

REPORTS OF INTERNATIONAL ARBITRAL AWARDS

RECUEIL DES SENTENCES ARBITRALES

The United States Asphalt Refining Company (United States) v. Germany

13 August 1926

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On May 2, 1917, the *Taizan Maru* was captured in the Irish Sea by a German submarine and sunk by bombing. At that time she had a cargo of iron ore from Carthage, Spain, destined for Ardrossan, Scotland.

The American and German Agents have agreed that under the facts as disclosed by this record and other testimony before this Commission and the rules and principles announced in Administrative Decisions No. VII and No. VII-A the American Star Line, Inc., had an interest in the *Taizan Maru* at the time she was destroyed of the value of \$77,482. The Umpire confirms this agreement. The charterer had no insurance on its interest.

On April 15, 1919, the American Star Line, Inc., assigned its claim against Germany arising out of the sinking of the *Taizan Maru* to Jeanette Selinger, an American national and claimant herein.

Wherefore the Commission decrees that under the Treaty of Berlin of August 25, 1921, and in accordance with its terms the Government of Germany is obligated to pay to the Government of the United States on behalf of Jeanette Selinger the sum of seventy-seven thousand four hundred eighty-two dollars (\$77,482.00) with interest thereon at the rate of five per cent per annum from November 11, 1918.

Done at Washington August 13, 1926.

Edwin B. PARKER
Umpire

THE UNITED STATES ASPHALT REFINING
COMPANY (UNITED STATES) v. GERMANY

(Three Claims, August 13, 1926, pp. 746-748.)

PROCEDURE: CONFIRMATION BY COMMISSION OF AGREEMENT BETWEEN AGENTS.

—WAR: DESTRUCTION OF CHARTERED VESSELS.—DAMAGE: VALUE OF CHARTERER'S INTEREST IN VESSELS. Destruction on August 23 and September 3, 1915, and April 6, 1917, of three British vessels chartered by claimant. Claims for value of claimant's interest in vessels. Application of rules announced in Administrative Decisions Nos. VII and VII-A, see pp. 203 and 330 *supra*. Confirmation of agreement between Agents on value of charterer's interest. Damages allowed.

PARKER, Umpire, rendered the decision of the Commission.

These cases, which are before the Umpire for decision on a certificate of disagreement of the National Commissioners, have been submitted and will be considered together.

On February 10, 1912, the claimant chartered from the British owner, for a period of about five years from date of delivery, the British tank steamer *Cymbeline* of 6,700 deadweight tons. Delivery was effected on April 21, 1914. The stipulated charter hire was £2,275 per calendar month. On August 1, 1914, the *Cymbeline* was requisitioned by the British Admiralty at a requisition hire of £3,182. 6s. per month, an advance of £907. 6s. per month over the stipulated charter hire. The British Admiralty dealt directly with the charterer rather than with the owner of the vessel and paid the requisition hire to the claimants who in turn paid to the owners from time to time hire in accordance with the terms of the charter. The ship was sunk by a German submarine on September 3, 1915. Claim is put forward (in Docket No. 6630) for the value of the claimant's interest in this requisitioned vessel at the time of her loss.

On February 21, 1912, the claimant chartered from the British owner for a term of about five years from date of delivery, a tank steamer then building, at the rate of 6s. 6d. per deadweight ton per month. Under this charter-party delivery of the Steamship *Rosalind*, of 9,730 deadweight tons, was effected on April 19, 1913. The stipulated charter hire amounted to £3,162. 5s. per month. On November 28, 1913, the *Rosalind* entered upon a charter-party with the British Admiralty for a period of one year at £7,000 per month. Upon the completion of this subchartering the *Rosalind* entered upon a requisition charter with the British Government of two months at the rate of £4,135 per month, upon the completion of which she entered upon a regular requisition charter with the British Government for an indefinite period at £4,622 per month. She was destroyed on April 6, 1917. During the entire time this ship was under requisition the British Admiralty paid the requisition hire to the claimant and the claimant in turn paid to the owner the hire stipulated for in the original charter. This claim (Docket No. 6631) is put forward for the value of the charterer's interest in the *Rosalind* at the time of her loss.

Under date of May 24, 1912, the claimant chartered from the British owner a tank steamer then building for a term of five years beginning from date of delivery. The *Silvia*, with a deadweight tonnage of 7,767, was delivered under this charter-party on September 9, 1913. The charter hire stipulated was equal to £2,670 per month. This was later increased so that the charterer paid to the owners from May 9, 1915, to the date the vessel was lost additional hire of £280 per month or a total of £2,950 per month. On September 16, 1913, claimant entered into a "charter-party of affreightment" with the British Admiralty under which the claimant agreed to operate the *Silvia* for the British Admiralty for a period of thirty-six months from September 10, 1913, the claimant to be paid freight at the rate of £4,500 per calendar month. The Admiralty also agreed to indemnify to the extent of the value of the vessel if lost by war risks under certain conditions. The *Silvia* was destroyed on August 23, 1915. This claim (Docket No. 6632) is put forward for the value of the claimant's interest in the *Silvia* at the time of her loss.

All three of these vessels were destroyed under circumstances fixing liability on Germany to compensate for the value of the American interest therein.

Since the certification of these cases to the Umpire the American Agent and the German Agent have joined in and filed herein a stipulation in writing agreeing that the aggregate value of the claimant's interest in said ships on the date of loss, computed in accordance with the rules established in Administrative Decisions No. VII and No. VII-A, is \$150,000. This valuation is confirmed by the Umpire.

Wherefore the Commission decrees that under the Treaty of Berlin of August 25, 1921, and in accordance with its terms the Government of Germany is obligated to pay to the Government of the United States on behalf of The United States Asphalt Refining Company the sum of one hundred fifty thousand dollars (\$150,000.00) with interest thereon at the rate of five per cent per annum from November 11, 1918.

Done at Washington August 13, 1926.

Edwin B. PARKER
Umpire