

RECUEIL DES INSTRUMENTS JURIDIQUES ET INSTITUTIONNELS
DE FACILITATION DU TRANSPORT ET DES ÉCHANGES
EN AFRIQUE SUBSAHARIENNE

ANNEXE II-1

CONVENTION AND STATUTE ON FREEDOM OF TRANSIT

(BARCELONA 1921)

N° 171.

ALBANIE, AUTRICHE,
BELGIQUE,
BOLIVIE, BULGARIE, etc.

Convention et Statut sur la liberté
du transit. Barcelone, le 20 avril
1921.

ALBANIA, AUSTRIA,
BELGIUM
BOLIVIA, BULGARIA, etc.

Convention and Statute on Freedom
of Transit. Barcelona, April 20,
1921.

No. 171. — CONVENTION AND STATUTE ON FREEDOM OF TRANSIT.¹
 BARCELONA, APRIL 20, 1921.

English and French official texts registered on October 8, 1921, with the Secretariat of the League of Nations, in accordance with Article 4 of the Convention.

²Albania, Austria, Belgium, Bolivia, Brazil, Bulgaria, Chile, China, Colombia, Costa Rica, Cuba, Denmark, the British Empire (with New Zealand and India), Spain, Esthonia, Finland, France, Greece, Guatemala, Haiti, Honduras, Italy, Japan, Latvia, Lithuania, Luxemburg, Norway, Panama, Paraguay, the Netherlands, Persia, Poland, Portugal, Roumania, the Serb-Croat-Slovene State, Sweden, Switzerland, Czechoslovakia, Uruguay and Venezuela :

Desirous of making provision to secure and maintain freedom of communications and of transit,

Being of opinion that in such matters general conventions to which other Powers may accede at a later date constitute the best method of realising the purpose of Article 23 (e) of the Covenant of the League of Nations,

Recognising that it is well to proclaim the right of free transit and to make regulations thereon as being one of the best means of developing co-operation between States without prejudice to their rights of sovereignty or authority over routes available for transit,

Having accepted the invitation of the League of Nations to take part in a Conference at Barcelona which met on March 10th, 1921, and having taken note of the final Act of such Conference,

Anxious to bring into force forthwith the provisions of the Regulations relating to transit by rail or waterway adopted thereat,

Wishing to conclude a Convention for this purpose, the HIGH CONTRACTING PARTIES have appointed as their Plenipotentiaries :

The President of the Supreme Council of Albania :

Monsignor Fan S. NOLI, Member of Parliament ;

The President of the Republic of Austria :

M. Henri REINHARDT, Ministerial Councillor ;

His Majesty the King of the Belgians :

M. Xavier NEUJEAN, Member of the Chamber of Representatives, Minister of Railways, Marine, Posts and Telegraphs ;

The President of the Republic of Bolivia :

M. Trifon MELEAN, Bolivian Consul-General in Spain ;

¹ The ratification of Albania was deposited with the Permanent Secretariat of the League of Nations on October 8, 1921.

² Here follows the list of States represented at the Barcelona Conference ; the list of States which have signed the Convention will be found at the end of the text of the Convention.

The President of the Republic of Brazil :

His Majesty the King of Bulgaria :

M. Lubin BOCHKOFF, Civil Engineer, Assistant to the Director-General of Railways and Ports ;

The President of the Republic of Chile :

Señor Manuel RIVAS VICUÑA, Envoy Extraordinary and Minister Plenipotentiary ;

The President of the Republic of China :

M. Ouang YONG-PAO, Envoy Extraordinary and Minister Plenipotentiary ;

The President of the Republic of Colombia :

The President of the Republic of Costa Rica :

The President of the Republic of Cuba :

His Majesty the King of Denmark and of Iceland :

M. Peter Andreas HOLCK-COLDING, Chef de Bureau in the Ministry of Public Works ;

His Majesty the King of Spain :

Señor Don Emilio ORTUÑO Y BERTE, Member of the Chamber of Deputies, formerly Minister of Public Works ;

The President of the Esthonian Republic :

M. Charles Robert PUSTA, Minister Plenipotentiary ;

The President of the Republic of Finland :

M. Rolf THESLEFF, Envoy Extraordinary and Minister Plenipotentiary ;

The President of the French Republic :

M. Maurice SIBILLE, Deputy, Member of the "Comité consultatif des Chemins de fer français" ;

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India :

