

24. Guatemala

(a) COMMERCIAL CODE OF 1942.¹

BOOK III. MARITIME COMMERCE

Section I. Merchant ships; owners and joint owners

Chapter I. Merchant ships

Article 831. No ship shall be classed as Guatemalan unless it has been registered in conformity with law.

Article 834. Title to a Guatemalan ship sold outside Guatemalan territory shall be transferred in accordance with the law or custom of the place where the contract is concluded.

Chapter II. Owners and joint owners of ships

Article 852. Aliens owning Guatemalan ships shall be subject to the law relating to shipping and to all security measures adopted by the Guatemalan Government in the event of war with the country of which they are nationals.

Joint ownership of a ship shall constitute a community of interest and not a company.

(b) PORTS REGULATIONS OF 21 APRIL 1939.²

Chapter XII. Registration of ships and vessels

Article 3. No ship or vessel shall benefit by the law of Guatemala or be entitled to the protection of the Government unless it is registered in a port of the Republic. . .

Article 4. There shall be two classes of register: a vessels and ships register, and a pennants register (*matrícula de mar*). Registration of a vessel is the act by which a ship or vessel is fully and duly authorized to navigate without restriction; registration of a pennant is the act allotting to a vessel a distinctive pennant enabling it to be recognized immediately by other vessels.

Article 7. Registration shall be evidenced by a certificate thereof issued by the officer of the port where it took place and countersigned by the Minister of Development or by a member of the staff of that Ministry especially appointed to have charge of such matters.

¹ *Código de Comercio*, October 1942, pp. 133-146. Translation by the Secretariat of the United Nations.

² *Secretaría de Gobernación y Justicia, Leyes Vigentes de Relaciones Exteriores, Guatemala*, December 1943, pp. 263-265. Translation by the Secretariat of the United Nations.

Article 9. A certificate of registration that has been lost or destroyed may be replaced provisionally by a permit to wear the flag, but a new certificate shall be obtained as soon as the ship or vessel enters Guatemalan territorial waters.

Article 10. Each change in the ownership of a ship or vessel shall be recorded with full particulars in the proper port register.

Article 13. Fishing and pleasure boats shall be listed in accordance with regulation and shall not require grant of the flag.

Chapter XIII. Grant of flag

Article 1. Grant of the flag to a ship or vessel shall follow registration and shall consist in the assignment to it of the national flag, the dimensions of which shall be . . .

Article 2. Every ship and vessel shall be obliged on proceeding to sea to wear its own pennant, which shall be hoisted at the time as the national flag.

Article 3. The requirements for grant of the flag to a ship or vessel shall, in addition to the requirements for registration, be the following:

(a) The nationality of the applicant shall be established, in the case of an individual, by his identity card or other authentic public document or, in the case of a body corporate, by the commercial register;

(b) A legal document proving title to the ship or vessel and its lawful acquisition shall be exhibited;

(c) A survey certificate issued by a surveyor practising in a port of Guatemala under licence from the Ministry of Development or, if the ship was acquired abroad, by the competent foreign authority.

Article 4. When the aforesaid requirements have been satisfied, the port officer shall perform the ceremony of presenting the flag and shall make a record thereof in the proper register.

Article 5. A foreign vessel may be granted the flag and registration provisionally by a Guatemalan consul on presentation of evidence of ownership, seaworthiness, disclaimer of the protection of its former foreign flag, and deposit of the customs dues payable on entry into Guatemala, whereupon there shall be issued for it a provisional pass valid for six months, during which period it shall be entitled to navigate without restriction, but on the expiry of which it shall be required to put into a Guatemalan port for final registration and grant of flag; provided that the said period of six months may for good and sufficient reason be extended for a further six months.

Article 6. Every ship or vessel obtaining Guatemalan registration shall be obliged to make proper use of the national flag, to respect the law and customs of every place it visits, and to refrain from committing any kind of wrongful act or offence which may give ground for a claim, on the understanding that for default in the said obligation its registration may be cancelled and appropriate proceedings may be instituted.

Article 7. Every ship holding a national ship's certificate shall make at least one or two voyages starting from and returning to ports of the Republic, in default of which it shall be deemed to have relinquished registration and its ship's certificate shall be deemed to have expired.

Article 8. Every ship or vessel shall, irrespective of the provisions of the Consular Regulations, be obliged by the fact of its registration in Guatemala—

(a) When proceeding to its port of register and returning abroad, to carry inward and outward mail respectively, and

(b) To carry free of charge to a port of Guatemala one seaman, one survivor of a shipwreck or one returning Guatemalan national for each 100 tons of its registered tonnage.

Article 9. A national ship may not change the name under which it obtained its ship's certificate without permission from the Government; and notice of any cancellation or revocation or of cessation of use of the national flag shall be given to the Ministry of Development and the Ministry of Foreign Affairs.

25. Haïti

LOI SUR LES DOUANES DU 4 SEPTEMBRE 1905, MODIFIÉE PAR DÉCRET DU
30 OCTOBRE 1950 ¹.

TITRE XXII. DE LA NATIONALITÉ ET DE LA NATURALISATION DES NAVIRES

Article 140. Sont haïtiens les navires qui remplissent les conditions suivantes:

Appartenir pour moitié au moins à des Haïtiens, ou en totalité à une société haïtienne et en outre, dans les deux cas, avoir été construits en Haïti ou y avoir été régulièrement importés, à moins qu'ils n'aient été déclarés de bonne prise faite sur l'ennemi ou confisqués pour infraction aux lois haïtiennes.

Article 140 bis. Les navires précédemment étrangers deviennent haïtiens 1° par naturalisation, 2° lorsqu'à la suite d'un naufrage sur les côtes haïtiennes, ils sont devenus propriété haïtienne.

Aucun navire ne pourra être naturalisé haïtien si la propriété n'en a été transmise par acte authentique pour moitié au moins à des Haïtiens ou en totalité à une société haïtienne.

Article 140 ter. Tout navire battant pavillon haïtien, naturalisé ou non, voyageant au long cours, devra avoir à son bord un certificat de nationalité émis par le Département du commerce sur papier timbré de cent gourdes. Ce certificat comportera la reproduction du présent article.

Le service des douanes procède au jaugeage des navires pour lesquels on demande un certificat de nationalité et il établit le certificat de jaugeage.

En cas de perte de l'acte de nationalité, le propriétaire peut en obtenir un nouveau sur papier timbré de cent gourdes, après publication à ses frais d'un avis dans 3 numéros du *Moniteur officiel* et 3 numéros d'un quotidien de fort tirage de la capitale.

Lorsqu'un changement quelconque est apporté aux caractéristiques du navire, telles qu'elles sont mentionnées sur le certificat de nationalité, y compris le nom du navire, le propriétaire doit obtenir la délivrance d'un nouvel acte de nationalité sur papier timbré de cent gourdes, et remettre

¹ Texte fourni par le Secrétariat d'Etat des relations extérieures de la République d'Haïti.