

Chapter II

LEGAL REGIME CONCERNING SHIPS, OTHER THAN WARSHIPS, IN THE TERRITORIAL SEA

Section A

NAVIGATION, SECURITY, FISCAL, CUSTOMS AND SANITARY MATTERS

Australia

(a) MERCHANT SHIPPING ACT, 1894 (AN ACT OF THE PARLIAMENT OF THE UNITED KINGDOM IN FORCE IN AUSTRALIA) (*infra*, CHAPTER II, SECTION A, UNDER UNITED KINGDOM (a))

(b) NAVIGATION ACT 1912-1953 ¹

PART I. INTRODUCTORY

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1A. The provisions of this Act expressed to apply to ships registered in Australia shall, subject to sections two and three of this Act, also apply to, and be in force on, other British ships whose first port of clearance and whose port of destination are within the Commonwealth.

2. (1) This Act shall not apply in relation to any Australian-trade ship, limited coast-trade ship, or river and bay ship, or her master or crew, unless the ship —

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(c) is in the territorial waters of any Territory under the authority of the Commonwealth.

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3. This Act shall not apply to ships belonging to the King's Navy, or the Navy of the Commonwealth or of any British possession, or to the Navy of any foreign Government.

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6. In this Act, unless the contrary intention appears —

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¹ For the Navigation Act 1912-1950 see: Australia, *Commonwealth Acts*, 1901-1950, Vol. III, p. 2792 *et seq.*; for the Amendments to this Act see *ibid.*, 1952, Vol. L, p. 438 and *ibid.*, 1953, p. 436.

“River and bay ship” includes every ship which trades exclusively within the limits of any port, bay, or river, or within prescribed limits in any gulf or gulfs, within the Commonwealth, including a Territory being part of the Commonwealth and also includes any ship or class of ships, specified by the Minister by notice in the *Gazette*, which trades exclusively within the limits of a specified port, bay or river and within a radius of three nautical miles seaward from the entrance of the port, bay or river:

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“Tidal waters” means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides and not being a harbour:

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“Territory under the authority of the Commonwealth” includes any territory governed by the Commonwealth under a Mandate:

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PART VII. WRECKS AND SALVAGE

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Division 2. Wreck

Ships in Distress

296. (1) Where any ship is wrecked, stranded, or in distress at any place on or near the coast of Australia or any tidal water within Australia, the receiver for the district shall proceed thither, and upon arrival shall take the command of all persons present, and give such directions to each person as he thinks fit for the preservation of the ship, and of the lives of the persons belonging to the ship (in this Part of this Act referred to as ship-wrecked persons), and of the wreck:

Provided that the receiver shall not interfere between the master and the crew of the ship in reference to the management thereof, unless requested to do so by the master.

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Dealing with Wreck

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305. (1) The owner of any wreck in the possession of the receiver, upon establishing his claim thereto to the satisfaction of the receiver within one year from the time at which the wreck came into his possession, shall, upon paying the salvage, fees, and expenses due, be entitled to have the wreck or the proceeds thereof delivered up to him.

(2) Where any wreck from a foreign ship, which has been wrecked on or near the coasts of Australia, is found on or near those coasts, or is brought into any port in Australia, the consul of the country to which the ship or in the case of cargo to which the owner thereof belongs, shall, in the absence of the owner and of any agent of the owner, be deemed to be the agent of the owner, so far as relates to the custody and disposal of the goods.

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Division 3. Salvage

315. (1) Where services are rendered within Australian waters in saving life from any ship, or elsewhere in saving life from any British ship,

there shall be payable, to the salvor, by the owner of the ship, cargo, or equipment saved, a reasonable amount of salvage, to be determined in case of dispute in manner hereinafter mentioned.

(2) Salvage in respect of the preservation of life, when payable by the owners of the ship, shall be payable in priority to all other claims for salvage.