Sir Hubert LLEWELLYN SMITH, G.C.B., Economic Adviser to the Government ;

and for the Dominion of New Zealand :

Sir Hubert LLEWELLYN SMITH, G.C.B. ;

For India :

Sir Louis James KERSHAW, K.C.S.I., C.I.E., Secretary in the Revenue and Statistics Department in the India Office ;

His Majesty the King of the Hellenes :

M. Pierre SCASSI, Envoy Extraordinary and Minister Plenipotentiary of His Hellenic Majesty in Spain ;

The President of the Republic of Guatemala :

Dr. Norberto GALVEZ, Guatemalan Consul-General at Barcelona ;

The President of the Republic of Haiti :

The President of the Republic of Honduras :

His Majesty the King of Italy :

M. Paolo BIGNAMI, Engineer, Member of the Chamber of Deputies, formerly Under-Secretary of State.

His Majesty the Emperor of Japan :

M. MATSUDA, Minister Plenipotentiary, Counsellor of the Japanese Embassy in Paris ;

The President of the Republic of Latvia :

M. Germain ALBAT, Under-Secretary of State for Foreign Affairs ;

The President of the Lithuanian Republic :

M. V. SIDZIKAUSKAS, Chargé d'Affaires at Berne ;

Her Royal Highness the Grand-Duchess of Luxemburg :

M. Antoine LEFORT, Chargé d'Affaires at Berne ;

His Majesty the King of Norway :

Dr. Fridtjof NANSEN, Professor in Christiania University ;

The President of the Republic of Panama :

Dr. Evenor HAZERA, Consul-General for Panama in Spain, formerly Under-Secretary of State ;

The President of the Republic of Paraguay :

Her Majesty the Queen of the Netherlands :

Jonkheer VAN PANHUYS, Minister Plenipotentiary

His Imperial Majesty the Shah of Persia :

His Excellency Mirza HUSSEIN KHAN ALAÏ, Envoy Extraordinary and Minister Plenipotentiary to Spain ;

The President of the Polish Republic :

M. Joseph WIELOVIEYSKI ;

The President of the Portuguese Republic :

M. Alfredo FREIRE D'ANDRADE, formerly Minister of Foreign Affairs ;

His Majesty the King of Roumania :

M. E. MARGARITESCO GRECIANO, Envoy Extraordinary and Minister Plenipotentiary ;

His Majesty the King of the Serbs, Croats and Slovenes :

Dr. Ante TRESICH-PAVICHICH, Envoy Extraordinary and Minister Plenipotentiary to Spain and Portugal ;

His Majesty the King of Sweden :

M. Fredrik V. HANSEN, Director-General of Hydraulic Power and State Canals ;

The President of the Swiss Confederation :

M. Giuseppe MOTTA, Federal Councillor, Chief of the Federal Political Department ;

The President of the Czechoslovak Republic :

Dr. Ottokar LANKAS, Ministerial Councillor and Director of Transport in the Ministry of Railways ;

The President of the Oriental Republic of Uruguay :

M. Benjamin FERNANDEZ Y MEDINA, Envoy Extraordinary and Minister Plenipotentiary to Spain ;

The President of the United States of Venezuela :

Who, after communicating their full powers found in good and due form, have agreed as follows :

Article 1.

The High Contracting Parties declare that they accept the Statute on Freedom of Transit annexed hereto, adopted by the Barcelona Conference on April 14th, 1921.

This Statute will be deemed to constitute an integral part of the present Convention. Consequently, they hereby declare that they accept the obligations and undertakings of the said Statute in conformity with the terms and in accordance with the conditions set out therein.

Article 2.

The present Convention does not in any way affect the rights and obligations arising out of the provisions of the Treaty of Peace signed at Versailles on June 28th, 1919, or out of the provisions of the other corresponding Treaties, in so far as they concern the Powers which have signed, or which benefit by, such Treaties.

Article 3.

The present Convention, of which the French and English texts are both authentic, shall bear this day's date and shall be open for signature until December 1st, 1921.

Article 4.

The present Convention is subject to ratification. The instruments of ratification shall be transmitted to the Secretary-General of the League of Nations, who will notify the receipt of them to the other Members of the League and to States admitted to sign the Convention. The instruments of ratification shall be deposited in the archives of the Secretariat.

In order to comply with the provisions of Article 18 of the Covenant of the League of Nations, the Secretary-General will register the present Convention upon the deposit of the first ratification.

Article 5.

Members of the League of Nations which have not signed the present Convention before December 1st, 1921, may accede to it.

