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Elbe navigation (Czechoslovakia, Germany)

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III.

GERMAN CESSION OF VESSELS AND TUGS FOR ELBE NAVIGATION ¹.

PARTIES : Czechoslovakia, Germany.

COMPROMIS : Treaty of Versailles, Article 339.

ARBITRATOR : Walker D. Hines (U.S.A.).

AWARD : Paris, June 14, 1921.

Limitation on literal meaning of Article 339.—Czecho-Slovakia's concern in the navigation on the Elbe.—1913 Elbe traffic.—Rectifications of the basic traffic.—Traffic through Trieste, Fiume, Hamburg and the Middle Elbe ports.—Tonnage and horse-power required to satisfy the legitimate needs of Czecho-Slovakia.—Estimate of Reparations Commission of part of fleet to be ceded in reparation.—Procedure for selection of shipping.—Mortgages, encumbrances, charges and liens attached to the property.—Material necessary for utilization of the river.—Austrian Northwest Elbe Shipping Company.—German-Austrian Steamship Company.—New German-Bohemian Elbe Shipping Company.—Versailles 363 and 364.—Buildings and harbour installations at Hamburg.—Schulze and Company.—Place of delivery and provision for inspection of documents.—Lump evaluation of cession.—Possible additional cession by reason of diminution in cession for reparations.

TREATY OF PEACE—VERSAILLES, 1919.

CHAPTER III.

Clauses relating to the Elbe, the Oder, the Niemen (Russstrom-Memel-Niemen) and the Danube.

I. *General Clauses.*

Article 331.—The following rivers are declared international:

the Elbe (*Labe*) from its confluence with the Vltava (*Moldau*) and the Vltava (*Moldau*) from Prague;

¹ For bibliography, index and tables, see Volume III.

the Oder (*Odra*) from its confluence with the Oppa;
the Niemen (*Russstrom-Memel-Niemen*) from Grodno;
the Danube from Ulm;

and all navigable parts of these river systems which naturally provide more than one State with access to the sea, with or without transshipment from one vessel to another; together with lateral canals and channels constructed either to duplicate or to improve naturally navigable sections of the specified river systems, or to connect two naturally navigable sections of the same river.

The same shall apply to the Rhine-Danube navigable waterway, should such a waterway be constructed under the conditions laid down in Article 353.

Article 339.—Germany shall cede to the Allied and Associated Powers concerned, within a maximum period of three months from the date on which notification shall be given her, a proportion of the tugs and vessels remaining registered in the ports of the river systems referred to in Article 331 after the deduction of those surrendered by way of restitution or reparation. Germany shall in the same way cede material of all kinds necessary to the Allied and Associated Powers concerned for the utilization of those river systems.

The number of the tugs and boats, and the amount of the material so ceded, and their distribution, shall be determined by an arbitrator or arbitrators nominated by the United States of America, due regard being had to the legitimate needs of the parties concerned, and particularly to the shipping traffic during the five years preceding the war.

All craft so ceded shall be provided with their fittings and gear, shall be in a good state of repair and in condition to carry goods, and shall be selected from among those most recently built.

The cessions provided for in the present Article shall entail a credit of which the total amount, settled in a lump sum by the arbitrator or arbitrators, shall not in any case exceed the value of the capital expended in the initial establishment of the material ceded, and shall be set off against the total sums due from Germany; in consequence, the indemnification of the proprietors shall be a matter for Germany to deal with.

IN THE MATTER OF THE CESSIONS BY GERMANY
TO CZECHO-SLOVAKIA UNDER ARTICLE 339
OF THE TREATY OF VERSAILLES.

WALKER D. HINES, ARBITRATOR.

Decided, Paris, June 14, 1921.

Article 339 of the Treaty of Versailles provides that Germany shall cede to the Allied and Associated Powers concerned certain property pertaining to navigation on certain river systems specified in Article 331 of the treaty. Article 339 provides that the amount and specifications of such cessions shall be determined by an arbitrator or arbitrators appointed by the United States of America. The undersigned, Walker D. Hines, has been appointed accordingly as the Arbitrator for the purpose of Article 339.

