

**TREATY ON INTERNATIONAL COMMERCIAL NAVIGATION LAW, MONTEVIDEO,
19 MARCH 1940**

**TITLE I.
OF VESSELS**

Article 1.

The nationality of vessels is determined and regulated by the law of the State which permitted the use of its flag. Proof of this nationality is afforded in the appropriate certificate, lawfully issued by the competent authorities of the said State.

Article 2.

The law of the State which gives its nationality to the vessel governs everything relative to the acquisition and transfer of ownership thereof, to liens and other real rights, or to publicity measures whose object is to ensure that interested third parties shall have knowledge of these matters.

Article 3.

In so far as liens and other real rights are concerned, a change of nationality does not affect existing rights to the vessel. The duration of such rights is regulated by the law of the flag legitimately flown by the vessel at the time when change of nationality was effected.

Article 4.

The right to attach and sell a vessel by judicial procedure is regulated by the law of its location.

**TITLE II.
OF COLLISIONS**

Article 5.

Collisions come under the law of the State in whose water they occur, and are subject to the jurisdiction of its tribunals.

Article 6.

If the collision occurs outside of territorial waters, between vessels of the same nationality, the law of the State whose flag they fly shall be applicable, and the tribunals of that State shall have jurisdiction to try the civil and criminal causes arising from the collision.

Article 7.

If the collision occurs outside of territorial waters, between vessels of different nationalities, each vessel shall be bound by the terms of the law corresponding to its flag, and may not recover more than the said law allows.

Article 8.

In the cases covered by the foregoing Article, the civil actions must be filed, according to the preference of the libellant:

- (a) Before the judges or tribunals of the libelee's domicile;
- (b) Before those of the vessel's port of register;
- (c) Or before those having jurisdiction in the place where the vessel was attached by reason of the collision, or where it makes its first call, or where it chances to put into port.

Article 9.

In these same cases, the shipmaster and other persons serving on the vessel cannot be prosecuted criminally or in disciplinary proceedings, except before the judges or tribunals of the State whose flag the vessel was flying at the time of the collision.

Article 10.

Every creditor of the owner or outfitter of the vessel whose claims as creditor are based upon the collision, may obtain the judicial attachment or arrest of that vessel, even though it be on the point of departure.

The right may be exercised by nationals or by aliens domiciled in any one of the contracting States, with respect to vessels of the nationality of any of the said States, when the vessels are within the jurisdiction of the tribunals of the said State of domicile.

Proceedings relative to the attachment, release from attachment, or judicial arrest of the vessels, and matters incidental thereto, are subject to the law of the judge or tribunal who ordered such measures.

Article 11.

The foregoing provisions relative to collisions between vessels apply also to collisions between a vessel and any movable or immovable property, as well as to indemnity for damage caused in consequence of the passage or navigation of one vessel in the vicinity of another, even when no physical contact has occurred.

TITLE III.**OF ASSISTANCE AND SALVAGE****Article 12.**

Services of assistance or salvage rendered within the jurisdictional waters of one of the States shall be governed by the national law of the State in question.

If such services are rendered outside of territorial waters, they shall be governed by the law of the State whose flag is flown by the assisting or salvaging vessel.

Article 13.

Questions which may arise concerning services of assistance or salvage shall be decided:

1. In the case of services rendered within territorial waters, by the judges or tribunals of the place where such services were rendered:
2. In the case of those rendered outside of territorial waters, according to the choice of the libelant:

- (a) Before the judges or tribunals of the libelee's domicile;
- (b) Before those corresponding to the register of the vessel assisted,
- (c) Or, before those who exercise jurisdiction in the place where the vessel assisted makes its first call, or chances to put into port.

Article 14.

The foregoing provisions apply to services of assistance or salvage rendered by vessels and airplanes at sea, or conversely. They apply also to services rendered to such vessels or planes, by persons on shore or by means of floating structures.

TITLE IV.**OF AVERAGE****Article 15.**

The law corresponding to the nationality of the vessel determines the character of the average.

Article 16.

Particular average relative to the vessel is governed by the law of the latter's nationality; that relative to the merchandise shipped, by the law applicable to the contract of charterparty or transport.