316. When it is made to appear to the Governor-General that the Government of any foreign country is willing that salvage should be awarded by any Courts in Australia for services rendered in saving life from ships belonging to that country when the ship is beyond the limits of British jurisdiction, he may by order direct that the provisions of this Part of this Act with reference to salvage of life shall, subject to any conditions and qualifications, apply, and those provisions shall accordingly apply to those services as if they were rendered in saving life from ships within British jurisdiction.

317. Where any ship is wrecked stranded or in distress at any place on or near the coasts of Australia or any tidal water within Australia, and services are rendered by any person in assisting that ship or saving any wreck, there shall be payable to the salvor, by the owner of the ship or wreck, a reasonable amount of salvage, to be determined in case of dispute in manner hereinafter mentioned.

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Division 6. Removal of Wreck

329. (1) If any ship is wrecked, stranded, sunk, or abandoned on or near the coast of Australia, the Minister shall have, in regard thereto, the following powers:

(a) To require the owner thereof, by notice in writing, to remove the wreck within a time specified in the notice, or give security for such removal to his satisfaction:

(b) In the event of the owner not complying with such notice, to remove or destroy the wreck in any manner he sees fit;

(c) To sell any wreck recovered under his orders, and out of the proceeds of the sale to retain a sum to cover the expenses incurred in the recovery and sale of the wreck, paying the surplus (if any) to the owner;

(d) To recover from the owner any expenses incurred by him in connexion with such removal or destruction.

(2) For the purposes of this section "owner" means the owner immediately prior to the time of the loss or abandonment of the ship.

PART VIII. PILOTS AND PILOTAGE

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335. (1) There shall be paid upon every ship (not exempt from pilotage dues) entering, leaving or navigating within any port proclaimed as a port at which the employment of a pilot is compulsory, pilotage dues according to the prescribed rates.

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340. (1) The following ships shall be exempt from pilotage dues unless a pilot is actually employed:

- (a) British ships the masters of which hold valid pilotage exemption certificates; and
- (b) Mission ships.
- (2) The regulations may exempt from compulsory pilotage and, where a pilot is not employed, from the liability to pay pilotage dues, the following classes of ships, up to such limit of gross tonnage in each case as it prescribed:
 - (a) Ships, other than passenger ships, engaged exclusively in the coasting trade;
 - (b) River and bay ships; and
 - (c) Pleasure yachts, fishing vessels, and other vessels, as prescribed, not carrying passengers or goods for hire.

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PART IX. COURTS OF MARINE INQUIRY

- 356. (1) The Governor-General may, by proclamation, establish Courts of Marine Inquiry at such places as he thinks fit.
- (2) Courts of Marine Inquiry so established shall be Courts of Record and shall have jurisdiction to hear and determine appeals charges complaints inquiries and references under this Act.
- (3) The Governor-General may, by proclamation, revoke the establishment of any Court of Marine Inquiry.

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- 364. (1) A Court of Marine Inquiry shall have jurisdiction to make inquiries as to all casualties affecting ships, or entailing loss of life on or from ships, and as to charges of incompetency or misconduct, or of failure of duty in regard to any collision or in any matter relating to the navigation, management or working of a ship, on the part of masters, mates or engineers of ships, in the following cases, namely:
 - (a) Where a shipwreck or casualty occurs to a ship on or near the coast of Australia, or in the course of a voyage to a port within Australia;
 - . . .
 - (d) where the incompetency or misconduct has occurred on board a British ship on or near the coasts of Australia, or on board a British ship in the course of a voyage to a port within Australia;

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PART X. LEGAL PROCEEDINGS

Jurisdiction

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- 380. (1) Where any district within which any Court has jurisdiction is situate on the sea coast, or abuts on or projects into any navigable water, the Court shall have jurisdiction over any vessel being on or lying or passing off that coast, or being in or near that navigable water, and over all persons thereon or belonging thereto, in the same manner as if the vessel or persons were within the limits of the original jurisdiction of the Court.
- (2) The jurisdiction in this section shall be in addition to, and not in derogation of, any jurisdiction or power of a Court of summary jurisdiction.