One of the river systems specified in Article 331 is the river system of the Elbe. Czecho-Slovakia claims that by virtue of Article 339 it is entitled to cessions of property pertaining to navigation on the Elbe.

Czecho-Slovakia and Germany, respectively, have designated delegates to appear before the Arbitrator, and he has received and considered the various notes presented by the respective delegates, and has held numerous hearings which were attended by these delegates.

THE RIGHT OF CZECHO-SLOVAKIA TO RECEIVE CESSIONS OF BOATS AND OTHER
MATERIAL ON THE ELBE UNDER ARTICLE 339 OF THE TREATY OF VER-
SAILLES.

The German Delegation urges that Czecho-Slovakia has no right to receive cessions of boats and other material on the Elbe. The position of the German Delegation is that the purpose of Article 339 was to provide for a cession of boats and other material only in cases where the Treaty of Versailles had brought about territorial changes; that in respect of the Elbe the treaty had made no territorial changes affecting Germany, and, therefore, it was not the purpose of Article 339 to impose upon Germany the obligation of making to Czecho-Slovakia any cessions of Elbe navigation material. The German Delegation urged that its position was illustrated by Article 357, which required cessions to be made to France because of the fact that the Treaty of Versailles had caused a territorial change through the restoration of Alsace-Lorraine to France.

The Arbitrator is of the opinion that Article 339 in its literal meaning embraces Czecho-Slovakia in respect of the Elbe, because Czecho-Slovakia by reason of its location upon the Elbe is a power directly concerned in the navigation of that stream. The concern of Czecho-Slovakia in the navigation of the Elbe is further recognized by Article 363 of the treaty, which gives Czecho-Slovakia a free zone for ninety-nine years in the port of Hamburg at the mouth of the Elbe.

The Arbitrator finds nothing in the history of the treaty provisions to place any limitations in this respect upon the literal meaning of Article 339. It appears to have been the underlying purpose of the treaty to provide for the cession of navigation material to the Allied and Associated Powers newly created or receiving enlarged territory as a result of the peace settlement.

While incidents connected with the drafting of Article 339 would not in themselves control the construction of the Article, it may be mentioned that the German Delegation requested the Arbitrator to ascertain the facts relative to the drafting of the provision. The Arbitrator has done so, and finds that originally a separate article was contemplated providing for cessions by Germany to Czecho-Slovakia, but it then seems to have been decided that in the interest of brevity an article expressed in the general terms of Article 339 would cover not only the Elbe, but also the other rivers mentioned in Article 331.

The Arbitrator, therefore, concludes that, in respect of the Elbe, Czecho-Slovakia comes within the scope and purpose of Article 339, and is entitled to cessions thereunder, in accordance with its legitimate needs.

THE TRAFFIC TO BE CONSIDERED IN ESTIMATING THE LEGITIMATE NEEDS
OF THE TWO COUNTRIES.

Article 339 requires in effect that Germany shall cede to Czecho-Slovakia tugs and vessels, together with their fittings and gear, in good state of repair, in condition to carry goods on the Elbe, and selected from among those most recently built; and that such cessions shall be determined with due regard to the legitimate needs of the parties concerned, and particularly with reference to the shipping traffic during the five years preceding the war.

The two delegations have agreed to accept the traffic for the year 1913 in lieu of the traffic for the five years preceding the war. The Arbitrator believes that this agreement is a reasonable and convenient method of dealing with the problem, and, therefore, adopts the traffic of the year 1913 as the basis for his consideration of the legitimate needs of the two parties. Annex I hereto attached shows the amount of the 1913 traffic on the Elbe as agreed to by the two parties and as adopted by the Arbitrator.

RECTIFICATIONS OF THE BASIC TRAFFIC.

Czecho-Slovakia claims that a very substantial amount ought to be added to the basic traffic of 1913 because of the fact that in the future a large traffic will move by the Elbe to and from Czecho-Slovakia which prior to the war moved via Trieste and Fiume. It is claimed that prior to the war the Austrian Empire embraced Trieste and the principal manufacturing portion of Czecho-Slovakia, and the Hungarian Monarchy embraced Fiume and the remaining portion of Czecho-Slovakia, and as a result that transportation took place between those ports and points in Czecho-Slovakia without crossing frontiers, and that the railroad rates were unusually favorable at that time to such transportation, but that in the future the result will be that several frontiers will have to be crossed if such traffic moves via Trieste and Fiume to or from Czecho-Slovakia, and it will be impossible to secure as favorable railroad rates as were obtainable before the war, and as a result this traffic will move via Hamburg.

