

(2) If any distinctive national colours, except such red ensign or except the Union Jack with a white border, or if any colours usually worn by Her Majesty's ships or resembling those of Her Majesty, or if the pendant usually carried by Her Majesty's ships or any pendant resembling that pendant, are or is hoisted on board any ship or boat registered in Canada or belonging to any British subject resident in Canada without warrant from Her Majesty or under the aforesaid regulations, the master of the ship or boat, or the owner thereof, if on board the same, and every other person hoisting the colours or pendant, are for each offence liable to a fine not exceeding twenty-five hundred dollars.

(3) Any commissioned officer on full pay in the naval, army or air service of Canada or in the naval, army or air service of Her Majesty or any officer of Customs in Her Majesty's dominions, or any consular officer, may board any ship or boat registered in Canada or owned by any resident of Canada on which any colours or pendant are hoisted contrary to this Act, and seize and take away the colours or pendant, and the colours or pendant shall be forfeited to Her Majesty.

(4) A fine under this section may be recovered with costs in the Admiralty Court.

(5) Any offence mentioned in this section may also be prosecuted, and the fine for it recovered, summarily, but where any such offence is prosecuted summarily, the court imposing the fine shall not impose a higher fine than five hundred dollars.

(6) Nothing in this section authorizes the imposition of more than one fine in respect of the same offence. 1934, c. 44, s. 89; 1950, c. 26, s. 2.

92. (1) A Canadian ship or a ship belonging to a British subject resident in Canada shall hoist the proper national colours

(a) On a signal being made to her by one of Her Majesty's ships or any ship in the service of and belonging to the Government of Canada,

(b) On entering or leaving any foreign port, and

(c) If of fifty tons gross tonnage or upwards, on entering or leaving any British port.

(2) If default is made on board any such ship in complying with this section the master of the ship is for each offence liable to a fine not exceeding five hundred dollars. 1934, c. 44, s. 90; 1950, c. 26, s. 2.

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## 8. Ceylon

MERCHANT SHIPPING ACT, 1894.<sup>1</sup>

## 9. Chile

(a) COMMERCIAL CODE, 23 NOVEMBER 1865.<sup>2</sup>

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*Article 827.* A ship shall not be classed as a Chilean ship unless it has been registered in accordance with the provisions of the Shipping Act.

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<sup>1</sup> See *infra* under United Kingdom.

<sup>2</sup> *Códigos de la República de Chile*, vol. III (1945), p. 187. Translation by the Secretariat of the United Nations.

(b) SHIPPING ACT, 1878.<sup>1</sup>

## SECTION I. NATIONALITY OF CHILEAN SHIPS

*Article 1.* "Chilean ship" means a ship which is registered in the Chilean merchant marine and satisfies the requirements of this Act.

*Article 2.* Only a citizen of the Republic by birth or by naturalization may own a Chilean ship.

*Article 3.* An alien domiciled in Chile who owns a business undertaking or carries on a trade or occupation in Chile may own a Chilean ship.

*Article 4.* A Chilean national resident outside the territory of the Republic may not own a Chilean ship or a share in a Chilean ship unless—

(1) He owns or is a partner or a commandite partner in a business undertaking established in Chile and his capital or other interest therein is equivalent to one-half of the value of the ship; or

(2) He deposits security equal to one-half of the value of the ship as agreed by the Office of the General Commandant of Shipping; or

(3) He is a consul or vice-consul of the Republic.

*Article 5.* A Chilean national who has forfeited citizenship rights for reasons specified in the Constitution and has not regained the same may not own a Chilean ship or a share in a Chilean ship.

*Article 6.* At least one-third of the crew of every Chilean ship shall be Chilean citizens.

A person who is a national of a State at war with the Republic may not be a member of the crew of a Chilean ship; for any offence against this provision the owner of the ship shall be liable to a fine of not less than 100 and not more than 1,000 pesos.

*Article 7.* The President of the Republic, in consultation with the Council of State, may order that the proportion of Chilean members of the crew of a specially equipped Chilean warship or similar ship may be less than that required by this Act; such order shall be made for a specified term, during which a ship sailing in accordance with the order shall be deemed to be properly manned.

*Article 8.* The following documents shall be evidence of the nationality of a Chilean ship; the certificate of registration, the ship's certificate, the crew list, and, in only those cases expressly laid down in this Act, the pass.

## SECTION II. DOCUMENTS EVIDENCING NATIONALITY OF SHIP

1. *Certificate of registration, ship's certificate, pass*

*Article 9.* For the purpose of registering a ship in the Chilean merchant marine, the owner or owners or their duly authorized agent shall produce to the Office of the General Commandant of Shipping a certified copy of the contract, award or other valid document of title as provided in article 833 of the Commercial Code.