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383. (1) Whenever:

(a) Any foreign ship has, in any part of the world, caused injury to any property belonging to either the King, the Commonwealth, or any State, or any of His Majesty's subjects; and

(b) At any time thereafter that ship is found in any port of Australia or within three miles of the coast thereof,

a Justice of the High Court or a Judge of the Supreme Court of a State may, upon its being shown to him by any person applying summarily that the injury was probably caused by the misconduct or want of skill of the master or crew of the ship, issue an order directed to any officer of Customs or other official named in the order, requiring him to detain the ship until such time as the owner, master, or consignee thereof has:

(i) Made satisfaction in respect of the injury, or

(ii) Given security, to be approved by the Judge or Court, to abide the event of any legal proceeding that may be instituted in respect of the injury, and to pay all costs or damages that may be awarded thereon, and the official to whom the order is directed shall detain the ship accordingly.

(2) Where it appears that, before an application can be made under this section, the ship will depart from Australia, the official may detain the ship for such time as will allow the application to be made and the result thereof to be communicated to him, and he shall not be liable for any costs or damages in respect of the detention unless it is proved to have been made without reasonable grounds.

(3) In any legal proceeding in relation to any such injury, the person giving security shall be made defendant, and shall be stated to be the owner of the ship that has occasioned the damage; and the production of the order of the Judge or Court made in relation to the security shall be conclusive evidence of the liability of the defendant to the proceeding.

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(c) CUSTOMS ACT, 1901-1954¹

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PART IV. THE IMPORTATION OF GOODS

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Division 2. The Boarding of Ships and Aircraft

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59. (1) The master of every ship arriving within three nautical miles of the coast shall bring his ship to for boarding on being approached by or hailed or signalled from any vessel in the service of the Customs having hoisted the Customs flag, or from any vessel in the service of His Majesty or of the Commonwealth having hoisted the proper ensign and pendant.

Penalty: One hundred pounds.

(2) The pilot of every aircraft arriving within three nautical miles of the shore shall bring his aircraft to the nearest aerodrome for boarding on

¹ *Ibid.*, 1901-1950, Vol. II, pp. 1187 *et seq.* The Customs Act, 1901-1950, has been amended in 1951 (*ibid.*, 1951, Vol. XLIX, p. 208), 1952 (*ibid.*, 1952, Vol. L, p. 431), 1953 (*ibid.*, 1953, p. 174), and 1954 (*ibid.*, 1954, p. 199).

being approached by or signalled from any vessel or aircraft in the service of His Majesty or of the Commonwealth having hoisted the proper ensign or pendant or displayed the proper signal.

Penalty: One hundred pounds.

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Division 4. The Entry, Unshipment, Landing, and Examination of Goods

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73. The bulk cargo of a ship or aircraft arriving within three nautical miles of the coast shall not be broken except with the permission of the Collector or as regards goods for which entry has been passed.

Penalty: One hundred pounds.

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PART XII. OFFICERS

Division 1. Powers of Officers

184. The commander or officer in charge of any ship boat or aircraft in His Majesty's service or in the service of the Commonwealth or Customs, such ship boat or aircraft having hoisted and carrying the proper ensign and pendant or Customs flag, may chase any ship or aircraft which does not bring to or land at the aerodrome when lawfully signalled or required to do so and may (after having fired a gun as a signal) fire at or into such ship or aircraft to compel her to bring to or land at the aerodrome.

185. Any officer may require the master of any ship or the pilot of any aircraft hovering within three nautical miles of the coast or of land to depart, and if such ship or aircraft shall fail to depart accordingly within twelve hours thereafter any officer may board and bring such ship or aircraft into port or aerodrome and search her.

The Collector may examine all persons on board of such ship or aircraft and they shall each thereupon answer questions relating to the ship or aircraft and her cargo crew passengers stores and voyage and produce documents relating to the ship or aircraft and her cargo.

Penalty: One hundred pounds.

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187. Any officer may:

- (1) Board any ship boat or aircraft.
- (2) Search any ship boat or aircraft.
- (3) Secure any goods on any ship boat or aircraft.