The Arbitrator is of the opinion that extreme caution should be used by him in modifying the pre-war figures. It was evidently the purpose of the treaty to make the pre-war figures the principal basis for determining the legitimate needs of the parties. Moreover, the future changes in the traffic are highly speculative as to amount. If the Arbitrator in response to the Czecho-Slovak demand should enter the speculative field and make rectifications in the 1913 traffic beyond those which are indicated in a

clear and convincing manner, he would probably find in the same speculative field the necessity for considering various offsetting rectifications in favor of Germany with respect to other forms of traffic which could probably be urged with corresponding plausibility (for example, it is suggested by Germany that the brown coal traffic from Czecho-Slovakia to Germany may diminish in future years).

The Arbitrator, therefore, feels that he should make no rectifications on account of traffic formerly moving via Trieste and Fiume, except where a very high degree of probability is established that such traffic will move via Hamburg in the future, particularly in view of the tendency of the ports of Trieste and Fiume to hold their traffic on account of their splendid equipment and on account of the skill and knowledge of their commercial firms. Elaborate presentations have been made by both delegations on this question. After careful consideration of all that has been submitted, and bearing in mind the necessity for resolving doubts against modifications of the pre-war figures, the Arbitrator decides that on account of the Fiume and Trieste traffic which is likely to move via Hamburg and the Elbe in the future, there should be a rectification of 300,000 tons, of which 150,000 tons will be treated as imports and added to the Hamburg-Aussig transit traffic shown in Annex I, and 150,000 tons will be treated as exports and added to the Aussig-Hamburg transit traffic shown in Annex I.

AMOUNT OF SHIPPING REQUIRED TO PERFORM CZECHO-SLOVAKIA'S PART
OF THE TRAFFIC THUS ADOPTED.

This subject involves the question as to what part of the traffic should move in Czecho-Slovak boats, and as to how many boats would be required to transport that part.

It is clear that as to the traffic beginning and ending in Czecho-Slovakia, *i.e.*, its strictly internal traffic, Czecho-Slovakia should have boats sufficient to carry 100 % of that traffic.

As to traffic between Czecho-Slovak ports and German Elbe ports (called Middle Elbe for convenience), above Hamburg, Czecho-Slovakia claims that each country should have 100 % of the boats necessary to carry traffic originating in its own territory, while Germany claims that each country should have 50 % of the boats necessary to carry the traffic in both directions, upstream and downstream.

Broadly speaking, all transportation between Czecho-Slovak localities and German localities must involve the cooperation of nationals of the two countries. A Czecho-Slovak seller cannot send his commodities to Germany without finding a German buyer. In view of this essentially joint participation of the two countries in all of these transactions, the Arbitrator feels that the reasonable and proper method is to allow each of the two countries 50 % of the boats for carrying traffic in which the two countries are jointly interested.

The Arbitrator had to consider a similar question in his determination (made January 8, 1921) in the matter of cessions by Germany to France under Article 357 of the Treaty of Versailles. In that case he reached the same conclusion as is above indicated, *i.e.*, that each country should be regarded as having the legitimate need to control 50 % of the boats for the purpose of carrying such joint traffic.

As to traffic between Czecho-Slovakia and Hamburg which has its origin or destination overseas, the Czecho-Slovak Delegation claims 100 %

of the boats necessary to carry the entire traffic, whereas Germany claims that each nation should have 50 % of the necessary boats. Czecho-Slovakia claims that Germany has no interest in or control over this traffic since it originates or is destined overseas and will have the privilege of using the facilities at Hamburg which will be allowed to Czecho-Slovakia in the free zone provided for in Article 363. Germany claims that this traffic is principally in the hands of German firms, although neither origin nor destination is in Germany. The Arbitrator is of the opinion that it should be regarded as a legitimate need of Czecho-Slovakia to control 100 % of the boats necessary to perform this traffic.

