

Article 139. Engagement of Libyan seamen and technicians. The ship's operator of a Libyan ship shall engage Libyan nationals as his seamen and technical crew, unless he is unable to do so owing to the lack of Libyan nationals possessing the necessary qualifications.

38. Mexico

(a) GENERAL MEANS OF COMMUNICATION ACT OF 30 DECEMBER 1939.¹

CHAPTER XIII

Registration: grant of flag

Article 275. A vessel shall have Mexican nationality if—

- I. It is granted the flag of the Republic under the present Act;
- II. It is abandoned in territorial waters;
- III. It is forfeited to the nation for a breach of the law of the Republic;
- IV. It is captured from the enemy and declared lawful prize;
- V. It is built in Mexico for the service of the Republic.

Article 276. A Mexican vessel may wear the Mexican flag if it has been registered with the port authority of any coastal port on its route at the request of the owner, who shall have a representative at the port of registry.

Vessels of the classes referred to in sub-paragraphs III, IV, and V of the preceding article shall be registered administratively.

Article 277. An alien engaging in industry in the Republic may acquire a vessel for his own use, but shall obtain grant of the Mexican flag therefor and execute a formal bond in the amount of twenty-five per cent of the value of the vessel as security for the proper use of the Mexican flag. The vessel shall be valued at the owner's expense by experts appointed by the Ministry of Communications.

The amount of the security shall be decreased each year by five per cent if in the opinion of the Ministry of Communications the Mexican flag has not been improperly used.

Article 278. Vessels abroad for which grant of the Mexican flag is to be sought shall be registered with the competent Mexican consul. The consular authority shall issue a pass for a voyage to the port designated as the vessel's port of registry, and shall notify the Ministry of Communications accordingly.

Article 279. A sea-going vessel engaged in any of the branches of trade defined in the present Act shall be provided with a ship's certificate (*suprema patente de navegación*) issued by the Ministry of Communications.

Shipping authorities may issue to such vessels passes permitting them to sail pending issue of a ship's certificate.

Article 280. Previous permission of the Ministry of Communications shall be required for any change in the tonnage or other principal characteristics of a vessel. New certificates of registration and seaworthiness listing the new specifications of the vessel shall be issued after the register has been amended accordingly. The changes shall be endorsed on the ship's certificate.

¹ *Diario Oficial*, vol. 118 No. 41, 19 February 1940, pp. 1-54. Translation by the Secretariat of the United Nations.

Article 281. A vessel shall be erased from the register for the following reasons:

I. Loss of Mexican nationality by the vessel or its owner, subject to the provisions of article 277 of the present Act;

II. Shipwreck, fire or any other accident rendering the vessel unseaworthy for more than one year; and

III. Absence of the vessel from its port of registry for more than two years, unless it is shown to be sailing between other home or foreign ports.

The Ministry of Communications shall order a vessel to be erased from the register for any of the aforesaid reasons as soon as it has notice thereof, and in consequence of the said erasure the concession shall be revoked, the permit withdrawn, or the contract under which the vessel was engaged in the public transport service rescinded by administrative order.

Article 282. A vessel shall lose Mexican nationality if—

I. It is sold or awarded by a court to aliens, subject to the provisions of article 281;

II. It is captured by the enemy in time of war and declared lawful prize;

III. It is confiscated abroad;

IV. No news of it reaches its port of registry for more than two years; or

V. Its flag is surrendered.

Article 283. The flag may be surrendered—

I. At the request of the owner; or

II. Through the transfer of the vessel to aliens with prior permission of the Ministry of Communications.

Article 284. The Ministry of Communications may not accept surrender of the flag until security has been given for all sums due to the Treasury and for payment of all wages and allowances due to the ship's company and of the cost of their return to the national port where they were engaged.

(b) NATIONAL MERCHANT SHIPS (GRANT OF FLAG AND REGISTRATION)
REGULATIONS OF 1946.¹

GENERAL PROVISIONS

Article 1. A ship is a national merchant ship if it falls within any of the following classes:

(a) Ships owned by Mexicans;

(b) Ships owned by companies or undertakings established in accordance with statute and domiciled in the Republic;

(c) Ships found by Mexican citizens abandoned on the high seas, or found abandoned on the territorial waters of the country;

(d) Ships confiscated for offences against the law of the Republic;

(e) Ships attached, expropriated or requisitioned in virtue of a provision of law;

(f) Ships captured from an enemy and declared lawful prize;

(g) Ships built in the Republic for its service;

(h) Ships built or purchased abroad to the order and at the expense of or at the request of Mexicans;

¹ *Diario oficial*, vol. 157, No. 29, 2 August 1946, p. 1. Translation by the Secretariat of the United Nations.

