

(*pasanave*) having the effect of a ship's certificate until the vessel arrives at the Colombian port of register. A vessel proceeding under a valid pass from the country of issue to Colombia shall wear the Colombian flag; the pass shall not entitle it to return abroad, and the provisions of this Decree shall be complied with upon arrival at the Colombian port of register.

*Article 49.* Registration and the ship's certificate shall cease to be valid in the following circumstances:

(a) *Registration:*

- (1) Transfer of ownership to an alien or to a Colombian national not resident in Colombia;
- (2) Change of nationality of the owner;
- (3) Destruction of the vessel, even if it is rebuilt with the same materials;
- (4) Seizure or confiscation of the vessel abroad; or
- (5) Total loss of the vessel.

(b) *Ship's certificate:*

- (1) Any circumstance invalidating registration;
- (2) Expiry of the period for which the certificate was issued;
- (3) Change in the name, class, dimensions or tonnage of the vessel;
- (4) Declaration of absolute unseaworthiness; or
- (5) Use of the vessel for unlawful traffic.

A special permit shall cease to be valid in the circumstances listed in paragraph (a) (2, 5) and in paragraph (b) (2, 3, 4, 5).

*Article 58.* Any vessel other than a Colombian or foreign warship traversing waters within Colombian jurisdiction shall be subject to the provisions concerning inspection.

*Paragraph.* "Inspection" means the act of ascertaining, on board a vessel, whether sanitary and safety conditions are strictly observed.

*Article 59.* Every vessel registered in Colombia shall display its name on each side of the bow and on the stern and in conspicuous places on each side of the bridge. The name of the port of register shall also be displayed on the stern.

## 12. Costa Rica

ACT NO. 12 OF 21 OCTOBER 1941 GOVERNING THE OPERATION OF NATIONAL SHIPS.<sup>1</sup>

*Article 1.* National ships shall be classed as foreign-going or international-duty ships, or as home-trade or coasting ships, according to the class of traffic in which they are employed. The former class shall be governed by this Act and the latter shall continue to be governed by the existing regulations. A coasting ship used on international duty shall, however, be governed by this Act in respect of such duty, and if used on both duties shall also be subject to coastal shipping registration.

*Article 2.* There shall be set up under the Department of Finance and Trade a merchant shipping register to be used exclusively for the registration of foreign-going or international-duty merchant ships.

<sup>1</sup> Costa Rica, *Colección de las leyes y decretos*, 1941, pp. 656-663. Translation by the Secretariat of the United Nations.

*Article 3.* "Foreign-going ship" means a ship sailing abroad, or between places abroad and approved (*habilitados*) ports of the Republic.

*Article 4.* A shipowner or his manager or legal representative desiring to register a ship in the national register of foreign-going shipping and to have the rights and duties applying in respect of national merchant ships in virtue of statute or treaty shall be required—

(a) To cause his ship to be registered in the national merchant shipping register;

(b) To procure the appropriate ship's certificate; and

(c) To wear the Costa Rican flag.

An undertaking or individual chartering a ship may also apply for its registration in the national register of foreign-going shipping; but such registration shall continue only for the duration of the charter party unless the owner of the ship applies for its registration for a longer period.

*Article 5.* No ship may obtain a permanent ship's certificate on the register of foreign-going or international-duty shipping unless it has previously acquired Costa Rican nationality pursuant to this Act and to regulation.

*Article 6.* An owner or charterer of a ship desiring to register it in the national register of foreign-going merchant shipping may do so either through the Merchant Shipping Division of the Department of Finance or through a Costa Rican consulate abroad.

*Article 7.* Fees paid for grant of the flag (*abanderamiento*) shall be deposited with the Revenue Department, and the Department of Finance shall, on receipt of evidence of their deposit and if the documents have been found to be in order, issue an executive order known as a nationalization certificate (*diligencia de nacionalización*) containing a conclusive declaration of nationality, a declaration of title, and a declaration that the ship is incorporated in the national merchant marine.

*Article 8.* The nationalization certificate shall specify the identifying particulars of the ship furnished in accordance with regulation in the application for grant of the flag.

*Article 9.* The original of the nationalization certificate shall be retained by the Merchant Shipping Division of the Department of Finance in a book known as the General Register.

*Article 10.* The nationalization certificate in the General Register shall be the ship's registration. It shall bear the serial number of the executive order, which shall also be the registration number, the official number of the ship, and the number of its ship's certificate.

*Article 11.* One duly-authenticated copy of the nationalization certificate shall be sent to the Official Gazette (*Diario Oficial*) for publication, a second shall be sent to the Department of Public Security, and a third shall be annexed to the ship's documents, which shall be retained by the Merchant Shipping Division in a file which shall be placed in a special section and in which any subsequent documents relating to the ship shall thereafter be kept.

