serial port numbers, must be incised and painted in white on black ground on both quarters of each vessel in such a position as to be easily distinguishable from a distance.

(b) The net tonnage of the native vessel shall also, if practicable, be incised and painted inside the hull in a conspicuous position.

*Article 5.* The regulations referred to in article 24 of the present Convention are as follows:

1. When a warship belonging to one of the high contracting parties encounters within the maritime zone but outside territorial waters a presumed native vessel of under 500 tons burden (net tonnage),

(a) Flying the flag of one of the high contracting parties, or

(b) Flying no flag,

and the commanding officer of the warship has good reason to believe that the said vessel is flying the flag of any high contracting party without being entitled to do so, or is illicitly conveying articles covered by categories I, II, IV and V, he may proceed to stop the vessel in order to verify the nationality of the vessel by examining the document authorizing the flying of the flag, but no other document.

2. Any vessel which presents the appearance of native build and rig may be presumed to be a native vessel.

3. For the purpose of verifying the nationality of the suspected vessel, a boat commanded by a commissioned officer in uniform may be sent to visit the vessel after she has been hailed so as to give notice of such intention. The officer sent on board the vessel shall act with all possible consideration and moderation. Before leaving the vessel, the officer shall draw up a *procès-verbal* in the form and language in use in his own country. This *procès-verbal* shall state the facts of the case and shall be dated and signed by the officer.

Should there be on board the warship no commissioned officer other than the commanding officer, the above prescribed operations may be carried out by a warrant, petty or non-commissioned officer at the discretion of the commanding officer.

The captain or master of the vessel visited, as well as the witnesses, shall be invited to sign the *procès-verbal* and shall have the right to add to it any explanations which they may consider expedient.

4. In the cases referred to in paragraph 1 (a) hereof, unless the right to fly the flag can be established, the vessel may be conducted to the nearest port in the maritime zone where there is a competent authority of the Power whose flag has been flown and shall be handed over to such authority, but if such a port should be at such a distance from the point of detention that the warship would have to leave her station or patrol to escort the detained vessel thereto, the vessel may be taken to the nearest port where there is a competent authority of one of the high contracting parties of nationality other than that of the warship and handed over to such authority, and steps shall at once be taken to notify this fact to the competent authority representing the power concerned.

No proceedings shall be taken against the vessel or her crew until the arrival of the representative of the Power whose flag the vessel was flying or without authority from such representative.

Instead of conducting the suspected vessel to a port as laid down above, the commanding officer of the detaining warship may hand her over to a warship of the nation whose flag she has flown if the latter consents to take charge of her.

5. The procedure laid down in paragraph 4 may also be followed if, after the verification of the flag and in spite of the voluntary production of the manifest, the commanding officer of the warship continues to suspect the vessel of engaging in the illicit conveyance of articles covered by categories I, II, IV and V.

6. In the cases referred to in paragraph 1 (b) hereof, if it is ascertained, as a result of the visit made on board the vessel that, whereas it flew no flag, it was also not entitled to fly the flag of a recognized State, the vessel may, unless the innocent nature of her cargo can be duly established to the satisfaction of the commanding officer of the warship, be conducted to the nearest point in the maritime zone where there is a competent authority of the Power to which the detaining warship belongs, and shall be handed over to such authority.

7. The authority before whom the suspected vessel has been brought shall institute a full inquiry in accordance with the laws and regulations of his country and in conformity with the procedure laid down in paragraph 8 below.

This inquiry shall be carried out in the presence of an officer of the detaining warship.

If, however, the presence of such officer is impracticable owing to the duties upon which the warship is engaged, an affidavit sworn by the commanding officer may in special cases be accepted by the authority holding the inquiry in place of the oral evidence of an officer of the warship.

8. (a) In the case of vessels referred to in paragraph 1 (a) above, if it is proved at this inquiry that the flag has been illegally flown, but that the vessel is entitled to fly the flag of a recognized State, she shall, if that State is one of the high contracting parties, be handed over to the nearest authority of that State. If such State is not a high contracting party, the vessel shall be disposed of by agreement between the State responsible for her detention and the State whose flag she is entitled to fly, and, pending such agreement shall remain in the custody of the authorities of the nationality of the detaining warship.

(b) If it should be established that the use of the flag by the detained vessel was correct, but that the vessel was engaged in the illicit conveyance of articles covered by categories I, II, IV and V, those responsible shall be brought before the courts of the State under whose flag the vessel sailed. The vessel herself and her cargo shall remain in charge of the authority conducting the inquiry. The illicit cargo may be destroyed in accordance with laws and regulations drawn up for the purpose.

(c) In the case of vessels referred to in paragraph 1 (b) above, if it be established that the vessel had the right to fly the flag of one of the high contracting parties but was engaged in the illicit conveyance of any of the articles covered by categories I, II, IV and V, the procedure laid down in the preceding paragraph should be followed.

(d) In the case of vessels referred to in paragraph 1 (b) above, if it be established that the vessel was not entitled to fly the flag of any of the high contracting parties and was engaged in the illicit conveyance of any of the articles covered by categories I, II, IV and V, the vessel and all cargo carried in addition to these articles shall be seized by such authorities and disposed of according to the national laws and regulations of the authorities before whom the vessel has been brought. The destruction of this cargo may be ordered according to the same laws and regulations.

(e) If the authority entrusted with the inquiry decides that the detention and diversion of the vessel or other measures imposed upon her were irregular, he shall assess the amount of the compensation which he considers to be due.

9. If the decision and assessment of the said authority are accepted by the detaining officer and the authorities to whom he is subject, the amount awarded shall be paid within six months from the date of the said assessment.

10. If the detaining officer, or the authorities to whom he is subject, contest the decision or the amount of the compensation assessed, the dispute shall be submitted to a court of arbitration consisting of one arbitrator appointed by the government whose flag the vessel was flying, one appointed by the government of the detaining officer, and an umpire chosen by the two arbitrators thus appointed. The two arbitrators shall be chosen, as far as possible, from among the diplomatic, consular or judicial officers of the high contracting parties. These appointments must be made with the least possible delay. Any compensation awarded shall be paid to the persons concerned within six months at most from the date of the award of the court.

11. The commanding officer of a warship who may have stopped a vessel flying a foreign flag shall in all cases make a report thereon to his government, stating the grounds on which he acted. An extract from this report, together with a copy of the *procès-verbal*, drawn up by the officer, warrant officer, petty or non-commissioned officer sent on board the vessel detained, shall be sent as soon as possible to the government whose flag the detained vessel was flying and to such of the high contracting parties as may have expressed the desire to receive such documents.