(i) Ships deemed to be national merchant vessels in virtue of some provision of law.

Article 2. No vessel to which the provisions of article 1 apply shall be registered until proof has been furnished that it falls within a class specified therein.

Article 3. The following persons may own national merchant ships:

(a) Mexicans by birth or naturalization, of either sex, who shall be required to prove their nationality by an extract from the record of their birth in the register of births or by a certificate of naturalization;

(b) A Mexican minor; but an application for registration submitted on his behalf shall not be granted unless proof is furnished by entries in the civil register that the owner's representative has paternal authority over him, or, where no person exercises that authority, unless the owner's representative proves his authority as such by a certified copy of the court order so appointing him;

(c) A married woman; but she shall be required to prove that her marriage was contracted under the régime of separate property.

A married woman whose marriage was contracted under the régime of community of property shall be required to prove that her husband, who shall in this case represent the matrimonial community, has Mexican nationality. If he is an alien the requirements of article 227 of the General Means of Communication Act shall be satisfied.

If the owner is married to an alien under the régime of community of property, the registering community shall be deemed to be constituted by an alien;

(d) The estate of a deceased person, whether there is a will or not: until distribution if the greater part of the property passes to Mexican nationals, or until the naming of the beneficiaries if the greater part of the property passes to aliens;

(e) Companies or undertakings established in accordance with statute.

Article 4. Alien individuals, or alien companies domiciled or having branches or agencies in the Republic, may own only ships intended for pleasure or commercial traffic on rivers or harbour waters of the Republic, and may not in any circumstances own ocean-going ships intended for traffic on the high seas, coastal traffic or fishing.

Article 5. Owners of vessels who satisfy the requirements of article 3 of these Regulations shall be required to prove their nationality only for the purposes of registration, and also to furnish legally sufficient evidence that they fall within one of the specified classes.

Article 6. Proof of the nationality of any merchant ship shall be furnished by the documents issued by the competent authority: that is to say the ship's certificate, the certificate of registration or the plaque as the case may be.

Article 7. Except for ships of the Mexican Navy, the owner of every national ship or his agent shall apply for the registration or enrolment thereof at the port office of his port of residence.

Portable pleasure craft may be enrolled in the Mercantile Shipping Office.

When a vessel has been granted the flag, its name and the name of its port of registry shall be conspicuously painted on a dark or light background on its forward beam and stern.

CLASSIFICATION

Article 8. For the purposes of grant of flag and registration, national vessels shall be classified as follows in accordance with the Regulations for Technical Inspectors of Shipping. . .

Article 9. Vessels acquired abroad shall be granted the flag provisionally, by the consular authority at the port of departure, who shall issue a provisional pass for a direct passage to the national port selected by the owner for final registration.

As soon as a vessel is granted the flag, its company shall be required to consist entirely of Mexicans by birth. A consul issuing a provisional pass shall forthwith notify the Ministry of Marine accordingly and shall transmit thereto copies of the provisional pass, the crew list, and the certificates of soundness of decks and machinery which shall be furnished by the master and chief engineer appointed to take over the vessel and shall have effect until the vessel arrives at the national port at which it is to be registered and the certificates specified in article 17 are to be issued.

Article 10. Every vessel classified as an ocean-going, coastal or deep-sea fishing vessel shall be required to hold a ship's certificate issued by the Executive of the Union, its certificates of registration and soundness, and all other documents pertaining to its navigation.

All other national vessels shall be required, in order to entitle them to navigate, to hold a certificate of registration or enrolment issued by the competent port office, and that office shall also supply when necessary provisional passes previously authorized by the Ministry of Marine and, where appropriate, plaques.

A port officer shall not issue any document or plaque referred to in this article unless the statutory safety requirements have been satisfied.