*Article 12.* The nationalization certificate shall be registered in the register specified by regulation, whereupon it shall constitute proof of title to the ship.

*Article 13.* When the nationalization certificate has been issued, the Department of Finance shall grant to the ship a permanent ship's certificate, in a form to be determined and printed by the Department of Finance, which shall be signed by the Minister of Finance and shall be valid only if registered.

*Article 14.* When the nationalization certificate and the permanent certificate of registry have been registered, a note shall be made in the ship's file of the volume, folio and place of the register in which they have been entered, and the two documents shall then be delivered to the applicants.

*Article 15.* An owner or his manager or legal representative or the master of a ship who wishes it to be nationalized and registered in the merchant shipping register through a consulate shall be required to submit to the consul of Costa Rica at the port an application in writing setting forth the particulars prescribed by regulation.

On receipt of the application the consul shall telegraph to the Merchant Shipping Division of the Department of Finance a request for permission to grant the flag to the ship, specifying the particulars of the owner, the net and gross tonnage, and the year in which the ship was built, and asking for assignment of a provisional wireless call signal.

If the request is granted by the Department of Finance, the consul shall be so notified and shall grant the flag to the ship against payment of the prescribed fees.

*Article 16.* A grant of flag under the preceding article shall be provisional, and there shall be issued to the ship a provisional ship's certificate good for six months, within which time it shall be necessary to obtain for the ship final grant of nationality and a permanent ship's certificate. The Merchant Shipping Division of the Department of Finance may, however, if it sees fit, extend the said or any other period of provisional grant of the flag by not more than six months.

*Article 17.* An applicant for grant of the flag and for a provisional ship's certificate shall be required to deliver or exhibit the following documentary evidence:

- (a) A document or documents proving title to the ship or the right to operate it;
- (b) A survey certificate and an inspection certificate, both specifying the vessel's measurements, tonnage and condition;
- (c) A certificate of cancellation or surrender of the previous registration;
- (d) An application in duplicate, in the official form to be adopted for the purpose, for a wireless telegraphy licence for the ship; and
- (e) If the applicant is the owner's agent, his written authority or a certified copy thereof.

Documents (a), (b), (c) and (e), duly certified, shall be submitted to the consul in duplicate or in the form of an original and a copy, in Spanish or with a translation into Spanish.

*Article 18.* On receiving an application for grant of flag and the documents enumerated in the foregoing article, the consul shall

- (a) Make out in duplicate a certificate, to be known as a certificate of provisional registration (*diligencia de matricula provisional*), which shall include a provisional declaration of ownership and a declaration that the ship is

incorporated in the national merchant marine for international duty for a period of six months, and shall be signed by the consul and the applicant;

(b) Make out in duplicate a provisional ship's certificate valid for six months, in the form to be adopted and printed by the Department of Finance;

(c) Open the ship's log books in accordance with the instructions contained in the regulations;

(d) Issue certificates of competency to the ship's officers;

(e) Collect the fees for grant of flag and deliver to the ship one copy of the provisional ship's certificate.

If the applicants intend to have the ship finally registered in the national merchant shipping register and to obtain a permanent ship's certificate, they shall be required to deliver to the consul a written application therefor addressed to the Ministry of Finance.

*Article 19.* Immediately after the aforesaid acts have been done, the consul shall remit to the Merchant Shipping Division of the Department of Finance, by cheque payable to the National Treasury, the fees due to the Treasury together with the documents relating to the grant of nationality except the duplicates, which shall be retained in the archives of the consulate for future reference.

*Article 20.* The documents shall, when received by the Merchant Shipping Division of the Department of Finance, be examined for legality, and if they are found in order the entry shall be made in accordance with the provisions of this law and the documents shall be returned through the consul through whom the application for grant of nationality was submitted. If any defect is discovered, the consul shall be immediately informed thereof and given the necessary instructions for remedying the defect.

*Article 21.* Title to a ship may not be entered in the register in any manner other than that prescribed in this Act, or unless the ship has been or is being registered in the national merchant shipping register.

*Article 22.* Where a national ship is alienated, chartered or charged, either in Costa Rica or abroad and title to it is duly registered, the entry shall not be made without production of the evidence required by law to show that the owner was entitled at the material time to alienate, charter or charge the ship.

*Article 23.* A national ship may be sold or alienated for incorporation in the shipping of another country without permission of the Executive Power unless the Republic or an allied nation is at war, in which event such sale or alienation shall require permission in writing from the Department of Finance.