The same applies to States not Members of the League to which the Council of the League may decide officially to communicate the present Convention.

Accession will be notified to the Secretary-General of the League, who will inform all Powers concerned of the accession and of the date on which it was notified.

Article 6.

The present Convention will not come into force until it has been ratified by five Powers. The date of its coming into force shall be the ninetieth day after the receipt by the Secretary-General of the League of Nations of the fifth ratification. Thereafter the present Convention will take effect in the case of each Party ninety days after the receipt of its ratification or of the notification of its accession.

Upon the coming into force of the present Convention, the Secretary-General will address a certified copy of it to the Powers not Members of the League which are bound under the Treaties of Peace to accede to it.

Article 7.

A special record shall be kept by the Secretary-General of the League of Nations, showing which of the Parties have signed, ratified, acceded to or denounced the present Convention. This record shall be open to the Members of the League at all times ; it shall be published as often as possible in accordance with the directions of the Council.

Article 8.

Subject to the provisions of Article 2 of the present Convention, the latter may be denounced by any Party thereto after the expiration of five years from the date when it came into force in respect of that Party. Denunciation shall be effected by notification in writing addressed to the Secretary-General of the League of Nations. Copies of such notification shall be transmitted forthwith by him to all the other Parties, informing them of the date on which it was received.

The denunciation shall take effect one year after the date on which it was notified to the Secretary-General, and shall operate only in respect of the notifying Power.

Article 9.

A request for the revision of the present Convention may be made at any time by one-third of the High Contracting Parties.

En foi de quoi, les plénipotentiaires sus-nommés ont signé la présente Convention.

In faith whereof the above-named Plenipotentiaries have signed the present Convention.

Fait à Barcelone, le vingt avril mil neuf cent vingt et un, en un seul exemplaire qui restera déposé dans les archives de la Société des Nations.¹

Done at Barcelona the twentieth day of April one thousand nine hundred and twenty-one, in a single copy which shall remain deposited in the archives of the League of Nations.¹

[AFRIQUE DU SUD]
[SOUTH AFRICA]

[ALBANIE]
[ALBANIA]

FAN S. NOLI.

[ARGENTINE]
[ARGENTINA]

[AUSTRALIE]
[AUSTRALIA]

[AUTRICHE]
[AUSTRIA]

REINHARDT.

[BELGIQUE]
[BELGIUM]

XAVIER NEUJEAN.

[BOLIVIE]
[BOLIVIA]

TRIFON MELEAN.

[BRÉSIL]
[BRAZIL]

[BULGARIE]
[BULGARIA]

L. BOCHKOFF

[CANADA]

[CHILI]
[CHILE]

MANUEL RIVAS VICUÑA.

[CHINE]
[CHINA]

OUANG YONG-PAO.

¹ Ci-dessous, la liste des Etats Membres de la Société des Nations ayant signé la Convention ou ayant le droit d'y adhérer.

¹ Here follows the list of States Members of the League of Nations which have signed the Convention or which have the right to adhere to it.

[COLOMBIE]
[COLOMBIA]

[COSTA-RICA]

[CUBA]

[DANEMARK]
[DENMARK]

A. HOLCK-COLDING.

[EMPIRE BRITANNIQUE]
[BRITISH EMPIRE]

H. LLEWELLYN SMITH.

Sous réserve de la déclaration insérée au procès-verbal de la Séance du 19 avril 1921, relative aux Dominions britanniques non représentés à la Conférence de Barcelone.

Subject to the declaration inserted in the Procès-verbal of the meeting of April 19, 1921, as to the British Dominions which have not been represented at the Barcelona Conference.

[NOUVELLE-ZÉLANDE]
[NEW ZEALAND]

H. LLEWELLYN SMITH.

[INDE]
[INDIA]

KERSHAW.

[ESPAGNE]
[SPAIN]

E. ORTUÑO.

[ESTHONIE]
[ESTHONIA]

C. R. PUSTA.

[FINLANDE]
[FINLAND]

ROLF THESLEFF.

[FRANCE]

MAURICE SIBILLE.