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192. No fastening, lock, mark, or seal placed by an officer upon any goods or upon any door, hatchway, opening, or place for the purpose of securing any stores upon any ship or aircraft which has arrived in any port or aerodrome from parts beyond the seas and which is bound to any other port or aerodrome within the Commonwealth shall be opened, altered, broken, or erased except by authority; and if any ship or aircraft enters any port or aerodrome with any such fastening, lock, mark or seal opened,

altered, broken, or erased contrary to this section, the master or pilot shall be guilty of an offence against this Act.

Penalty: One hundred pounds.

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194. The officer in charge for the time being of any vessel or boat employed in the service of the Customs may haul any such vessel or boat upon any part of the coast or the shores banks or beaches of any port bay harbor lake or river and may moor any such vessel or boat thereon and continue such vessel or boat so moored as aforesaid for such time as he shall deem necessary.

195. Any person on board any ship boat or aircraft or who may have landed from or got out of any ship boat or aircraft may be questioned by any officer as to whether he has any dutiable goods or prohibited imports or prohibited exports upon his person or in his possession or in his baggage.

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PART XIII. PENAL PROVISIONS

Division 1. Forfeitures

228. The following ships or boats not exceeding two hundred and fifty tons registered tonnage and the following aircraft shall be forfeited to His Majesty:

(1) Any ship boat or aircraft used in smuggling, or knowingly used in the unlawful importation, exportation, or conveyance of any prohibited imports or prohibited exports.

(2) Any ship boat or aircraft found within three nautical miles of the coast or of land failing to bring to, or failing to land at an aerodrome, for boarding upon being lawfully required to do so.

(3) Any ship boat or aircraft hovering within three nautical miles of the coast or of land and not departing within twelve hours after being required to depart by an officer.

(4) Any ship boat or aircraft from which goods are thrown overboard staved or destroyed to prevent seizure by the Customs.

(5) Any ship boat or aircraft found within any port or aerodrome with cargo on board and afterwards found light or in ballast or with the cargo deficient and the master or pilot of which is unable to lawfully account for the difference.

(6) Any ship boat or aircraft within three nautical miles of the coast or land having false bulk heads false bows sides or bottoms or any secret or disguised place adapted for the purpose of concealing goods or having any hole pipe or other device adapted for the purpose of running goods.

The owner of a ship exceeding two hundred and fifty tons registered tonnage which would be forfeited if the ship were less than two hundred and fifty tons registered tonnage shall be liable to a penalty not exceeding One thousand pounds, and the ship may be detained until the penalty is paid or until security is given for its payment.

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(d) BEACHES, FISHING GROUNDS AND SEA ROUTES PROTECTION
ACT, 1932¹

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2. In this Act, unless the contrary intention appears —
“ At sea ” means within Australian waters;

. . .
3. (1) There shall not be discharged into the sea, from any vessel in Australian waters within any prohibited area, save in accordance with the permission in writing of the Director of Quarantine or of a Chief Quarantine Officer first obtained, any garbage, rubbish, ashes or organic refuse.

. . .
4. (1) Any person who, without the permission in writing of the Director first obtained, or otherwise than in accordance with such permission, sends or takes to sea, from any port or place in Australia, any vessel, for the purpose of sinking the vessel at sea, or wilfully sinks any vessel at sea or who enters any port or place in Australia after having wilfully sunk any vessel at sea without such permission, or otherwise than in accordance with such permission, shall be guilty of an offence.

Penalty: One hundred pounds.

(2) Any person desiring to obtain permission to sink a vessel at sea may make application, in the prescribed form, to the Director.

(3) Where an application is made under the last preceding subsection the Director may grant permission for the sinking of the vessel specified in the application in such manner and at such place within a prescribed area as the Director thinks fit.

(4) Where the Director is satisfied that it is not practicable to effect the sinking of a vessel in a prescribed area he may grant permission for the vessel to be sunk at sea in some other area.

(5) The Director shall not grant permission for a vessel to be sunk at sea in any area or place in or at which the sinking would in his opinion:

(a) If within territorial limits—constitute a danger to vessels engaged in trade or commerce with other countries or among the States; or

(b) If beyond territorial limits—constitute a danger to such vessels or to trawling gear used in fishing.