*Article 29.* A new ship's certificate shall be required—

(a) When there is a change of ownership; or

(b) When the measurements or tonnage of the ship are altered; or

(c) When the ship's name is changed; or

(d) When the ship's certificate issued to the ship is damaged or lost; or

(e) When the method of propulsion is changed.

*Article 31.* Cancellation of the ship's certificate or the registration of an international-duty ship shall be effected by executive order of the Department of Finance.

*Article 32.* When a national foreign-going ship is finally withdrawn from service, its registration shall be cancelled either on application by the party concerned or, if reliable information is received that the ship will not or cannot be put into service again, by the Merchant Shipping Division at its discretion.

*Article 33.* The Merchant Shipping Division shall transmit one certified copy to the Department of Public Security, and one to the *Diario Oficial* for publication, of each order cancelling the previous certificate of registry or the registration of an international-duty ship.

*Article 34.* The procedure for grant of nationality to a ship directly by the Merchant Shipping Division of the Department of Finance shall be similar to that prescribed herein for grant of nationality through a consul.

*Article 35.* A merchant ship which has acquired Costa Rican nationality shall forfeit the same—

(a) If it is placed at the service of a nation with which Costa Rica is at war; or

(b) If it has acquired the nationality of another country; or

(c) If it is used for piracy or is proved to have taken part in smuggling or an illicit traffic.

An order declaring that a ship has forfeited Costa Rican nationality shall be issued by the Executive Power through the Department of Finance, and may for sufficient reason be reconsidered by the Executive Power.

*Article 36.* Any national or alien may apply in writing, on his own behalf or on behalf of a person or body corporate represented by him, for a declaration that a ship has forfeited Costa Rican nationality, and shall annex to his application substantial evidence of one or more of the grounds enumerated in the foregoing article.

The Department of Finance shall send a copy of the application and of the supporting documents, or a statement of the charges, to the owner, manager, master or legal representative of the ship in order that he may rebut the charges within a period corresponding to the distance and fifteen days more. If the owner, manager or representative fails to make a satisfactory defence, or to rebut the charges, or to reply within the prescribed time limit, the Executive Power may declare that the ship has forfeited Costa Rican nationality and order cancellation of its registration and of its ship's certificate.

*Article 37.* The Department of Finance shall forward a copy of the cancellation order to each of the petitioners, the owner, manager, legal representative or master of the ship, and the Director-General of Communications.

*Article 38.* An owner, lessee, manager, representative or master of a Costa Rican ship who wishes to transfer it to the ensign or register of another country shall submit either directly to the Department of Finance or to the nearest Costa Rican consul abroad a written application therefor, accompanied by a certificate of discharge of all obligations towards the Treasury and by documentary evidence of his personal particulars.

If the application is submitted directly to the Department of Finance, and the prescribed requirements have been satisfied, the Department shall issue the cancellation order forthwith.

If the application is submitted to a consul of the Republic, the consul shall apply to the Merchant Shipping Division of the Department of Finance for authority to effect the cancellation; and if the authority is given he shall issue a cancellation order, of which he shall deliver one certified copy to the Merchant Shipping Division for final cancellation of the ship's registration and certificate of registry.

The cancellation order shall specify the ship's name, the name of its owner, the material of its hull, its tonnage, the place at which and the year in which it was built, and the name of its builder.

An application for cancellation of a certificate of registry may not be refused unless tax is due in respect of the ship, or for one of the reasons enumerated in article 23.

*Article 39.* A certificate of a ship's cancellation may be issued at the request of the applicant.

A fee of ten dollars shall be charged for the copy of this certificate, and for the certificate of discharge issued by a consul.

*Article 40.* Harbour masters and consuls of the Republic shall be subject to the jurisdiction of the Department of Finance in all matters affecting the national merchant marine.

The Merchant Shipping Division of the Department of Finance shall be the central agency to which national merchant ships shall be subordinate, and shall unify and co-ordinate all services related to the national merchant marine.

*Article 41.* The Merchant Shipping Division shall keep a general inventory of national shipping and shall settle any matter relating thereto for which no statutory provision has been made.

A national ship on international duty shall employ in its crew not less than 10 per cent of Costa Rican citizens if enough adequately-trained hands are obtainable in the country and if the ship's route includes Costa Rican ports; but an applicant for a post in the ship's crew must be physically and mentally fit therefor. Recruitment shall be in the charge of the owner or the master, according to the general system under which the ship is operated.

*Article 43.* Every individual or body corporate domiciled outside the Republic and owning one or more national ships registered for foreign service shall appoint and maintain in the country an agent or legal representative with whom the official authorities may settle any matter affecting the ship.