[GRÈCE]
[GREECE]

P. SCASSI.

[GUATÉMALA]

N. GALVEZ.

[HAITI]

[HONDURAS]

[ITALIE] [ITALY]	PAOLO BIGNAMI.
[JAPON] [JAPAN]	M. MATSUDA.
[LETTONIE] [LATVIA]	GERMAIN ALBAT.
[LITUANIE] [LITHUANIA]	V. SIDZIKAUSKAS.
[LUXEMBOURG] [LUXEMBURG]	LEFORT.
[NICARAGUA]	
[NORVÈGE] [NORWAY]	FRIDTJOF NANSEN.
[PANAMA]	EVENOR HAZERA.
[PARAGUAY]	
[PAYS-BAS] [NETHERLANDS]	VAN PANHUYS.
[PÉROU] [PERU]	
[PERSE] [PERSIA]	HUSSEIN KHAN ALAI.
[POLOGNE] [POLAND]	JOSEPH WIELOVIEYSKI.
[PORTUGAL]	A. FREIRE D'ANDRADE.
[ROUMANIE] [ROUMANIA]	E. MARGARITESCO GRECIANU.
[SALVADOR]	
[ÉTAT SERBE-CROATE-SLOVÈNE] [SERB-CROAT-SLOVENE STATE]	ANTE TRESICH-PAVICIC.

[SIAM]

[SUÈDE]
[SWEDEN]

FREDRIK HANSEN.

[SUISSE]
[SWITZERLAND]

MOTTA.

[TCHÉCOSLOVAQUIE]
[CZECHOSLOVAKIA]

D^r LANKAS OTAKAR.

[URUGUAY]

B. FERNANDEZ Y MEDINA.

[VENEZUELA]

STATUTE ON FREEDOM OF TRANSIT.

Article 1.

Persons, baggage and goods, and also vessels, coaching and goods stock, and other means of transport, shall be deemed to be in transit across territory under the sovereignty or authority of one of the Contracting States, when the passage across such territory, with or without transshipment, warehousing, breaking bulk, or change in the mode of transport, is only a portion of a complete journey, beginning and terminating beyond the frontier of the State across whose territory the transit takes place.

Traffic of this nature is termed in this Statute " traffic in transit."

Article 2.

Subject to the other provisions of this Statute, the measures taken by Contracting States for regulating and forwarding traffic across territory under their sovereignty or authority shall facilitate free transit by rail or waterway on routes in use convenient for international transit. No distinction shall be made which is based on the nationality of persons, the flag of vessels, the place of origin, departure, entry, exit or destination, or on any circumstances relating to the ownership of goods or of vessels, coaching or goods stock or other means of transport.

In order to ensure the application of the provisions of this Article, Contracting States will allow transit in accordance with the customary conditions and reserves across their territorial waters.

Article 3.

Traffic in transit shall not be subject to any special dues in respect of transit (including entry and exit). Nevertheless, on such traffic in transit there may be levied dues intended solely to defray expenses of supervision and administration entailed by such transit. The rate of any such dues must correspond as nearly as possible with the expenses which they are intended to cover, and the dues must be imposed under the conditions of equality laid down in the preceding Article, except that on certain routes such dues may be reduced or even abolished on account of differences in the cost of supervision.

Article 4.

The Contracting States undertake to apply to traffic in transit on routes operated or administered by the State or under concession, whatever may be the place of departure or destination of the traffic, tariffs which, having regard to the conditions of the traffic and to considerations of commercial competition between routes, are reasonable as regards both their rates and the method of their application. These tariffs shall be so fixed as to facilitate international traffic as much as possible. No charges, facilities or restrictions shall depend, directly or indirectly, on the nationality or ownership of the vessel or other means of transport on which any part of the complete journey has been or is to be accomplished.

Article 5.

No Contracting State shall be bound by this Statute to afford transit for passengers whose admission into its territories is forbidden, or for goods of a kind of which the importation is prohibited, either on grounds of public health or security, or as a precaution against diseases of animals or plants.

Each Contracting State shall be entitled to take reasonable precautions to ensure that persons, baggage and goods, particularly goods which are the subject of a monopoly, and also vessels, coaching and goods stock and other means of transport, are really in transit, as well as to ensure that passengers in transit are in a position to complete their journey, and to prevent the safety of the routes and means of communication being endangered.

Nothing in this Statute shall affect the measures which one of the Contracting States may feel called upon to take in pursuance of general international Conventions to which it is a party, or which may be concluded hereafter, particularly Conventions concluded under the auspices of the League of Nations, relating to the transit, export or import of particular kinds of articles, such as opium or other dangerous drugs, arms or the produce of fisheries, or in pursuance of general Conventions intended to prevent any infringement of industrial, literary or artistic property, or relating to false marks, false indications of origin, or other methods of unfair competition.

