

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.

(b) SHIPPING ACT OF 4 DECEMBER 1930.<sup>1</sup>

## CHAPTER I. GENERAL PROVISIONS

*Article 1.* The term "ship" in the present Act has the meaning assigned to it in the Maritime Commerce Act.<sup>2</sup>

*Article 2.* Ships which are not Chinese shall not wear the national flag of the Republic of China.

*Article 3.* Ships which are not Chinese may not lie at anchor in ports, bays or estuaries or along the coasts of the Republic of China except—

- (a) In accordance with a special provision of law;
- (b) By permission of the Government of the Republic of China;
- (c) For the purpose of taking shelter.

*Article 4.* A ship which has not obtained a nationality certificate or a temporary nationality certificate may not put to sea except, by permission of the competent shipping office—

- (a) To run trials;
- (b) To be surveyed for determination of tonnage;
- (c) For other good and sufficient reason.

*Article 5.* A ship which has not obtained a nationality certificate or a temporary nationality certificate may wear the national flag of the Republic of China only—

- (a) On the national holiday or other day of commemoration of the Republic of China;
- (b) When anchored in a foreign port on the national holiday of the country;
- (c) On other occasions when the national flag is to be worn for ceremonial or saluting purposes;
- (d) At the ceremony of launching the ship;
- (e) When the ship is authorized to put to sea under the provisions of the preceding article.

*Article 6.* A ship shall bear the following marks:

- (a) Its name;
- (b) The name of its home port;
- (c) Its registered tonnage;
- (d) Its registration number;
- (e) Its draught in feet.

These marks may not be destroyed or effaced except for the purpose of evading capture.

Alterations of the marks necessitated by changes in the registration of the ship shall be effected without delay.

## CHAPTER IV. NATIONALITY CERTIFICATE OF SHIP

*Article 24.* The owner of a ship, after obtaining the certificate of tonnage of the ship, shall himself choose a home port and register his title in accordance with the Shipping Registration Act.

<sup>1</sup> Entered into force on 1 July 1931. Translation by the Secretariat of the United Nations.

<sup>2</sup> *Supra.*

*Article 25.* After a ship has been registered in accordance with the provisions of the preceding article, the competent shipping office shall issue a registration certificate in accordance with the provisions of the Shipping Registration Act and shall request the Ministry of Communications to issue a nationality certificate for the ship.

*Article 26.* If the nationality certificate of a ship is lost or mutilated or any change occurs in the registered particulars, the owner of the ship shall within thirty days after the date on which such fact comes to his knowledge apply to the shipping office of the home port of the ship to issue a duplicate or new certificate.

*Article 27.* If one of the events mentioned in the preceding article occurs while the ship is lying at anchor in a Chinese port other than its home port, or in a foreign port, the master of the ship shall apply to the shipping office or the Chinese consulate, as the case may be, of that port to issue a temporary nationality certificate for the ship.

If one of the events mentioned in the preceding article occurs during a voyage, the master of the ship may submit the application mentioned in the preceding paragraph to the shipping office or the Chinese consulate, as the case may be, of the port of destination.

*Article 28.* In a case to which the preceding article applies the owner of the ship shall, within ten days after its return to its home port, surrender the temporary nationality certificate to the competent shipping office and receive in return the nationality certificate of the ship.

*Article 29.* If a registered ship is destroyed, sunk or captured or loses its nationality, for more than six months, its owner shall within thirty days after the date on which such fact comes to his knowledge apply to the shipping office of the home port of the ship to cancel the registration, and shall surrender the nationality certificate unless it is proved to have been lost.

If in a case to which the preceding paragraph applies the owner of the ship does not apply for cancellation of the registration and surrender the certificate within the prescribed time-limit, the competent shipping office may require him to apply for such cancellation and surrender the certificate within a period not exceeding one month; and if the owner fails without good reason to comply with the order within the new time-limit, the shipping office shall have power to cancel the registration and the certificate.

*Article 30.* Any person who has acquired a ship in one Chinese port or in a foreign port and has chosen another Chinese port as its home port shall apply to the shipping office or the Chinese consulate of the port where the ship is situated to issue a temporary nationality certificate; and after the arrival of the ship in the home port he shall apply for registration in accordance with the provisions of article 24 and shall surrender the temporary nationality certificate.

