

1. Argentina

(a) PENAL CODE, APPROVED BY LAW NO. 11.179, 29 OCTOBER 1921.
L. JIMÉNEZ DE ASÚA AND F. CARSI ZACARÉS, "CÓDIGOS PENALES
IBEROAMERICANOS" (1946), VOL. I, P. 421. TRANSLATION BY THE
SECRETARIAT OF THE UNITED NATIONS.

. . .

Article 1. This Code shall apply:

1. To offences committed or intended to take effect in the territory of the Argentine Nation or in places subject to its jurisdiction.
2. To offences committed abroad by agents or employees of Argentine authorities in the exercise of their duties.

. . .

Note. The Penal Code of Argentina contains the following provisions with respect to sinking of vessels:

"*Article 186.* A person who causes a fire, explosion or flood shall be punished:

"1. By confinement or imprisonment for not less than three or more than ten years, if the act gives rise to a general danger to property . . .

"4. By confinement or imprisonment for not less than three or more than fifteen years, if the act endangers the life of any person.

"5. By confinement or imprisonment for not less than eight or more than twenty years, if the act is the direct cause of the death of any person.

"*Article 187.* A person who causes damage by sinking or stranding a vessel, by causing the collapse of a building, by flood, mine or any other powerful means of destruction, shall be punished, as appropriate, by one of the penalties enumerated in the foregoing article.

. . .

"*Article 189.* A person who, through imprudence or negligence, lack of skill in his trade or profession, or failure to comply with rules and regulations, causes a fire or other damage, shall be punished by imprisonment for not less than one month or more than one year.

"If the act or culpable omission results in danger to life or causes the death of any person, the maximum penalty may be raised to four years.

. . .

"*Article 194.* A person who commits any act tending to endanger the safety of a ship or vessel or to prevent or obstruct navigation shall be punished by imprisonment for not less than one or more than six years.

"If the act results in shipwreck, damage or stranding, the penalty shall be confinement or imprisonment for not less than three or more than twelve years.

"If the accident causes injury to any person, the penalty shall be confinement or imprisonment for not less than three or more than fifteen years,

and if it results in loss of life, confinement or imprisonment for not less than ten or more than twenty-five years.

“*Article 196.* A person who, through imprudence or negligence, lack of skill in his trade or profession or failure to comply with rules and regulations, causes a derailment, shipwreck or any other accident referred to in this chapter, shall be punished by imprisonment for not less than six months or more than two years.

“If the act results in the injury or death of any person, the penalty shall be imprisonment for not less than one or more than four years.” L. Jiménez de Asúa and F. Carsi Zacarés, *Códigos penales iberoamericanos* (1946), vol. I, pp. 447-449.

(b) CODE OF CRIMINAL PROCEDURE FOR THE FEDERAL COURTS, THE TRIBUNALS OF THE CAPITAL AND OF THE NATIONAL TERRITORIES, APPROVED BY LAW NO. 2372, 17 OCTOBER 1888. J. M. MEDIANO, “LEYES PENALES COMENTADAS” (1946), pp. 627, 629. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

Article 23. District judges (*juces de sección*) and judges of national territories shall take cognizance in the first instance of the following cases:

1. Crimes committed on the high seas on board national ships or by pirates, nationals or foreigners.
2. Crimes committed in Argentine waters and ports or on Argentine islands.

Article 25. The ordinary criminal jurisdiction of the tribunals of the capital and of the national territories extends to:

1. The cognizance of all ordinary crimes committed within their respective jurisdiction by citizens or foreigners; with the exception, as far as the tribunals of the capital are concerned, of the cases especially excluded by domestic public law or by the principles of international law.
2. The cognizance of ordinary crimes committed abroad in cases where the laws so provide.

Note. Law No. 1893 (12 November 1886) on the organization of the tribunals in the capital of the Republic provides similarly in No. 11 of article 111 that federal judges in the capital shall take cognizance of “all crimes committed on the high seas on board national ships or by foreign pirates, whenever the ships arrive directly in the ports of the Capital”. *Códigos de la República Argentina* (1941), pp. 1338-1339.

(c) LAW NO. 48, CONCERNING THE JURISDICTION AND COMPETENCE OF NATIONAL COURTS, 14 SEPTEMBER 1863. V. PERALTA, “LEYES NACIONALES, COMPILACIÓN CONCORDADA PER MATERIA” (1940), VOL. 3, P. 23. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

Article 3. District judges shall also take cognizance of all cases of smuggling and of criminal cases which come under national jurisdiction. In particular:

(1) Crimes committed on the high seas on board national ships or by foreign pirates shall be decided by the judge of the district where is situated the first port at which the ship arrives; . . .

- (d) ORGANIC REGULATIONS TO LAW NO. 4712 (ORGANIZATION OF CONSULAR SERVICE), ENACTED BY THE MINISTRY OF FOREIGN AFFAIRS AND WORSHIP, 31 MARCH 1926. MINISTERIO DE RELACIONES EXTERIORES Y CULTO, "REGLEMENTACIÓN ORGÁNICA DE LA LEY NO. 4712" (1926), p. 7. TRANSLATION FROM A. H. FELLER AND M. O. HUDSON, "A COLLECTION OF THE DIPLOMATIC AND CONSULAR LAWS AND REGULATIONS" (WASHINGTON, 1933), VOL. I, PP. 17, 30-31.

Article 186. If on board of an Argentine merchant ship a crime is committed on the high seas, the consular official who has jurisdiction at the first point which the ship touches, shall inquire whether the master has drawn up a report of the offence, and, if this has not been done, he shall make, taking the declarations of the crew and the passengers, all pertinent investigations.

He shall retain the offenders on board and shall send them, together with the papers of the investigation, by the same ship or by the first one leaving for the Republic, to be submitted to the competent judges.

Article 187. If the ship on board of which the crime was committed has to leave for another destination and there is no ship to carry the offenders to the Republic, the consular official shall request the local authorities to hold them in a public prison, until they can be sent on for prosecution, with due attention to the respective provisions of the treaties or the laws of the country.

Article 188. He shall protest against any attempt which the authority might make to take cognizance of crimes committed on the high seas on board of Argentine merchant vessels, for it is incumbent upon the authorities of the Republic to judge these crimes.

2. Australia

- (a) NAVIGATION ACT 1912-1935, AS AMENDED BY ACT NO. 1 OF 1943. AUSTRALIA, "COMMONWEALTH ACTS, 1901-1935", VOL. II, PP. 1504, 1505-6, 1607-8, 1610, 1635-6, 1638-1640; *idem*, VOL. 41 (1943), p. 2.

Section 2. (1) This Act shall not apply in relation to any Australian-trade ship, limited coast-trade ship, or river and bay ship, or her master or crew, unless the ship:

(a) Is engaged in trade or commerce with other countries or among the States or with or among the Territories under the authority of the Commonwealth; or

(b) Is on the high seas, or in waters which are used by ships engaged in trade or commerce with other countries or among the States; or