The judges or tribunals of the port of discharge, or, in default thereof, those of the port where the discharge should have been made, are competent to try the respective libels.

Article 17.

General average is governed by the law in force within the State in whose port its settlement and distribution is made.

All matters relative to the conditions and formalities of the act of general average are excepted, and remain subject to the law of the nationality of the vessel.

Article 18.

The settlement and distribution of the general average shall be made in the port of destination of the vessel, or if the vessel fails to reach that destination, in the port where the discharge is made.

Article 19.

The judges or tribunals of the State in whose port the settlement and distribution are effected, are competent to try actions for general average; and any stipulation conferring jurisdiction on the judges or tribunals of another State is void.

TITLE V.**OF THE SHIPMASTER AND PERSONNEL ON BOARD SHIP****Article 20.**

Contracts of employment are governed by the law corresponding to the nationality of the vessel on which the officers and members of the crew serve.

Article 21.

Everything concerning the internal order of the vessel, and rights and obligations of the shipmaster, officers and members of the crew, is governed by the laws of the State of the vessel's nationality.

Article 22.

The local authorities of a port of one of the States, do not have jurisdiction in regard to the discipline and maintenance of internal order on a vessel located in the waters of that port but having the nationality of one of the other States. An exception is made to this rule when the security or public order of the port where the vessel is located, has been or tends to be disturbed, or when the intervention of the said local authorities is requested by the shipmaster of the appropriate consul.

Article 23.

Civil controversies relating to the discharge of their duties which may arise between the shipmaster and crew members in service on a vessel of the nationality of any of the States, while that vessel is in the territorial waters of another State, are outside the jurisdiction of the local authorities. Such controversies must be decided by the authorities of the State whose flag the vessel flies, according to the laws and regulations of the said State.

Article 24.

Civil controversies between the shipmaster or the crew members of a vessel having the nationality of one of the States, and persons who are not in the permanent employ of that vessel, occurring while the disputants are within the territorial waters of another State, shall be subject to the law of the latter, and be decided by the local judges or tribunals.

TITLE VI.**OF CHARTERPARTIES AND TRANSPORT OF MERCHANDISE OR PERSONS****Article 25.**

Contracts of charterparty, and of transport of merchandise or persons, concerned with effecting such transportation between ports of one and the same State, are governed by the laws of that State, regardless of nationality of the vessel involved. Cognizance of actions which may arise falls under the jurisdiction of the judges or tribunals of the said State.

Article 26.

When the contracts above mentioned are to be executed in one of the States, they are governed by the law in force in that State, regardless of the place where they were concluded or the nationality of the vessel. The phrase 'place of execution' refers to the port where the merchandise is unloaded or the

persons are disembarked.

Article 27.

In the cases specified in Article 26, the judges or tribunals of the place of execution, or, at the option of complainant, those of the defendant's domicile, shall be competent to try the respective actions; and any stipulation providing otherwise shall be null.

TITLE VII.

OF INSURANCE

Article 28.

Contracts of insurance are governed by the laws of the State where the insurance company or its branches or agencies are domiciled; and in cases involving branches or agencies they shall be regarded as having their domicile in the place where they operate.

Article 29.

Insurance which covers enemy property is valid even when the contract is made by the enemy, except when that contract relates to contraband of war. Payment of indemnities must be postponed until the conclusion of peace.

Article 30.

The judges or tribunals of the State where the insurance company is domiciled or, in the case of branches and agencies, the corresponding judges or tribunals are competent to try actions based upon the contract of insurance.

TITLE VIII.

OF HYPOTHECATIONS

Article 31.

Hypothecations on, or any other real right of guaranty over, vessels of the nationality of one of the States, regularly executed and recorded according to the laws thereof, shall be valid and enforceable in the other States.

TITLE IX.

OF BOTTOMRY LOANS

Article 32.

Contracts of bottomry are governed by the law of the State in which the particular loan is made.

Article 33.

Questions which may arise between the lender and the borrower shall be subject to the jurisdiction of the judges or tribunals of the defendant, or to those of the place where the contract was concluded.

