

AIR MAIL

No. 866

Habana, August 31, 1942

Subject: S/S Colabee case: reporting Cuban Government Decree covering claims of this character and providing for their disposition by the Chief of Staff of the Cuban Navy or the Minister of National Defense.

The Honorable
The Secretary of State,
Washington.

Sir:

Referring to despatch No. 772 of August 20, 1942 and previous correspondence concerning the Colabee case, I have the honor to report the promulgation of an extremely helpful decree by the Cuban Government (No. 2348 appearing in the Official Gazette of August 26, 1942), which should make possible an equitable solution of the matter by Commodore Arguelles, at whose instance the measure was adopted. Copy and translation are enclosed.

Mr. W. S. Loudermilk, Agent of the War Shipping Administration in Habana, informs me that Dr. Carlos

Figueredo,

*File
noted
L. M. Murray
9 Sept 42*

Figueredo, in whose hands Mr. Chalmers Graham, Admiralty Counsel of the War Shipping Administration, left the matter following his visit to Habana last June, will shortly get in touch with Commodore Arguëlles in the hopes of settling the claim with a minimum of further delay.

It is requested that the foregoing information be made available to Mr. Graham.

Respectfully yours,

For the Ambassador:

Ellis O. Briggs
Counselor of Embassy

Enclosures:

Copy and translation of
Decree No. 2348 of August
26, 1942.

EOB/len

File No. 885.7

ENCLOSURE NO. 1 to DESPATCH NO. 866

dated August 31, 1942, from the Embassy at Habana.

COPY

From OFFICIAL GAZETTE No. 517 of August 26, 1942.

MINISTRY OF NATIONAL DEFENSE

Decreto No. 2348

POR CUANTO: el esfuerzo que realiza la marina mercante de las naciones aliadas, debe ser ayudado y alentado con medidas que faciliten el tráfico marítimo y hagan menos penosas las pérdidas y quebrantos que actualmente sufre con motivo de la campaña submarina desatada por las naciones del Eje.

POR CUANTO: determinados preceptos de nuestra reglamentación de salvamento marítimo resultan en las actuales circunstancias de inadecuada aplicación a los casos que diariamente confrontamos en atención a lo antes expresado y al deber de cooperación que nos impone la comunidad de ideales e intereses con los demás pueblos libres.

POR CUANTO: En virtud de las necesidades del momento se encuentra hoy confiada a la Marina de Guerra la máxima autoridad en nuestras costas y zona marítimo terrestre.

POR TANTO: En uso de las facultades de que estoy investido, por recomendación del Jefe de Estado Mayor General de la Marina de Guerra, a propuesta del Ministro de Defensa Nacional y asistido del Consejo de Ministros.

RESUELVO:

Primero: Disponer que mientras dure el actual estado de guerra, cuando con motivo de un acto de esta naturaleza ocurra algún accidente de mar considerado por nuestra legislación marítima como naufragio y que como tal debe tramitarse de acuerdo con la misma, o se realicen hallazgos o practiquen salvamentos previstos también y que deban tramitarse de conformidad con la propia legislación, los buques o embarcaciones de cualquier clase náufragos así como la parte de los mismos o de su equipo, pertrechos y efectos y las mercancías halladas o salvadas que pertenezcan a los gobiernos, empresas o particulares de Cuba o de naciones aliadas a la nuestra o neutrales en la actual contienda, quedarán bajo la exclusiva custodia de las autoridades de la Marina de Guerra a cuya disposición, si ya no lo estuvieren, deberán ponerse de inmediato.

Segundo: Si los efectos, materiales o sustancias que el mar haya arrojado a las costas fueren de rápido deterioro o fácil descomposición, las autoridades de la Marina de Guerra dispondrán de dichos objetos o efectos en la forma que estime mas conveniente, dando cuenta en cada caso al Estado Mayor General.

Tercero:

Tercero: Los buques náufragos o partes de los mismos y las mercancías halladas o salvadas a que se refiere el párrafo primero, quedarán bajo la custodia de la Marina de Guerra; publicándose los anuncios en la forma usual, pero concediéndose un término mayor que se fija en sesenta días en atención a la dificultad de comunicaciones con algunas de las naciones aliadas, para que los interesados se presenten ante la autoridad correspondiente de la Marina de Guerra a usar de su derecho. Si fuera posible establecer la identidad nacional del buque náufrago, o de sus restos salvados se comunicará el hallazgo al cónsul o representante diplomático que corresponda.

Cuarto: Si se presentare alguna persona y justificare plenamente la propiedad que reclama a juicio del Estado Mayor General, sin exigirsele el cumplimiento de ningún otro requisito por su parte, se le hará inmediata entrega de aquella. Caso de no presentarse el interesado o que no pueda el que se presente justificar su derecho de manera cumplida, pasará definitivamente a poder de la Marina de Guerra la propiedad de que se trate.

Quinto: Se suspende durante el transcurso del presente estado de guerra todo derecho a percibir cantidad alguna como premio o recompensa que en favor de los salvadores o halladores contengan las disposiciones vigentes en materia de náufragos, salvamentos, hallazgos o auxilios a la navegación; sin perjuicio del que pudiera corresponder a tales salvadores o halladores por el trabajo realizado, así como por los gastos y daños que puedan haber sufrido y se justifiquen en cada caso.

