

13. Cuba

(a) COMMERCIAL CODE, 1886.¹

BOOK I. TRADERS AND TRADE IN GENERAL

Title II. The mercantile register

Article 16. A mercantile register consisting of two independent books shall be instituted in all registers of property. The two books shall respectively contain particulars of—

- (1) Individual traders,
- (2) Companies.

In coastal provinces, and in inland provinces where the existence of a shipping service makes it desirable, the register shall include a third book for the entry of particulars of ships.

This third book shall be kept in the mercantile register office of each area in which there is a custom house.

Article 17. Entry in the mercantile register shall be compulsory for individual traders, for companies constituted under this Code or a special statute, and for ships.

Article 22. The following particulars shall be entered in the Register of Shipping:

(1) Name of ship, kind of rig; system and power of engines, whether engines are steam propelled, nominal or indicated horsepower; place of construction of the hull and engines; year of construction; material of the hull, whether wood, iron, steel or mixed; principal dimensions—length, beam and depth; total and net tonnage; distinctive signal in the International Code of Signals; and the names and addresses of the owners and joint owners.

(2) Changes in the ownership or name of a ship, or in any of the other particulars enumerated in the preceding paragraph.

(3) Imposition, variation or redemption of any kind of encumbrance on a ship.

(b) CIRCULAR NO. 276 OF 5 JULY 1904 OF THE MINISTRY OF FINANCE, ON THE REGISTRATION OF MARITIME PROPERTY.²

Article 1. Every vessel belonging to a custom house³ and engaged in any branch of trade shall be registered in that custom house. . . .

Article 4. In order to register any ship the owner shall be required to submit to the customs administrator (now known as the port officer) an

¹ Entered into force on 1 May 1886. M. Sanchez Roga, *Leyes Mercantiles de Cuba y su Jurisprudencia*, second edition, 1944, p. 23. Translation by the Secretariat of the United Nations.

² Spanish text of circular and notes from *Manual del Capitán de Puerto*, Havana, 1948, Vol. III, p. 11 *et seq.* Translation by the Secretariat of the United Nations.

³ That is to say, to a port office.

application stating the name which the ship is to bear, the trade in which it is to be engaged, its principal dimensions, its place of building, the manner in which it was acquired, and the fact that the operator (*armador*) is Cuban by birth or by naturalization. . . .

Article 10. The owner of a vessel which is lost or broken up or sold to an alien shall notify the fact to the customs administrator (port officer) of the port of register of the vessel and request that the vessel be erased from the register. . . .

Notes. The Royal Order of 21 June 1886 lays down that if through foreclosure title to a ship passes to an alien, its right to fly the flag shall be extinguished and it shall cease to be registered in the register of shipping.

The Royal Order of 14 December 1874 provided that where a ship passes into alien ownership, its crew list and ship's certificate shall be withdrawn.

Decree No. 3283 of 26 December 1933 (*Gaceta*, 27 December 1933), which is still in force, declares all merchant ships flying the Cuban flag to be naval auxiliaries and liable to be employed as such in case of need, and forbids change of nationality on any ground.

General Order No. 5 of 13 November 1942 of the Cuban Maritime Commission (*Gaceta*, 20 November 1942) forbids the transfer of Cuban vessels to aliens.

(c) DECREE NO. 1444 OF 6 OCTOBER 1932.¹

CHAPTER III. DEEDS AND DOCUMENTS TO BE ENTERED IN THE MERCANTILE REGISTER

Article 16. The following deeds and documents shall be entered in the mercantile register.

28. Merchant ships of Cuban nationality registered at custom houses or port offices, and the sale of such ships, whether effected in the territory of the Republic or in the presence of a Cuban consul abroad.

CHAPTER VII. ENTRIES IN THE SHIPPING REGISTER

Article 59. The following shall be entered in the shipping register:

(1) Every merchant ship of whatever description which possesses Cuban nationality and is registered in the Republic.

¹ M. Sanchez Roga, *Leyes Mercantiles de Cuba y su Jurisprudencia*, Commercial Code, 2nd edition, 1944, p. 642. Translation by the Secretariat of the United Nations.