As to traffic between Czecho-Slovakia and Hamburg, other than overseas traffic last mentioned, the same principle controls as in the case of traffic between Czecho-Slovakia and the Middle Elbe, and, therefore, it is a legitimate need of each country to have 50 % of the boats necessary to carry the traffic.

The next point is to decide upon the necessary factors to be employed in arriving at the amount of tonnage and horse-power requisite to be ceded to Czecho-Slovakia in order that it may carry the traffic allotted to it according to the foregoing facts and principles. These factors are:

- (a) The number of days of service per year for barges and tugs, respectively;
- (b) The number of tons per horse-power which the tugs will pull upstream on the various stretches of the river;
- (c) The average percentage of utilization of the cargo capacity of the barges;
- (d) The times required for tugs to make their round trip voyages on the various stretches of the river, and the times required for the barges to make their round trip voyages, and the time to be allowed for loading and unloading of barges.

The two delegations have applied themselves most diligently to a study of these problems. They have agreed on numerous factors.

They have been unable to agree upon some, and as to them it has been necessary for the Arbitrator and his Executive Assistant to give most careful attention to the arguments of the two delegations.

It is unnecessary to complicate this determination with a discussion of the technical details involved. The Arbitrator has concluded that in principle the amount of tonnage and horse-power which would be required to enable Czecho-Slovakia to transport that part of the traffic which its legitimate needs entitle it to transport would be 261,000 tons of barge capacity and 17,800 horse-power of tug capacity.

THE AMOUNT OF SHIPPING WHICH IN PRACTICE SHOULD BE REGARDED AS THE
LEGITIMATE NEED OF CZECHO-SLOVAKIA IN VIEW OF SURRENDER FOR
RESTITUTION AND REPARATION AND OF OTHER CONDITIONS AFFECTING
THE SHIPPING ON THE ELBE.

The legitimate need of Czecho-Slovakia for shipping on the Elbe should be decided in the light of the amount of shipping that will remain on the Elbe after Germany makes under the Treaty of Versailles the necessary cessions for reparation and any necessary restitutions. Indeed, that treaty expressly provides that the amount of tugs and vessels to be ceded

by Germany must be specified out of those which remain registered in the German Elbe ports after the deduction of the tugs and vessels surrendered by way of restitution and reparation.

Units surrendered or to be surrendered for restitution need not be considered, because they are not counted as a part of the German river fleet.

The Reparation Commission has certified to the Arbitrator the size of the entire German river fleet as of November 11, 1918, and has also certified to the Arbitrator the losses incurred by the Allied and Associated Powers for which reparation is to be made by a cession of a part of the German river fleet. Annex III of Part VIII of the Treaty of Versailles provides that the conditions of cession for purposes of reparation shall be settled by the Arbitrator. He has accordingly prescribed such conditions of cession and under these conditions of cession the Arbitrator assumes the function of selecting from the entire river fleet of Germany the boats to be ceded for purposes of reparation. By virtue of the Arbitrator's functions and action in this matter, the Arbitrator knows that not more than 187,000 tons of barges registered in ports of the Elbe and not more than 330 horse-power of tugs registered in ports of the Elbe will have to be ceded by Germany to the Reparation Commission to make good the losses in inland navigation tonnage incurred during the war by the Allied and Associated Powers.

Appendix II hereto attached shows the fleet of tugs and vessels on the Elbe as agreed to by the Czecho-Slovak and German Delegations in the present proceeding.

The Arbitrator, therefore, decides that, after restitution and reparation, all of the tugs and vessels shown in such Appendix will remain registered in the ports of the Elbe, except not exceeding 187,000 tons of barges and 330 horse-power of tugs, which is the maximum of such barges and tugs that will be surrendered by Germany by way of restitution or reparation.

In the light of this decision as to the tugs and vessels remaining registered in the ports of the Elbe after the deduction of the maximum amount which can be surrendered by Germany by way of restitution or reparation, and bearing in mind also the slight rectification which has been made in the basic traffic, the Arbitrator decides that Czecho-Slovakia ought to have, in order fairly to meet its legitimate needs on the Elbe, 223,300 tons of barges and 17,720 horse-power of tugs.

