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Coast Guard

AIR MAIL

Habana, August 9, 1943

No. 4101

Subject: Suggested arbitration of Colabee claim.

The Honorable
The Secretary of State,
Washington.

Sir:

With reference to despatch No. 1923 of January 13, 1943 and previous correspondence concerning the claims of the Compañía Naviera de Cuba, S. A. and the crew of the Cuban steamship Oriente following the torpedoing of the steamship Colabee off the coast of Cuba in March, 1942, I have the honor to report that authorization having been received by Mr. Wilcox from War Shipping Administration pursuant to the suggestion of the Prime Minister that the claims be submitted to arbitration, I have addressed a note to the Cuban Government suggesting that the arbitration be held.

I enclose a copy of my note No. 815 of August 6, 1943. The draft arbitration agreement enclosed therewith is based on a text transmitted to Mr. Wilcox by War Shipping Administration.

It will be recalled that arrangements to arbitrate this claim were concluded by the Embassy in April 1942 but were not carried out for various reasons not germane to the present situation. When Prime Minister Saladrigas was succeeded by Dr. Zaydín last August, the latter desired to re-examine the whole question, and the second arbitration proposal, which I hope can promptly be carried out, is the result.

Respectfully yours,

Spruille Braden

Enclosure:

Copy of Foreign Office Note
No. 815 of August 6, 1943.

EOB/len

File No. 885.7

To the Department in original and hectograph.

File

Enclosure to Despatch No. 4101
dated August 9, 1943 from the Embassy at Habana

C O P Y

Habana, August 6, 1943

No. 815

Excellency:

With reference to previous correspondence concerning the claims of the Compañía Naviera de Cuba, S. A. and of the crew of the S/S Oriente against the S/S Colabee, I have the honor to inform Your Excellency that my Government has expressed its agreement with the suggestion of His Excellency, the Prime Minister, that these claims now be submitted to arbitration. As a condition of this arrangement my Government would expect Your Excellency's Government first to obtain the formal assent of the claimants that they will abide by such arbitral award as may result. My Government desires this assurance in order that its responsibility in connection with claims arising against the Colabee may be fully and finally discharged through the arbitral procedure.

For Your Excellency's convenient reference I am enclosing a rough draft arbitral agreement in a form which would be acceptable to my Government.

It is proposed to appoint as arbitrator on the part of the United States of America, Mr. Marshal L. Wilcox, representative in this Embassy of the War Shipping Administration.

Please accept, Excellency, the renewed assurances of my highest consideration.

EOB/len

DRAFT ARBITRATION AGREEMENT - S/S COLABEE

WHEREAS, a controversy exists between the Compañía Naviera de Cuba, S. A., as owner of the steamship Oriente, and the Master, officers and crew of said vessel, on the one hand, and the War Shipping Administration, as time charterer and insurer against war risks of the steamship Colabee and as representing the owners and underwriters of her cargo, on the other hand, with respect to whether all or any of the Parties of the First Part are entitled to salvage and, if so, the amount of the salvage awards to be paid to the Parties of the First Part on account of certain alleged salvage services rendered by the steamship Oriente to the steamship Colabee and her cargo during the month of March 1942, arising out of the torpedoing of the said steamship Colabee off the Cuban coast on March 12, 1942;

NOW, THEREFORE, the Governments of Cuba and of the United States of America hereby submit the question whether all or any of the Parties of the First Part are entitled to salvage awards and, if so, the amount of such awards, to appointed by the Government of Cuba to represent the Parties of the First Part, and Marshal L. Wilcox, Director, Caribbean District, War Shipping Administration, located at Habana, Cuba, appointed by the Government of the United States of America to represent the Parties of the Second part, as Arbitrators. If the two Arbitrators so named shall be unable to agree upon a decision, they shall appoint an Umpire who is mutually agreeable to the said Arbitrators, and the decision and awards of said Umpire shall be final and conclusive. Said Arbitrators and the Umpire, if appointed, shall informally arbitrate, award and adjudge and determine whether all or any of the Parties of the First Part are entitled to salvage awards and, if so, the amount of such awards, due from the Parties of the Second Part to the Parties of the First Part.

The oaths as such of the Arbitrators and Umpire are waived by the respective Governments on behalf of the Parties. Each Party shall bear the cost and expenses of its own Arbitrator. If an Umpire is appointed, he shall have power to award his costs and expenses to either Party or divide such cost and expenses between the Parties.

The respective Governments on behalf of the Parties agree to furnish the Arbitrators and the Umpire with the logs and reports of the two vessels and any other documents relating to the case in their possession, and to furnish any further document, statements and information called for by the Arbitrators or the Umpire. The appearance of counsel and oral arguments are waived.

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The respective Governments on behalf of the Parties hereto mutually covenant and agree to and with each other that the award to be made by the said Arbitrators and the Umpire, if appointed, shall in all things by them and each of them and by their successors and assigns be well and faithfully kept and performed.