*Article 31.* The temporary nationality certificate of a ship shall be valid for not more than one year if issued abroad, or not more than six months if issued within the country; provided that in unavoidable circumstances application may be made for an extension when the period of validity expires.

*Article 32.* Whether the period of validity has expired or not, a temporary nationality certificate shall cease to have effect as soon as the ship arrives at its home port.

(c) SHIPPING REGISTRATION ACT OF 5 DECEMBER 1930.<sup>1</sup>

*General provisions*

*Article 1.* The term "ship" in the present Act has the meaning assigned to it in the Maritime Commerce Act.<sup>2</sup>

*Article 2.* A ship shall be registered by the shipping office of its home port.

*Article 3.* All matters relating to the preservation, creation, transfer, variation, limitation, disposal or extinction of the following interests in ships shall be registered:

- (a) Ownership;
- (b) Charges;
- (c) Charter.

*Article 4.* A registrable claim relating to a ship shall not lie against a third party unless it has been registered.

*Article 20.* When the shipping office has completed the registration, it shall issue to the applicant a registration certificate.

The registration certificate shall indicate that the registration has been completed, shall bear the seal of the shipping office, and shall contain the following particulars:

*Article 23.* Temporary registration may be effected where for any of the following reasons regular registration is not possible:

- (a) The requirements in respect of the application for registration have not been satisfied;
- (b) A claim relating to the creation, transfer, variation or extinction of an interest in a ship is reserved;
- (c) A claim is subject to a time-limit or condition or cannot be determined until a future date.

CHAPTER II. REGISTRATION OF TITLE

*Article 46.* In any of the following contingencies the person registered as the owner of the ship shall apply for cancellation of the registration, and shall state the reasons for the application and secure and produce the necessary documentary evidence:

- (a) The ship has been lost or been sunk;
- (b) The hull of the ship has been dismantled;
- (c) The ship has been missing for more than six months;
- (d) The ship has lost Chinese nationality.

<sup>1</sup> Entered into force on 1 July 1931; amended on 2 August 1946 and 29 September 1947. Text of Act provided by the Permanent Delegation of China. Translation by the Secretariat of the United Nations.

<sup>2</sup> *Supra.*

## CHAPTER IV. CANCELLATION OF REGISTRATION

*Article 60.* Application for cancellation of temporary registration shall be made by the person who obtained the registration; provided that any interested party may make such an application if he attaches thereto the written consent of the person who obtained the temporary registration, or other documentary evidence.

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(d) REGULATIONS OF 25 NOVEMBER 1930.<sup>1</sup>

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*Article 3.* Until the certificate of nationality referred to in article 4 of the Maritime Commerce Act<sup>2</sup> is issued, the licence issued to the vessel by the Ministry of Communications shall be carried in lieu thereof.

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## II. Colombia

(a) MARITIME COMMERCIAL CODE, 1870-1887.<sup>3</sup>

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### SECTION II. MERCHANT SHIPS; THEIR OWNERS AND JOINT OWNERS

#### *Chapter I. Merchant ships*

*Article 5.* The word "ship" includes the hull, keel, rigging and equipment of every independent vessel, of whatever category and size and whether propelled by sail, oars or steam.

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*Article 9.* No ship shall have Colombian nationality unless registered under the statute relating to national merchant shipping.<sup>4</sup>

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*Article 15.* Title to a Colombian ship sold outside the territory of the Union shall be transferred in accordance with the laws or usages in force in the place of contract.

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#### *Chapter II. Owners and co-owners of ships*

*Article 37.* An alien domiciled in the territory of the Union in accordance with the Act of 21 June 1866 may own a Colombian ship.

*Article 38.* An alien owner of a Colombian ship shall be subject to the law governing shipping and to any security measures which the President of the Union may adopt in the event of war with the nation of which the alien is a national.

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<sup>1</sup> Text of Regulations provided by the Permanent Delegation of China. Translation by the Secretariat of the United Nations.

<sup>2</sup> *Supra.*

<sup>3</sup> A. J. Uribe, *Derecho Mercantil Colombiano, Edición Especial*, p. 129. Passed on 11 July 1870, amended by Act No. 10 of 1873, and adopted by Act No. 57 of 1887. Translation by the Secretariat of the United Nations.

<sup>4</sup> Fiscal Code, 1873-1905, *infra*.