The Arbitrator also decides that Czecho-Slovakia ought to have, in order fairly to meet its legitimate needs on the Elbe, 1,890 horse-power of harbor tugs and 1,346 tons of freight boats.

THE AMOUNT OF SHIPPING TO BE PROVIDED FOR CZECHO-SLOVAKIA AFTER DEDUCTION OF SHIPPING ALREADY REGISTERED IN CZECHO-SLOVAK PORTS AND CONTROLLED BY CZECHO-SLOVAK NATIONALS; AND THE PROCEDURE FOR REMOVING COMPLICATIONS AND SELECTING SUCH SHIPPING.

It appears that there are 50,200 tons of barges and 2,720 horse-power of tugs already registered in Czecho-Slovak ports on the Elbe and controlled by Czecho-Slovak nationals and it is clear that to the extent of this amount of shipping the legitimate needs of Czecho-Slovakia are already met.

The question remains as to the manner in which provision shall be made for the remaining 173,000 tons of barges and 15,000 horse-power of tugs which are necessary in order to meet in practice the legitimate needs of Czecho-Slovakia as determined by the Arbitrator.

Czecho-Slovakia urges that in the first instance its legitimate needs should be satisfied: (1) by the transfer to it of all the tugs, vessels and other property of the Austrian Northwest Elbe Shipping Company, which is controlled by German capital, but a large proportion of whose vessels and tugs are registered in Czecho-Slovak ports; and (2) by giving Czecho-Slovakia complete control over all the tugs, vessels and other property of the German-Austrian Steamship Company and the New German-Bohemian Elbe Shipping Company, which are controlled by Czecho-Slovak capital, but whose tugs and vessels are registered in German ports. Germany urges that the tugs and vessels in these two categories can be regarded as already meeting the legitimate needs of Czecho-Slovakia because in one instance Czecho-Slovakia has a measure of control through the fact of registry in Czecho-Slovak ports, although the tugs and vessels are controlled by German capital, and in the other instance Czecho-Slovakia has a measure of control through the fact that the tugs and vessels, though registered in German ports, are controlled by Czecho-Slovak capital.

Thus both delegations appear to look in the first instance to the satisfaction of the legitimate needs of Czecho-Slovakia out of the tugs and vessels falling in these two categories.

The Arbitrator is of opinion that the tugs and vessels coming within these two categories cannot be regarded as fully responsive to the legitimate needs of Czecho-Slovakia unless in the one case (where the registry is already in Czecho-Slovak ports) all German ownership or interest shall be transferred to Czecho-Slovakia, and unless in the other case the registry shall be transferred from German ports to Czecho-Slovak ports (together with the transfer of any element of ownership or interest which is not already owned by Czecho-Slovak nationals), all such steps to be evidenced by the necessary documents; to the end that in both cases the tugs and vessels, before being counted against the legitimate needs of Czecho-Slovakia, shall be both registered in Czecho-Slovakia and completely owned and controlled by Czecho-Slovakia or its nationals. It is recognized that the total of tugs, harbor tugs and freight boats in these two categories are in excess of the legitimate needs of Czecho-Slovakia for tugs, harbor tugs and freight boats and due adjustment therefor should be made.

The Arbitrator is further of opinion that to the extent that the legitimate needs of Czecho-Slovakia as determined by him shall not be satisfied out of the two categories last mentioned and in the manner indicated by the Arbitrator, Germany shall cede to Czecho-Slovakia tugs and vessels from among those registered in German Elbe ports, which shall be selected from among those most recently built, and all tugs and vessels so ceded shall be provided with normal and proper fittings and gear and shall be in a good state of repair and in condition to carry goods.

The tugs and vessels ceded by Germany to Czecho-Slovakia shall be accompanied by documents evidencing the transfer to Czecho-Slovakia of the entire property in such tugs and vessels free from all encumbrances, charges and liens of all kinds.

