

No. 5397

Habana, December 13, 1943

AIR MAIL

Subject: (Appointment of Senator Miguel A. SUAREZ
(y Fernandez as Cuba's arbitrator in the
(S.S. COLABEE

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The Honorable
The Secretary of State,
Washington, D. C.

Sir:

I have the honor to refer to the Embassy's despatch No. 4562 of September 21, 1943 in regard to the proposed arbitration of claims of the Compania Naviera de Cuba, S.A., and of the crew of the S.S. ORIENTE for the alleged salvaging of the S.S. COLABEE following the torpedoing of the latter vessel off the coast of Cuba in March 1942.

A note, dated December 4, 1943, has been received from the Minister of State advising the Embassy of the appointment by the Cuban Government of Senator Miguel A. Suarez y Fernandez as arbitrator and adding that the Government of Cuba has obtained the formal assent of the claimants, Compania Naviera de Cuba, S.A., and the crew of the S.S. ORIENTE, to be bound by the arbitral award which may be handed down.

Mr. Marshal L. WILCOX, Director, Caribbean District, War Shipping Administration, has been appointed as arbitrator to represent the COLABEE and cargo (reference Department's instruction No. 2096 of August 13, 1943).

In the event that the appointment of a third arbitrator becomes necessary, the Cuban Government desires that the costs should be borne equally by both parties. Mr. Wilcox regards this as satisfactory, and the Cuban Ministry of State is being informed to that effect.

A copy, with translation, of the Minister of State's note under reference is enclosed for the information of the Department.

Mr. Wilcox is at present in the United States and is not expected to return to Habana before the first of the year. Therefore no further action can be taken pending his return.

Reference is made to my despatch No. 5393 of December 13, 1943 regarding services performed gratuitously by the United States Naval Operating Base, Guantánamo Bay of a rescue and salvage nature for vessels under Cuban registry.

Respectfully yours,
For the Ambassador:

Enclosures:

1. Copy of note No. 3578 dated December 4, from Ministry of State
2. Translation thereof

File No. 885.7 GNG/hmf

Ellie O. Briggs
Counselor of Embassy

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La Habana, 4 de diciembre de 1943

Señor Embajador:

Tengo el honor de referirme a la atenta nota de esa Embajada número 815, de fecha 12 del pasado mes de agosto, por lo cual Vuestra Excelencia tiene a bien informarme que vuestro Gobierno ha expresado su conformidad en que las reclamaciones de la Compañía Naviera de Cuba S.A., y de la tripulación del vapor Oriente, contra el vapor Colabee, con motivo del salvamento del mismo, sean sometidas a arbitraje.

Compláceme expresar a Vuestra Excelencia que el Gobierno de la República ha obtenido la formal aceptación de los reclamantes, Compañía Naviera de Cuba S.A., y tripulación del vapor Oriente, de someterse al laudo arbitral que se dicte.

Tomo nota de que el Gobierno de los Estados Unidos de América se propone nombrar como árbitro, en este caso, al señor Marshal L. Wilcox, representante, en la Embajada, de la War Shipping Administration. A su vez, el Gobierno de Cuba se propone nombrar, como árbitro, al Senador Dr. Miguel A. Suárez Fernández.

En relación con la minuta de Convenio de Arbitraje sometida por esa Embajada, los términos de la misma son aceptables para el Gobierno de Cuba con excepción de la parte relativa a gastos y costas del tercer árbitro, si fuera necesario nombrarse. El Gobierno de Cuba propone que la parte pertinente a las disposiciones relativas al tercer árbitro quede redactado como sigue: Si se nombrara un tercer árbitro, el pago de sus gastos y costas corresponderá en igual proporción a ambas partes. En mucho apreciaría que Vuestra Excelencia me comunicara la aceptación, por vuestro Gobierno, de esta modificación.

En cuanto Vuestra Excelencia comunique que se encuentra en disposición de firmar el Convenio de Arbitraje, por haber obtenido a su vez las seguridades de que los representantes legales del vapor Colabee igualmente aceptarán, mantendrán y cumplirán el laudo de los árbitros, podrá verificarse la firma de dicho convenio en el día y hora que previamente se acuerde entre la Embajada y el Ministerio.

Reitero a Vuestra Excelencia el testimonio de mi mas alta y distinguida consideración.

(Emeterio S. Santovenia)

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Translation

REPUBLIC OF CUBA
MINISTRY OF STATE

Habana, December 4, 1943

Note No. 3578

Mr. Ambassador:

I have the honor to refer to the Embassy's note No. 815, of August 12 last, in which Your Excellency advises me that your Government has expressed its agreement that the claims of Compañía Naviera de Cuba, S.A., and of the crew of the S.S. ORIENTE, against the S.S. COLABEE, resulting from the salvaging of the latter, be submitted to arbitration.

I am pleased to advise Your Excellency that the Government of the Republic has received the formal acceptance of the claimants, Compañía Naviera de Cuba, S.A., and the crew of the S.S. ORIENTE, to be bound by the arbitral award which may be handed down.

I have taken note of the fact that the Government of the United States of America proposes to name as arbitrator in this case, Mr. Marshal L. Wilcox, Habana, representative of the War Shipping Administration. In turn, the Cuban Government proposes to name, as arbitrator, Senator Dr. Miguel A. Suarez y Fernandez.

With regard to the draft Arbitration Agreement submitted by the Embassy, the terms thereof are acceptable to the Government of Cuba with the exception of the provision in regard to expenses and costs of the third arbitrator, if it should be necessary to appoint one. The Government of Cuba proposes that the pertinent portion of the provisions in regard to the third arbitrator be drafted as follows:

"Should a third arbitrator be appointed, the payment of his expenses and costs shall be borne equally by both parties." I shall be grateful if Your Excellency will advise me of the acceptance, by your Government, of this modification.

As soon as Your Excellency indicates that he is prepared to sign the arbitral agreement by reason of having received the assurance of the legal representatives of the S.S. COLABEE that they also will accept, sustain and be bound by the award of the arbitrators, the signing of the agreement may be accomplished on the day and hour previously agreed upon by the Embassy and the Ministry.

I renew to Your Excellency the assurances of my highest and distinguished consideration.

(Emeterio S. Santovenia)