REGISTRATION AND ENROLMENT

Article 11. Vessels built abroad and brought into the country by land may bear a provisional pass issued by the consul at their place of origin or, if no consul is there, may apply therefor to the Ministry of Marine directly or through any port office in Mexico.

Article 12. Every application for registration or enrolment shall be deemed to comport an application, whether express or not, for a grant of the flag, and shall be accompanied by the following documents:

(a) A statement signed by the owner (in the form given in the schedule hereto).

(c) A certified extract of the record of the owner's birth in the register of births as evidence that he is a Mexican national by birth, or, if he is naturalized, a certified copy of his naturalization certificate.

Where the owner is a company or undertaking established in accordance with statute, a copy, certified by the Ministry of Shipping, of the articles of association.

(d) An undertaking to comply with the law.

(e) Proof that the owner is a member of the Chamber of Commerce.

(f) Where the owner of the vessel is a company or undertaking established in accordance with statute but its chairman, its managing director, a majority of the members of its board of directors, or its principal agent

is not Mexican by birth or naturalization, proof of the deposit of security for the proper use of the principal navigation licence.

Article 13. For the purposes of these Regulations "registration" means the making in due form of an entry in respect of a vessel in the registers of the port of registry and of the Ministry of Marine, the due payment of registration and survey fees according to tonnage, and the issue of the documents necessary to entitle the vessel to navigate without restriction on the high seas, coastwise or inland.

Article 15. Vessels of burden not exceeding five gross register tons owned by Mexican nationals by birth and plying on rivers away from ports shall be required not to register but to enrol. . .

PRESENTATION OF FLAG

Article 18. After the foregoing requirements have been satisfied in the case of a ship of burden over 30 tons gross, the port officer shall board the ship and, in the presence of the owners or their legal agents and of the ship's company, shall declare the ship Mexican in the following terms:

"On behalf of the Nation and by virtue of the supreme authority of the President of the Republic, I hereby solemnly declare that this ship (name and port of registry) possesses Mexican nationality and is henceforward entitled to all the concessions and privileges provided by the statutes of the Nation, and in all matters to the protection and shelter of the national flag."

After the foregoing declaration has been pronounced the national flag shall be hoisted and a record of the proceedings shall be prepared and signed by those present. The original record shall be transmitted to the Ministry of Shipping and one copy retained for the file to be compiled at the port office. The competent port officer or Mexican consul shall by a like ceremony declare Mexican and present the flag to a vessel licensed to navigate on a provisional pass.

Article 19. After presentation of the flag, the port officer shall personally deliver to the master of the vessel the certificates of registration and of soundness of decks and machinery and the provisional pass, which shall in due course be superseded by a ship's certificate to be issued by the Executive of the Union, or by a certificate of registration or a plaque, as the case may be. Where a ship is presented with the flag before registration, the certificates of soundness of decks and machinery and the provisional pass shall be delivered at the conclusion of the ceremony.

SHIP'S CERTIFICATE

Article 22. The Ministry of Marine shall in a suitable case, after receiving and approving the original file referred to in article 21, prepare the ship's certificate and allot a distinguishing signal and send the same, or the plaque where appropriate, to the vessel through the port office of the port of registry, and shall publish the distinguishing signal in a circular.

Article 24. The ship's certificate shall have effect on all seas and at all ports of call throughout the presidential term of office in which it is issued.

If the port of registry is changed, an entry to that effect shall be endorsed on the ship's certificate. If the name or tonnage of a vessel is changed, a new ship's certificate shall be issued and the owner shall return the superseded ship's certificate to the Ministry of Marine. Any other alteration made to a vessel shall be endorsed on the ship's certificate.

Article 25. Where a ship's certificate is lost, the owner shall apply for a duplicate to the Ministry of Marine, which shall supply the same on receipt of the required fees and of evidence that the loss was not caused by misconduct or negligence.

If a ship's certificate, certificate of registration or enrolment, or plaque is lost outside the port of registry or abroad, the master of the ship shall sign a report of the occurrence before the port officer or the consul, who shall issue a provisional pass bearing a statement of the reasons for its issue. The master of the ship shall within 48 hours of the ship's arrival at its port of registry exhibit this provisional pass to the port officer as authority for the replacement of the lost documents. If the ship does not put in at its port of registry within 30 days from the date of the loss, the master shall apply as aforesaid directly to the Ministry of Marine.