If the tugs and vessels now registered in Czecho-Slovakia and belonging to the Austrian Northwest Elbe Shipping Company are not, through the processes above pointed out by the Arbitrator, devoted to the satisfaction of the needs of Czecho-Slovakia, but remain in the control of German capital, and instead of, and as the due equivalent for, such tugs and vessels Germany shall cede other tugs and vessels to Czecho-Slovakia, the Arbitrator will entertain an application by Germany that as a condition to the

completion of the cessions to be made the registry of such tugs and vessels of said last mentioned company shall be transferred from Czecho-Slovak ports to German ports.

The Arbitrator believes that in the light of the foregoing principles the two delegations will be able to reach an agreement as to the steps which are practicable and reasonable in respect of the Austrian Northwest Elbe Shipping Company's tugs and vessels which are registered in Czecho-Slovak ports and in respect of tugs and vessels of the German-Austrian Steamship Company and the New German-Bohemian Elbe Shipping Company; and, following such agreement, will be able to select, in accordance with the foregoing principles, the other units of tugs and vessels to be ceded by Germany to Czecho-Slovakia.

The Arbitrator, therefore, directs that prior to Wednesday, July 6, 1921, the Czecho-Slovak Delegation and the German Delegation shall endeavor to agree upon the steps to be taken and upon the tugs and vessels to be selected in accordance with the foregoing principles for the satisfaction of the legitimate needs of Czecho-Slovakia. At 10 o'clock on Wednesday morning, July 6, 1921, the Arbitrator will receive the reports of the Czecho-Slovak and German Delegations as to the result of their efforts to agree, will thereupon hear the two delegations as to the points upon which they are unable to agree, and will then specify the steps to be taken as to the tugs and vessels of the Austrian Northwest Elbe Shipping Company which are registered in Czecho-Slovakia, and as to the tugs and vessels of the German-Austrian Steamship Company and of the New German-Bohemian Elbe Shipping Company, and will designate the additional units of tugs and barges to be ceded, and will give the notification contemplated in the first sentence of Article 339 of the Treaty of Versailles.

MATERIAL NECESSARY FOR THE UTILIZATION OF THE RIVER.

Czecho-Slovakia has asked for the cession by Germany of various buildings, fixed harbor installations and floating cranes, pontoons and other floating material, on the ground that it is entitled to the same under the provision of Article 339 that Germany shall cede material of all kinds necessary for the utilization of the river system.

Czecho-Slovakia demands various buildings and other property of the Austrian Northwest Elbe Shipping Company located or used in Germany. The Arbitrator, however, decides that Germany cannot be required to cede these buildings and other installations and property to Czecho-Slovakia simply because they are the property of a company which appears to have been largely interested in navigation to and from the ports which are now in Czecho-Slovakia.

Czecho-Slovakia also demands various buildings and other property located or used in Germany and belonging to the German-Austrian Steamship Company and the New German-Bohemian Elbe Shipping Company, both of which Companies are controlled by Czecho-Slovak capital. Here likewise the Arbitrator decides that Germany cannot be required to cede such property to Czecho-Slovakia simply because it belongs to companies which are controlled by Czecho-Slovak capital.

Czecho-Slovakia also demands that Germany cede to it certain buildings and other fixed property located in Czecho-Slovakia and belonging to the Austrian Northwest Elbe Shipping Company or the German-Austrian Steamship Company or the New German-Bohemian Elbe Shipping

Company. As to all of this property, except the buildings used for offices, the Arbitrator decides that Czecho-Slovakia will be able to see that it is used without discrimination for the benefit of all boats using the river, since the property is within the territorial jurisdiction of Czecho-Slovakia, and hence the Arbitrator decides that there is no necessity for requiring Germany to make any cession in respect of any of this property. A different principle may be applicable as to the buildings which are used for offices, and this branch of the matter will be referred to below.

With reference to the buildings and harbor installations in the port of Hamburg, the following articles of the Treaty of Versailles have an important bearing:

ARTICLE 363.

In the ports of Hamburg and Stettin Germany shall lease to the Czecho-Slovak state, for a period of 99 years, areas which shall be placed under the general régime of free zones and shall be used for the direct transit of goods coming from or going to that state.

ARTICLE 364.