TITLE X**OF VESSELS BELONGING TO THE STATE****Article 34.**

Vessels which are the property of the contracting States or operated by them, the freight and passengers carried by such vessels, and the cargoes which belong to the States, in so far as concerns claims relative to the operation of the vessels or the transport of passengers and freight, are subject to the laws and rules of responsibility and competency applicable to private vessels, cargo and equipment.

Article 35.

The rule laid down in the preceding Article does not apply to men-of-war, yachts, airplanes, or hospital-, coast guard-, police-, sanitation-, supply-, and public works vessels; nor to other vessels which are the property of the State, or operated by it, and which are employed, at the time when the claim arises, in some public service outside the field of commerce.

Article 36.

In the actions or claims to which the preceding Article refers, the owner-, or outfitter-State cannot avail itself of its special immunities if the case comes under one of the following heads:

1. Actions arising from collisions or other accidents of navigation;
2. Actions arising from services of assistance or salvage, or relating to general average ;
3. Actions based upon repairs, supplies, or contracts on other matters relative to the vessel.

Article 37.

The vessels to which Article 35 refers cannot in any case be the object of attachment, or of any other judicial proceeding, not authorised by the law of the owner- or outfitter-State.

Article 38.

The same rules apply to freight belonging to a given State and transported in any of the vessels mentioned in Article 35.

Article 39.

Freight which belongs to a given State, and which is transported on board commercial vessels in the performance of public services outside the field of commerce, cannot be the object of attachment or arrest or any judicial proceeding.

However, actions based on collision or other accidents of navigation, assistance, salvage, or general average, and likewise actions arising out of contracts relative to the freight, may be brought in conformity with Article 36.

Article 40.

In every case of doubt as to the character of a public service unrelated to the commercial role of the vessel or its freight, the attestation of the State, signed by its diplomatic representative, shall constitute

full proof for the purposes of release from attachment of arrest.

Article 41.

The privilege of immunity from attachment cannot be invoked for acts performed during the employment of a vessel of the State in a public service outside the field of commerce, if at the time when the judicial proceedings are undertaken, the ownership of the vessel or its operation, has been transferred to private third parties.

Article 42.

Vessels of a State which are assigned to commercial service, and private vessels engaged in postal service, cannot be attached by their creditors at the ports of call where they are obliged to perform the services in question.

TITLE XI.

GENERAL PROVISIONS

Article 43.

The provisions of this Treaty shall apply likewise to fluvial, lacustrine, and air navigation.

Article 44.

The simultaneous ratification of this Treaty by all of the Contracting States is not necessary in order to bring it into operation. The States which approve it shall communicate their approval to the Government of the Oriental Republic of Uruguay, so that the latter may notify the other Contracting States to that effect. This procedure shall take place of an exchange.

Article 45.

When the exchange has been made, in conformity with the preceding Article, this Treaty shall be effective from that time forth indefinitely; and the Treaty signed in Montevideo on February 12, 1889, shall accordingly be without force.

Article 46.

If any of the Contracting States should deem it advisable to withdraw its adherence to the Treaty or introduce changes into the said instrument, it shall so advise the other signatories; but the withdrawal shall not take effect until two years after the date of denunciation, during which time an effort to reach a new accord shall be made.

Article 47.

Article 44 applies also to States which have not attended this Congress, but which wish to adhere to the present Treaty.

In witness whereof, the plenipotentiaries of the aforesaid States sign the present treaty, in Montevideo, the 19th day of March, 1940.

**STATUS OF SIGNATURES, RATIFICATIONS, ACCEPTANCES, APPROVALS,
ACCESSIONS, RESERVATIONS AND NOTIFICATIONS OF SUCCESSION**

Unfortunately, we have not found accurate internet sources for information regarding signatures, ratifications, acceptances, approvals, accessions, reservations and notifications of succession. Our latest information is the following:

State	Signature	Ratification
Argentina	s	deposited (18 June 1956)
Bolivia	s ¹	
Brazil	s	
Chile	s	
Colombia	s	
Paraguay	s	deposited (29 January 1958)
Peru	s	
Uruguay	s	deposited

¹ With the following reservation: The delegation of Bolivia subscribes to the present treaty in so far as it refers to fluvial, lacustrine and air navigation.