*Article 10.* The Office of the General Commandant of Shipping shall keep a register of Chilean merchant ships and shall enter therein the name, trade or occupation, and domicile of the owners of each ship; the length,

<sup>1</sup> *Ibid.*, pp. 604-607. *Official Gazette*, 3 July 1878. Translation by the Secretariat of the United Nations.

breadth, depth and tonnage of the ship; the number of masts and type of rigging; the number of decks; the shape of the bow; whether driven by sails or steam, and if by steam the nominal power and whether propelled by wheels or a screw; the place, time and manner of construction and the name of the builder; the previous nationality, if any, and the name; evidence of the title of the present owner; and the number assigned to the ship in the registry and in the International Code of Signals according to the order and date of the entries.

Every entry made in the register shall be signed by the General Commandant of Shipping and by the owner of the ship or his duly authorized agent.

*Article 11.* When applying for the registration of a ship, the applicant shall exhibit to the General Commandant of Shipping his documents of title, the survey certificate and the other particulars relating to the ship which are required under the preceding article; and the Commandant shall cause these particulars to be verified by the competent shipping authority.

*Article 12.* Every Chilean ship shall be surveyed in accordance with special regulations which shall prescribe the method of measurement, based on the international register ton, to be employed, the persons who may effect the survey, and the remuneration to be paid to them therefor.

*Article 13.* The General Commandant of Shipping shall issue a certificate of registration signed by him and sealed with the seal of his Office.

This certificate shall be submitted to the Government for countersignature and approval by the Ministry of Shipping, whereupon the President of the Republic shall issue a ship's certificate so that the ship may use the Chilean flag and benefit by the rights accruing from Chilean nationality.

After the certificate of registration and the ship's certificate have been returned to the Commandant's Office, they shall be delivered to the applicant.

*Article 14.* Where the original owner of a ship built in a Chilean or a foreign shipyard applies for its registration and cannot produce better evidence of title, he may exhibit a builder's certificate countersigned and sealed, in the case of a ship built in Chile, by the competent shipping authority or, in the case of a ship built in a foreign country, by a consular agent of the Republic or, where there is no such agent, then by a consular agent of a friendly nation; and such certificate shall be evidence of title admissible at law.

*Article 16.* Except in the circumstances described in articles 24 and 25, a Chilean ship sailing without a certificate of registration or a ship's certificate or a crew list, or without a pass if one is required, shall be liable to seizure.

If any of the aforesaid documents is forged, the owner and the master of the ship shall in addition be liable to the penalty prescribed by article 194 of the Penal Code.

*Article 19.* Where a ship built or acquired abroad is to be registered in the Chilean merchant marine, the owner shall exhibit his documents of

title to the competent Chilean consul, who shall certify the same for the purposes of the Office of the General Commandant of Shipping.

*Article 20.* A ship of the kind referred to in the preceding article may proceed from the port where it was built or acquired to a Chilean port under a pass, issued by the Chilean minister or consul, authorizing it to sail under the Chilean flag; and in such case the crew may consist entirely of alien seamen.

*Article 21.* A vessel built in a Chilean shipyard for sale at a Chilean or foreign port may proceed from the port where it was built to the port where it is to be sold without papers other than a pass issued by the Governor of the province and a clearance certificate, incorporating the crew list, issued by the shipping authority.

A vessel of the kind referred to in this or the preceding article may travel in ballast or with cargo.

*Article 22.* The documents mentioned in the preceding article shall be delivered to the shipping authority of the port of destination of the ship if that port is in Chile, or to the consular agent of the Republic if it is abroad, and shall be forwarded by that authority or agent to the Office of the General Commandant of Shipping and there filed.

If there is no consular agent at the port, delivery shall be made to the nearest consular agent.

*Article 23.* The master or owner of a Chilean ship who sells, lends, transfers, or uses otherwise than for the purposes of the ship or in the manner prescribed by this Act any document evidencing the ship's nationality shall be liable to a fine of ten pesos multiplied by the ship's tonnage as recorded in the certificate of registration.

If fraud is proved, the owner and the master shall be liable to imprisonment or restriction of residence of medium severity.

*Article 24.* Where a Chilean ship becomes disabled, or is destroyed, or is captured by the enemy, or ceases to belong to the Chilean merchant marine through sailing under another flag, or otherwise ceases to be a Chilean ship, the owner or master shall report the circumstances to the General Commandant of Shipping and shall, unless unavoidably prevented from so doing, return to the Commandant within a period of twenty days the certificate of registration, the ship's certificate and the crew list of the ship, in default whereof he shall be liable to a fine of five pesos per register ton, unless he proves to the Commandant's satisfaction that the documents were not lost through his fault.

If one of the events described in the preceding paragraph occurs elsewhere than at the seat of the Department of Marine, the owner or master shall make a precise report of the facts and shall deliver the aforesaid documents within the same time-limit and under pain of the same fine to the nearest Chilean shipping authority or to a consular agent, who shall forward the documents to the Office of the General Commandant of Shipping.

The General Commandant of Shipping shall be empowered to receive evidence justifying the loss of the aforesaid documents. Such evidence shall be submitted within four months if the loss occurred in Chile or within nine months if outside Chile.