The delimitation of these areas, and their equipment, their exploitation, and in general all conditions for their utilization, including the amount of the rental, shall be decided by a commission consisting of one delegate of Germany, one delegate of the Czecho-Slovak state and one delegate of Great Britain. These conditions shall be susceptible of revision every ten years in the same manner.

Germany declares in advance that she will adhere to the decisions so taken.

The Arbitrator is of opinion that with respect to the buildings and harbor installations necessary for the traffic referred to in Article 363, the matter is to be determined in accordance with the provisions of Article 364, which are special in character and which should, therefore, prevail over the general provisions of Article 339. The Arbitrator will discuss below the question whether any of the Hamburg traffic shown in Appendix I is outside the scope of Articles 363 and 364 and if so what, if any, material is needed in respect thereof.

The foregoing principles having been established with reference to material to be ceded for the utilization of the river, it is still necessary to determine the question of fact as to what buildings, harbor installations and other property located or used in Germany should be ceded by Germany to Czecho-Slovakia under Article 339 in order to meet the latter's legitimate needs.

The Arbitrator decides that Czecho-Slovakia has a legitimate need for certain installations at Magdeburg and that this need will be met by the cession to Czecho-Slovakia of the smaller of the two warehouses belonging to the firm of Schulze & Company, with the quay and two electric cranes pertaining thereto. The Arbitrator hereby determines that Germany shall cede to Czecho-Slovakia said warehouse, quay and electric cranes. Prior to Wednesday, July 6, 1921, the Czecho-Slovak Delegation and the German Delegation shall endeavor to agree upon a precise description of such warehouse, quay and electric cranes to be ceded in accordance herewith, and shall report to the Arbitrator at 10 o'clock on Wednesday morning, July 6, 1921, and the Arbitrator, after hearing the parties, will

settle the precise description of the property and interests to be ceded and will include the same in the notification contemplated in the first sentence of Article 339. The cession of said property and interests shall be accomplished by the execution of all legal documents and the doing of all acts necessary or proper in order to vest in Czecho-Slovakia the entire ownership of such property and interests free from all encumbrances, charges and liens of all kinds.

The Arbitrator decides that Czecho-Slovakia has a legitimate need for the three floating cranes of the Austrian Northwest Elbe Shipping Company which are used in Czecho-Slovakia, one at Karlin, one at Teschen, and one at Aussig. These floating cranes have no fixed location, and so long as they are controlled by German capital, there is the chance that they may be removed from the territorial jurisdiction of Czecho-Slovakia. The Arbitrator, therefore, decides that Germany shall cede these floating cranes to Czecho-Slovakia, and shall deliver proper documents evidencing the transfer to Czecho-Slovakia of the entire property in such cranes, free from all encumbrances, charges and liens of all kinds. Such cranes will be included in the notification above referred to.

The Arbitrator requests the two delegations to agree, if possible, concerning the matters involved in the following four questions, and to report to him at the meeting on Wednesday, July 6, their agreement, or their respective views to the extent that they cannot agree:

1. Is there any traffic at Hamburg, shown in Appendix I, of interest to Czecho-Slovakia and outside of the scope of Articles 363 and 364; and, if so, has Czecho-Slovakia a legitimate need for any installations at Hamburg in respect of such traffic; and, if so, what installations are needed for that purpose?

2. Has Czecho-Slovakia a need for the quay of about 435 meters in length on the right bank of the Elbe at Magdeburg between the Koenigs-bridge and Ankonastrasse, or for any part thereof, or for any equivalent property at Magdeburg?

3. Has Czecho-Slovakia a legitimate need, on the German part of the Elbe, for the two floating cranes and the twenty pontoons, or any part thereof, demanded by it out of the property of the Austrian Northwest Elbe Shipping Company?

4. Has Czecho-Slovakia a legitimate need for the cession to it of the property in the buildings owned by the Austrian Northwest Elbe Shipping Company and used for offices at Karlin, Aussig and Melnik in Czecho-Slovakia?

The Arbitrator, after receiving the report or reports of the two Delegations on Wednesday, July 6, in respect to the matters involved in the four questions last stated, will determine what, if any, material, of the character referred to in said four questions, shall be ceded by Germany to Czecho-Slovakia, and will specify the same, and the manner of effectuating the cession thereof, in the notification to be given at that time.