Any haulage service established as a monopoly on waterways used for transit must be so organised as not to hinder the transit of vessels.

Article 6.

This Statute does not of itself impose on any of the Contracting States a fresh obligation to grant freedom of transit to the nationals and their baggage, or to the flag of a non-Contracting State, nor to the goods, nor to coaching and goods stock or other means of transport coming or entering from, or leaving by, or destined for a non-Contracting State, except when a valid reason is shown for such transit by one of the other Contracting States concerned. It is understood that for the purposes of this Article, goods in transit under the flag of a Contracting State shall, if no transshipment takes place, benefit by the advantages granted to that flag.

Article 7.

The measures of a general or particular character which a Contracting State is obliged to take in case of an emergency affecting the safety of the State or the vital interests of the country may in exceptional cases, and for as short a period as possible, involve a deviation from the provisions of the above Articles ; it being understood that the principle of freedom of transit must be observed to the utmost possible extent.

Article 8.

This Statute does not prescribe the rights and duties of belligerents and neutrals in time of war. The Statute shall, however, continue in force in time of war so far as such rights and duties permit.

Article 9.

This Statute does not impose upon a Contracting State any obligations conflicting with its rights and duties as a Member of the League of Nations.

Article 10.

The coming into force of this Statute will not abrogate treaties, conventions and agreements on questions of transit concluded by Contracting States before May 1st, 1921.

In consideration of such agreements being kept in force, Contracting States undertake, either on the termination of the agreement or when circumstances permit, to introduce into agreements so kept in force which contravene the provisions of this Statute the modifications required to bring them into harmony with such provisions, so far as the geographical, economic or technical circumstances of the countries or areas concerned allow.

Contracting States also undertake not to conclude in future treaties, conventions or agreements which are inconsistent with the provisions of this Statute, except when geographical, economic or technical considerations justify exceptional deviations therefrom.

Furthermore, Contracting States may, in matters of transit, enter into regional understandings consistent with the principles of this Statute

Article 11.

This Statute does not entail in any way the withdrawal of facilities which are greater than those provided for in the Statute and have been granted, under conditions consistent with its principles, to traffic in transit across territory under the sovereignty or authority of a Contracting State. The Statute also entails no prohibitions of such grant of greater facilities in the future.

Article 12.

In conformity with Article 23 (*e*) of the Covenant of the League of Nations, any Contracting State which can establish a good case against the application of any provision of this Statute in some or all of its territory, on the ground of the grave economic situation arising out of the acts of devastation perpetrated on its soil during the war 1914-1918, shall be deemed to be relieved temporarily of the obligations arising from the application of such provision, it being understood that the principle of freedom of transit must be observed to the utmost possible extent.

Article 13.

Any dispute which may arise as to the interpretation or application of this Statute which is not settled directly between the parties themselves shall be brought before the Permanent Court of International Justice, unless, under a special agreement or a general arbitration provision, steps are taken for the settlement of the dispute by arbitration or some other means.

Proceedings are opened in the manner laid down in Article 40 of the Statute of the Permanent Court of International Justice.

In order to settle such disputes, however, in a friendly way as far as possible, the Contracting States undertake, before resorting to any judicial proceedings and without prejudice to the powers and right of action of the Council and of the Assembly, to submit such disputes for an opinion to any body established by the League of Nations, as the advisory and technical organisation of the Members of the League in matters of communications and transit. In urgent cases, a preliminary opinion may recommend temporary measures intended, in particular, to restore the facilities for freedom of transit which existed before the act or occurrence which gave rise to the dispute.

Article 14.

In view of the fact that within or immediately adjacent to the territory of some of the Contracting States there are areas or enclaves, small in extent and population in comparison with such territories, and that these areas or enclaves form detached portions or settlements of other parent States, and that it is impracticable for reasons of an administrative order to apply to them the provisions of this Statute, it is agreed that these provisions shall not apply to them.

The same stipulation applies where a colony or dependency has a very long frontier in comparison with its surface and where in consequence it is practically impossible to afford the necessary Customs and police supervision.

The States concerned, however, will apply in the cases referred to above a regime which will respect the principles of the present Statute and facilitate transit and communications as far as practicable.

Article 15.

It is understood that this Statute must not be interpreted as regulating in any way rights and obligations *inter se* of territories forming part or placed under the protection of the same sovereign State, whether or not these territories are individually Members of the League of Nations.