(6) Any person who sinks a vessel at sea, whether in pursuance of permission given by the Director or otherwise, shall, within seven days thereof, furnish to the Director a report, in the prescribed form, and containing the prescribed particulars, of the sinking.

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Penalty: Fifty pounds.

(7) In this section “ the Director ” means the Director of Navigation and includes the Deputy Director of Navigation for a State.

5. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act and in particular for prescribing

¹ *Ibid.*, 1901-1935, p. 1491 *et seq.*

areas at sea within which the discharge into the sea from vessels of any garbage, rubbish, ashes, or organic refuse is prohibited and for prescribing areas at sea within which vessels may be sunk.

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States of Australia

(a) NAVIGATION ACT, 1901-1954 (NEW SOUTH WALES) ¹

3. In this Act, unless the context or subject-matter otherwise indicates or requires—

“ Board ” means “ The Maritime Services Board of New South Wales constituted under the Maritime Services Act, 1935 ”;

. . .

“ Superintendent ” means the Superintendent of the Department of Navigation appointed under this Act;

“ the Jurisdiction ” means the navigable waters lying within one nautical league of the coast and the inland navigable waters of New South Wales;

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4. Nothing in this Act contained shall apply to any ship belonging to or in the service of His Majesty.

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PART II. OFFICERS

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Division 4. General provisions

20. The Superintendent and every person deputed by him to act in his behalf, and every inspector and surveyor appointed in pursuance of the provisions of this Act, shall have the following powers, that is to say:

(a) They may at all reasonable times go on board any ship or vessel, of what description soever to which any of the provisions of this Act extend, for the purpose of examining the hull and machinery, and making any report thereon required by the Superintendent;

(b) They may inspect any boats, equipments, or materials on board or belonging to any such ship or vessel to which the provisions of this Act extend;

(c) They may go on board any such ship or vessel and inspect the same for the purpose of inquiring into or reporting upon the nature and causes of any accident or damage which such ship or vessel has sustained or caused, or is alleged to have sustained or caused.

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PART III. THE COURT OF MARINE INQUIRY

23. There is hereby conferred upon such District Courts as may be proclaimed by the Governor for the purpose jurisdiction to hear and determine inquiries, appeals, and references under this Act, under and according

¹ Text of Act provided by the Permanent Mission of Australia to the United Nations.

to the terms and provisions of the District Courts Act, 1912, and any Act amending the same (so far as they are applicable), and of this Act; and a District Court exercising such jurisdiction shall be a court of record, and be called a Court of Marine Inquiry.

27. (1) A Court of Marine Inquiry is hereby authorised to make inquiries as to shipwrecks and other casualties affecting ships, or as to charges of incompetency or misconduct on the part of masters, mates, or engineers of ships in the following cases, namely:

(a) Where a shipwreck or casualty occurs to a British ship on or near the coast of New South Wales or in the course of a voyage to a port within New South Wales;

(b) Where a shipwreck or casualty occurs in any part of the world to a British ship registered in New South Wales;

(c) Where some of the crew of a British ship which has been wrecked or to which a casualty has occurred and who are competent witnesses to the facts are found in New South Wales;

(d) Where the incompetency or misconduct has occurred on board a British ship on or near the coasts of New South Wales, or on board a British ship in the course of a voyage to a port within New South Wales;

(e) Where the incompetency or misconduct has occurred on board a British ship registered in New South Wales;

(f) Where the master, mate, or engineer of a British ship who is charged with incompetency or misconduct on board that British ship is found in New South Wales.

(2) The said Court shall have the same jurisdiction over the matter in question as if it had occurred within its ordinary jurisdiction, but subject to all provisions, restrictions, and conditions as would have been applicable if it had so occurred.