With the exception of the Schulze warehouse, quay and electric cranes at Magdeburg and the three floating cranes in Czecho-Slovakia, above awarded to Czecho-Slovakia, and with the exception of the property referred to in said four questions, as to which decision is reserved, the Arbitrator decides that no need has been shown for the cession by Germany to Czecho-Slovakia of material for the utilization of the river.

PLACE OF DELIVERY AND PROVISIONS FOR INSPECTION.

The place of delivery of tugs and vessels and other movable material and the provisions as to inspection of tugs, vessels and other material and as to inspection of the necessary documents to be delivered therewith will be settled at or before the time of the notification which is to be given after the meeting above fixed for Wednesday, July 6, 1921.

VALUATION.

At or after the hearing to be given on Wednesday, July 6, 1921, the Arbitrator will prescribe the procedure to be followed with a view to his settling in a lump sum the value of the cessions under Article 339.

POSSIBLE ADDITIONAL CESSION BY REASON OF DIMINUTION IN CESSION FOR REPARATION.

If it shall be found that the total amount of barges to be ceded by Germany to the Reparation Commission out of the German Elbe fleet shall be substantially less than the 187,000 tons hereinabove mentioned, the Arbitrator will entertain an application by Czecho-Slovakia for the selection by the Arbitrator of additional units of barges within the limit of the 261,000 tons of barges (which the Arbitrator has above indicated represents in principle the total legitimate needs of Czecho-Slovakia) for the purpose of giving Czecho-Slovakia its fair proportion of all barges remaining registered in Elbe ports after the deduction of those surrendered by way of restitution or reparation.

CONCLUSION.

In conclusion, the Arbitrator hereby expresses his high appreciation of the extremely helpful cooperation which has been accorded him by the two delegations, and especially for the great assistance they have rendered him through settling by agreement numerous important technical factors with which the Arbitrator had to deal.

Paris, June 14th, 1921.

By the Arbitrator:
(Signed) BRICE CLAGETT,
Executive Assistant.

(Signed) WALKER D. HINES,
Arbitrator.

ANNEX I.

Agreed 1913 Elbe Traffic.

DISTRICT	TONS OF TRAFFIC
Aussig-Hamburg (transit).....	600,000
„ (local).....	200,000
Hamburg-Aussig (transit).....	650,000
„ (local).....	50,000
Aussig Middle Elbe.....	1,600,000
Middle Elbe-Aussig.....	50,000
C. S. Local traffic downstream.....	255,000
C. S. Local traffic upstream.....	95,000
TOTAL traffic interesting Czecho-Slovakia.....	3,500,000
Internal German traffic.....	13,900,000
TOTAL Elbe traffic.....	17,400,000

ANNEX II.

Agreed Elbe River Fleet.

Owner and Registry	Number of Barges	Tonnage of Barges	Number of River Tugs	H.P. of River Tugs	Number of Harbor Tugs	H.P. of Harbor Tugs	Number of Self- Propelled Vessels	Tonnage of Self- Propelled Vessels	Miscellaneous
Registered in C. S. and controlled by C. S. Nationals.....	145	50,200	14	2720					
Registered in C. S. and controlled by German Nationals.....	114	78,900	8 (1)	1200	7	850	7	$\frac{2300}{1800}$ HP	
Registered in Germany and controlled by C. S. Nationals.....	85	62,950	31	20,400	9	1890	5	$\frac{1346}{1150}$ HP	20 storage boats and 24 light- ers for sea service and 2 launches
Registered in Germany and controlled by German Nationals.....		1,103,050 (3)	168	51,040	(2)	(2)	180	$\frac{24,154}{19,350}$ HP	(4)
TOTAL.....		1,295,100 (3)	221	75,360			292	$\frac{27,800}{22,300}$ HP	

(1) Includes one paddle wheel tug and 7 chain tugs. The chain for the tugs is controlled by German Nationals also.

(2) Not stated but included in self-propelled vessels.

(3) Excludes 80,000 tons broken up from 1918 to 1920.

(4) Not shown.