Sexto: Siempre que en cualquiera de las disposiciones que hoy rigen se haga referencia a la Sección de la Marina Mercante o al Jefe de la misma, a las Administraciones o Administradores y a la Dirección o Director General de Aduanas o al Ministerio o Ministro de Hacienda como organismos o autoridades superiores de las Capitanías o Capitanes de Puerto, se entenderá, a todos los efectos, que es el Estado Mayor General de la Marina de Guerra, o a su Jefe, o al Ministerio, o Ministro de Defensa Nacional, según los casos, a quienes tales preceptos se refieren.

Séptimo: Salvo las modificaciones que en la reglamentación del salvamento marítimo extraña lo anteriormente dispuesto y lo consignado en el Decreto 725 de 10 de Marzo de 1942, quedarán en vigor las disposiciones que hoy rigen en materia de náufragos, salvamentos o hallazgos.

Octavo: El Ministro de Defensa Nacional queda encargado del cumplimiento del presente Decreto, que surtirá sus efectos desde la fecha de su publicación en la Gaceta Oficial de la República.

Dado en el Palacio de la Presidencia, en la Habana, a los quince días del mes de Agosto de mil novecientos cuarenta y dos.

F. BATISTA
Presidente

Carlos Saladrigas
Primer Ministro

Aristides Gosa,
Ministro de Defensa Nacional.

TRANSLATION

From Official Gazette No. 517
of August 26, 1942

Ministry of National Defense

Decree No. 2348

Whereas: The effort being made by the merchant marine of the allied nations should be aided and encouraged by means of measures which shall facilitate maritime traffic and make less burdensome the losses and damages at present being suffered by it as a result of the submarine campaign being waged by the Axis nations:

Whereas: Certain provisions of our regulations on maritime salvage are at the present time inadequate for application to the cases that we are facing every day by reason of the fact above mentioned and to the duty of cooperation imposed upon us by the community of ideals and interests with the other free countries:

Whereas: By virtue of the needs of the moment the maximum authority over our coasts and maritime zones is at present entrusted to the Navy:

Therefore: In use of the powers with which I am vested, on recommendation of the General Staff of the Navy, on proposal of the Minister of National Defense and attended by the Council of Ministers,

I RESOLVE:

First: To order that for the duration of the present state of war, when as a result of an act of this nature some accident on the sea may occur which is considered by our maritime legislation as shipwreck and that as such should be handled in accord therewith, or when things are recovered, or salvage is practised, likewise provided for and to be handled by our marine legislation, the ships or vessels of any kind that are wrecked as well as the parts thereof or their equipment, supplies and effects and the goods found or salvaged belonging to the Governments, entities or private individuals of Cuba or of the nations allied with us or that are neutral in the present conflict, shall remain under the exclusive custody of the Navy authorities, at whose disposal, if not already there, they shall be immediately placed.

Second: If the effects, materials or substances which the sea has hurled upon the coast are of rapid deterioration or easy decomposition, the Navy authorities shall dispose of said objects or effects in the manner which it considers most convenient, reporting in each case to the General Staff.

Third: Wrecked vessels or portions thereof and the goods found or salvaged referred to in paragraph one, shall remain under the custody of the Navy: advertisements shall be published in the usual manner but a greater period of

time

time shall be given, to be fixed at sixty days, in view of the difficulty of communication with some of the allied nations, for the interested persons to appear before the proper authority of the Navy to make use of his rights. If it is possible to establish the national identity of the wreck or of the salvaged portions, the same shall be communicated to the proper consular or diplomatic representative/

Fourth: If any person makes appearance and fully proves his ownership in the opinion of the General Staff, without requiring any further step on his part the property shall be immediately turned over to him. In the event that the interested person does not make appearance or that the person making appearance is unable to prove his rights in a proper manner, the property in question shall immediately be turned over to the Navy.

Fifth: Any right to receive any amount as prize or reward which in favor of salvagers or persons finding property is contained in the legislation in force on the subject of shipwrecks, salvage, things found or aid to navigation is suspended for the duration of the present state of war, without prejudice to the rights that may appertain to such salvagers or finders for the work they have done, as well as for expenses and damages incurred and which are proved in each case.

Sixth: Whenever in any of the provisions of law at present in force reference is made to the Merchant Marine Division or to its Chief, to the Administrations or to the Collectors of Customs, to the Direction or to the Director General of Customs, to the Ministry or to the Minister of the Treasury as organizations or superior authorities of the Captains of Ports, it shall be understood, for all effects, that it is the General Staff of the Navy, or to its Chief, or to the Ministry or Minister of National Defense, according to the case, that such provisions refer.

Seventh: Except for the changes which the above makes of the regulations for marine salvage and what is provided in Decree 725 of March 10, 1942, the provisions of the law at present in force on the matter of wrecks, salvage or property found shall remain in force.

Eighth: The Minister of National Defense is entrusted with the fulfillment of this Decree which shall take effect from the date of publication in the Official Gazette of the Republic.

Done at the Presidential Palace, in Habana, on the fifteenth day of the month of August, 1942.

F. Batista,
President

Carlos Saladrigas
Prime Minister

Aristides Sosa
Minister of National Defense

Trans. LLG