(3) An inquiry shall not be held under this section into any matter:

(a) Which has once been the subject of an investigation or inquiry, and has been reported on by a competent court or tribunal in any part of His Majesty's dominions; or

(b) With reference to which an investigation or inquiry has been commenced in the United Kingdom; or

(c) In respect of which the certificate of a master, mate, or engineer has been cancelled or suspended by a naval court constituted under the Merchant Shipping Act.

32. (1) A Court of Marine Inquiry shall hear and determine in open court any appeal or reference in pursuance of this Act in respect of the detention of a ship alleged to be unsafe; and the procedure of that Court on the hearing and determining of such appeal or reference shall be as provided in pursuance of this Act in respect of inquiries as to shipwrecks.

(2) Any Judge or assessor of the Court may survey the ship, and shall, for the purposes of this Act, have all the powers of an inspector under this Act.

(4) Any Judge or assessor of the Court, and any person appointed by the presiding Judge of the Court to survey a ship, may go on board the ship

and inspect the same and every part thereof, and the machinery, equipments, and cargo, and may require the unloading or removal of any cargo, ballast, or tackle; and any person who wilfully impedes such Judge, assessor, or person in the execution of the survey, or fails to comply with any requisition made by him, shall be liable to a penalty not exceeding ten pounds.

(5) The Court shall have the same power as the Superintendent has to order the ship to be released or finally detained, but unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

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PART V. PILOTS AND PILOTAGE

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Division 2. Pilotage and other rates

59. (1) There shall be paid upon every ship, not hereinafter in this Act exempted, on her arrival at and on her departure from any port within the jurisdiction where there is a pilot establishment, pilotage rates of such amount per ton as may be prescribed by the regulations.

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PART VII. SAFETY AND PREVENTION OF ACCIDENTS

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106. (1) Where a foreign ship being in any port in New South Wales is unsafe by reason of overloading, improper loading, or ballasting, or undermanning, the provisions of this Act with respect to the detention of ships shall apply to such ship as if she were a British ship, but with the following modifications:

(a) A copy of the order for the provisional detention of the ship shall be forthwith served on the consular officer for the State to which the ship belongs at or nearest to the place where the ship is detained.

(b) Where the ship has been provisionally detained the consular officer on the request of the owner or master of the ship may require that the person authorised to survey the ship shall be accompanied by such person as the consular officer selects; and in such case if the surveyor and such person agree, the Superintendent shall cause the ship to be detained or released accordingly, but if they differ he may act as if the requisition had not been made, and the owner and master shall have the same right of appeal to the Governor as is hereinbefore provided by this Act with respect to the detention of British ships.

(2) In this section the expression "consular officer" means any consul-general, vice-consul, consular agent, or other officer recognized by the Governor as a consular officer of a Foreign State.

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PART VIII. NAVIGABLE WATERS

Division 1. Interpretation

133. In this Part of this Act, unless the context or subject-matter otherwise indicates or requires, —

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“ navigable waters ” means any port, harbour, haven, roadstead, channel, navigable river or creek or arm of the sea within the Jurisdiction;

“ vessel ” means any ship, boat, barge, punt, craft, or other vessel of whatever description and however propelled.

Division 2. Powers of Superintendent and Governor

134. The Superintendent shall be the proper authority to act as conservator of all navigable waters within the Jurisdiction.

135. The Governor may take regulations:

(a) Prohibiting the throwing overboard of sick or the carcasses of dead animals from any ship or vessel within such limits in any navigable water as the regulations may prescribe, under a penalty not exceeding twenty pounds;

(b) Prohibiting under a like penalty the throwing any sick or dead animal into, or leaving such animal on, the shore of any navigable waters;

(c) Prohibiting owners, lessees, or occupants of manufactories, chemical works, slaughter-houses, and other establishments from allowing refuse matter to be deposited or flow into navigable waters in the vicinity of any city, town, or municipality, under a penalty not exceeding fifty pounds, and not less than five pounds for every day that such regulation is infringed;

(d) For and with respect to the inspection and testing of machinery and appliances for the loading and unloading of vessels;

(e) For and with respect to the prevention of the use of defective machinery or appliances for the loading or unloading of vessels;

(f) For and with respect to the protection of the health and the security from injury of persons engaged in the loading or unloading of vessels and of persons engaged in the handling or storage of cargo in or upon any wharf;

(g) For and with respect to the use of lights or fire in the holds of vessels;

(h) For and with respect to the safety of persons going on and coming from vessels, and the provision of means of escape from the holds of vessels while cargo is being loaded or unloaded;

(i) For and with respect to the marking on packages or articles of cargo of the weight thereof before the same are loaded on vessels, and such regulations shall be of the same force as if they had been enacted in this Act.