*Article 25.* A certificate of registration or a ship's certificate which is lost shall be re-issued on the application of the persons concerned, and the new certificate shall contain all particulars of the registry entry relating

to the vessel. Such re-issue shall be conditional upon sufficient and satisfactory evidence of the loss of the documents being produced to the General Maritime Officer. If the report of the loss is proved to be false, the owners of the vessel as shown in the registry entry shall be liable to a fine of ten pesos per register ton.

*Article 26.* A certificate of registry or a navigating licence which has become unserviceable through use may likewise be renewed if the unserviceable document is produced.

*Article 27.* No ship other than a ship intended for inland traffic at ports or on rivers, canals or lakes of the Republic shall be registered in the Chilean merchant marine unless its capacity exceeds 25 tons.

## 2. Lapse of registration

*Article 30.* A seagoing ship shall cease to be registered if—

- (1) The requirements of articles 2, 3 and 4 of this Act relating to the owner of a ship are not satisfied;
- (2) Its name is changed;
- (3) It is wilfully destroyed, even if it is rebuilt with the same materials;
- (4) It becomes a total loss or is declared unseaworthy in conformity with this Act;
- (5) It disappears and there is no news of its existence for two years;
- (6) Its flag or registration is changed;
- (7) It is captured;
- (8) It becomes a privateer, pirate or slaver;
- (9) Its hull is so altered that its tonnage increases or decreases, or the type of its rigging is changed.

*Article 31.* In any of the cases specified in the preceding article the ship shall be erased from the register and shall cease to belong to the Chilean merchant marine.

(c) ACT No. 6415 OF 4 OCTOBER 1939, TO RESERVE THE COASTAL TRADE TO SHIPS OF THE MERCHANT MARINE.<sup>1</sup>

*Article 1.* The coastal trade, that is to say the carriage of goods by sea between ports situated on the coast of the Republic, shall, subject to the conditions laid down in this Act, be reserved to Chilean ships:

Provided that the President of the Republic shall be empowered, subject to reciprocity, to admit to the coastwise trade, on the same terms as Chilean ships, ships of Latin-American countries owned, each in its own country, by individuals or bodies corporate satisfying the requirements of nationality laid down in article 3 of this Act.

If the coastwise trading firms of Chile cannot meet the needs of the country, the President of the Republic may admit foreign ships to the coastwise trade on the same terms as Chilean ships or on such special terms as may be laid down in each particular case.

*Article 3.* For the purposes of this Act a ship owned by a Chilean national resident in Chile, and commanded by a Chilean master and Chilean

<sup>1</sup> *Ibid.*, pp. 605-606. Translation by the Secretariat of the United Nations.

officers, and manned by a crew consisting as to three-quarters of its members of Chilean nationals shall be classed as a Chilean ship.

Notwithstanding the provisions of the preceding paragraph, a Chilean ship operator (*armador*) may in case of need engage once only, for a term not exceeding three years, not more than two alien engineers for each ship to have charge of internal combustion engines propelling the ship or to instal new machinery in the ship.

A ship owned by a company or partnership shall be classed as a Chilean ship if three-quarters of the registered capital or of the shares in the partnership are owned by Chilean nationals or Chilean bodies corporate.

An operator who charges a ship in favour of aliens to secure a sum exceeding 40 per cent of the capital invested in the ship shall cease to be entitled to the benefits of this Act in respect of that ship.

The complement of every ship shall be determined in accordance with regulations to be made by the President of the Republic.

The provisions of this article shall not affect the operation of article 7 of the General Shipping Act of 3 July 1878.

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## 10. China

### (a) MARITIME COMMERCE ACT OF 30 DECEMBER 1929.

#### CHAPTER I. GENERAL PRINCIPLES

*Article 1.* The expression "ship" in this Act means any sea-going vessel, or any vessel navigating in waters accessible to the sea and navigable by sea-going vessels.

*Article 2.* The provisions of this Act, except in cases of collision between ships, shall not apply to the following ships:

(a) Ships of less than 20 tons gross tonnage, or having a (deadweight) capacity of less than 200 piculs.

(b) Ships engaged exclusively on public business.

(c) Ships principally propelled by sculls or oars.

*Article 3.* The following ships are Chinese ships:

(a) Ships belonging to Chinese authorities.

(b) Ships belonging to Chinese citizens.

(c) Ships owned by companies of the following constitution, established under Chinese law and having their head offices in China:

(i) Companies with unlimited liability the members of which are all Chinese citizens;

(ii) Mixed companies, or mixed share companies, in which all the members whose liability is unlimited are Chinese citizens;

(iii) Limited-liability companies of which two-thirds of the directors and two-thirds of the capital are Chinese.

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*Article 5.* A ship not duly registered and not holding a nationality certificate may not put to sea except as otherwise permitted by law.

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<sup>1</sup> Translation by the Secretariat of the United Nations.