Article 26. The ship's certificate or certificate of registration or enrolment shall be kept on board the ship in a frame protected by glass on both sides. If either document is missing, the port officer shall refuse to clear the vessel and, if the vessel is under way, shall detain it and its cargo. A provisional pass, under which a vessel is navigating shall, throughout its period of validity, be kept on board in a frame protected by glass.

The enrolment plaque shall have effect throughout the presidential term of office in which it is issued. If it is lost the cost of its replacement shall be paid.

PROVISIONAL PASS

Article 27. Where a vessel is to be registered and is to sail after inspection, the port officer of the selected port of registry shall issue to the vessel a provisional pass valid for 90 days and extensible for a further period of 60 days and for a final period of 30 days. During this period the owner shall register his vessel. Failure to comply with this provision shall render the owner liable to penalties and the vessel to suspension from navigation.

The same procedure shall be followed where title has been transferred; and the port officer issuing or extending a provisional pass under this article shall transmit a copy thereof to the Ministry of Marine.

The provisional pass for a vessel navigating abroad pending registration shall be issued by the Ministry of Marine and signed by the Minister.

Article 29. A vessel which, being registered for coastwise, inland or harbour navigation, is obliged to proceed to a foreign port for repairs shall obtain from the Ministry of Marine a provisional pass valid for one voyage only and stating the purpose of the voyage and the port of destination.

TRANSFER OF TITLE

Article 35. Where title to a vessel already registered and granted the flag is transferred, the vendor shall notify the Ministry of Marine of the

transfer within twenty days. The new owner shall furnish proof that he is legally entitled under these Regulations to own national merchant ships. He shall give security for the proper use of the ship's certificate if issued.

When these requirements have been satisfied the port officer shall issue to the vessel new certificates of registration in the new owner's name, and shall make the appropriate entries in the register.

ERASURE

Article 44. A ship shall be erased from the list of the National Merchant Marine if—

- (a) It loses Mexican nationality;
- (b) It becomes a total loss through shipwreck, fire or any other cause;
- (c) It is transferred permanently to the Mexican Army or Navy;
- (d) The Ministry of Marine or the port officer of the port of registry receives no news of the ship or its owner for one year, in which case erasure shall take place without further procedure;
- (e) If the owner applies for erasure on grounds satisfactory to the Ministry of Marine.

LOSS OF NATIONALITY

Article 48. A ship of the National Merchant Marine shall lose nationality on any of the following grounds:

- (a) Lawful sale or award by a court to an alien individual or undertaking.
- (b) Capture by an enemy in wartime and declaration that the ship is lawful prize;
- (c) Confiscation abroad;
- (d) Disappearance for more than one year despite due inquiry;
- (e) Surrender of the flag.

Article 49. Surrender of the flag from a vessel may be accepted on application by the owner—

- (a) In the public interest;
- (b) If the vessel has been transferred to alien ownership with the approval of the Ministry of Marine;
- (c) If the vessel has been surrendered to an alien underwriter;
- (d) If the vessel is unseaworthy and cannot profitably be repaired.

Article 50. The Ministry of Marine may not accept surrender of the flag until security has been given for all sums due to the Treasury and for payment of all wages and allowances due to the ship's company and of the cost of their return to the national port where they were engaged, and all other obligations have been discharged.

Article 51. On the erasure of a national merchant ship under articles 44, 48 or 49 the documents relating thereto and its flag shall be forthwith recovered and sent complete to the Ministry of Marine, which shall acknowledge receipt thereof and, if the owner has done everything which he is bound by statute or regulation to do in relation to the vessel, order release of any outstanding security.

Article 52. Unless a national merchant ship which does not put in at its port of registry for one year sends a report of its movements to the Ministry of Marine and a copy thereof to the port office of its port of registry, together with evidence that all maritime fees due in respect of

it have been paid in full, it shall be liable to the operation of article 44 (d) and article 48 (d).

(c) COMMERCIAL CODE OF 15 SEPTEMBER 1889.¹

BOOK THREE. MARITIME COMMERCE

Section One. Vessels

*Article 641.*² A merchant ship is a chattel and may be acquired by any person not legally incapable of doing so. Vessels shall be acquired in the manner prescribed by law for the acquisition of title to merchandise.

¹ Notes by *Andrade Edición*, eighth edition, vol. 1, pp. 75-79, 92. Translation by the Secretariat of the United Nations.

² The editor of the book just mentioned inquired of the Ministry of Communications and Public Works and the Ministry of Foreign Affairs whether under article 641 aliens or foreign firms could acquire and register vessels in their name. He received the following replies:

SUBJECT: Inquiry regarding persons who may acquire and register in their name Mexican merchant ships.

Mexico City, 12 March 1934.

In reply to your letter of the 5th of this month, in which you ask who may acquire and register in his name merchant ships, I venture to point out that the General Means of Communication Act, which entered into force on 10 September 1932, provides as follows:

“348. Mexican merchant vessels are —

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“II. Those owned by Mexicans.

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“350. Mexican merchant vessels may be acquired by any person not legally incapable of doing so, but alien individuals or companies may acquire only vessels for inland traffic in compliance with the requirements of Article 362.

“362. An alien individual or company to whom article 350 applies shall execute, as security for the proper use of the Mexican flag, a formal bond in the amount of one-half the value of the vessel as assessed by experts appointed by the Ministry of Communications.”

It follows from the foregoing that alien individuals and companies may acquire and register in their name only vessels to be used for traffic within harbours.

Vessels acquired by naturalized aliens and registered in their name may be sailed anywhere.

A shipowner responsible for the victualling mentioned in article 666 of the Commercial Code may be of any nationality, but this duty is generally performed by the representatives of the ship operators or consignees.

Mexico City, 5 June 1934

With reference to the question you have submitted to this Ministry, whether aliens may acquire and register in their names Mexican merchant ships, the

The transfer of title to a ship, in whatever manner it may be effected, shall be recorded in a deed or a bill of sale executed in the presence of a broker.

A vessel fully equipped, fitted out and put in commission may engage in trade only under the name and the direct responsibility of a shipowner.

Article 683. Masters and skippers shall be Mexicans; . . .

39. Monaco

ORDONNANCE DU 15 OCTOBRE 1915 SUR LA NATURALISATION MONÉGASQUE DES NAVIRES ¹.

Article 1^{er}. Tout navire dont la propriété n'appartient pas pour plus de moitié à des étrangers autres que des Français, peut être naturalisé monégasque et naviguer sous le pavillon de la Principauté.

Les bâtiments appartenant à des sociétés anonymes ou autres pourront obtenir la naturalisation monégasque si ces sociétés ont dans leur Conseil d'administration ou de surveillance une majorité de sujets monégasques ou français. Le président du Conseil d'administration, l'administrateur délégué ou le gérant devront être monégasques ou français.

Article 2. Tout armateur ou propriétaire de navire qui voudra le faire naviguer sous pavillon de la Principauté en fera la demande au Ministre d'Etat.

Il justifiera de la propriété du navire dans les conditions prévues à l'article premier ci-dessus. Il élira domicile dans la Principauté et y sera représenté par un mandataire responsable agréé par le Service des douanes.

Le Ministre d'Etat statuera sur la demande, le Conseil maritime entendu.

Article 3. Les navires sont immatriculés à Monaco sur les registres du Service de la direction du port.

Article 4. Après la publication de la présente ordonnance, aucun bâtiment monégasque ne pourra sortir du port sans acte de naturalisation monégasque et sans congé.

Article 5. L'acte de naturalisation monégasque est délivré en vertu d'une décision du Ministre d'Etat.

Cette délivrance est soumise aux conditions suivantes:

1^o Le navire doit avoir été construit en France ou dans une colonie française.

Ministry of Communications and Public Works informs me that it has replied as follows to a similar inquiry submitted by you:

" . . . I beg to inform you that the attorney to whom you refer, Mr. Andrade, has sent to this Ministry an inquiry identical with that received from him by yourselves, and that we replied to him in our No. 18477 of 12 March of this year that alien individuals and companies may acquire and register in their name only merchant vessels to be used for traffic within harbours; that vessels owned by naturalized Mexican citizens may be sailed anywhere; and that shipowners responsible for the victualling of ships may be of any nationality."

"I beg to inform you that this Ministry concurs in the answer given you by the Ministry of Communications and Public Works. I have the honour to be, etc."

¹ Texte fourni par le Ministère des relations extérieures de la Principauté de Monaco.