(b) HARBORS ACT, 1936-1953 (SOUTH AUSTRALIA) ¹

PART III. MANAGEMENT AND CONTROL OF HARBORS

Division I. Preliminary

43. (1) In this Part, and in all proceedings taken and all regulations, rules, and documents made under this Part or Part II. of The Harbors Act, 1913, unless inconsistent with the context or some other meaning is clearly intended—

¹ Text of Act provided by the Permanent Mission of Australia to the United Nations.

“ board ” means The South Australian Harbors Board continued by this Act:

. . .

“ harbor ” includes:

(a) Any port, haven, roadstead, channel, creek, or navigable river being part of the sea or any arm or inlet thereof; and

(b) Any inland river or water or part thereof or other place declared by proclamation to be a harbor for the purposes of this Part, but does not include:

(i) Any inland river or water or any part thereof, unless so declared; nor

(ii) Any place declared by proclamation not to be a harbor for the purposes of this Part:

. . .

“ harbor works ” includes any breakwater, training wall, dock, dock-yard, wharf, bridge, viaduct, embankment, or dam, any dredging or reclamation of land from the sea or from any river within a harbor, and any excavation, deepening, dredging, or widening of any channel, basin, or other part of any harbor, and also includes any buildings, railways, or other works used or to be used in connection with any of the before-mentioned works;

“ high water mark ” means high water mark at ordinary spring tides:

. . .

“ navigable river ” includes any river, creek, or stream in which the tide ebbs and flows, and also any river, creek, or stream capable, whether in its natural state or otherwise, of navigation by such vessels as are ordinarily employed, whether on the river, creek, or stream, or elsewhere, for the purpose of conveying merchandise or other goods;

. . .

“ tidal water ” means any part of the sea, or any arm or inlet thereof, or any river within the ebb and flow of the tide at ordinary spring tides;

. . .

“ within the limits of the jurisdiction of the board ” means within any harbor in the State, or within the distance of one nautical league to seaward from low water mark along any coastline of the State, or within any other territorial water of the State, or within any foreshore under the care, control and management of the board as provided by section 44:

“ wreck ” includes jetsam, flotsam, lagan, and derelict found in or upon the shores of the sea or of any navigable river, lake, or tidal water.

. . .

44. (1) The foreshore of the sea along the coast line of the State shall be under the care, control, and management of the board, except in so far as the foreshore is for the time being under the care, control, and management of the council of any municipality or district council district or has been alienated in fee simple from the Crown, or is subject to any agreement, lease or licence granted by or on behalf of the Crown.

(2) The said foreshore shall, for the purpose of the care, control, and management thereof by the board, be deemed to extend from low water mark to the nearest road or section boundary or to a distance of one and a half chains from high water mark, whichever is the lesser distance, and as so extended, shall be within the limits of the jurisdiction of the board.

45. (1) Subject to section 476 of the Local Government Act, 1934:

(a) No water or other reserve, or jetty, pier, or wharf, situated within any harbor, or containing or upon or partly upon any part of the foreshore of the sea anywhere within the State;

(b) No breakwater situated in any harbor or in the sea, or on any foreshore of the sea anywhere within the State; and

(c) No part of the foreshore of the sea within any harbor, shall be placed or shall continue to be under the care, control, or management of any municipal council or district council, or shall be granted to or vested in, or shall continue to be vested in, any such council.

(2) All such water and other reserves, jetties, piers, wharves, and breakwaters, and all foreshores within harbors shall, by virtue of this Act, be under the care, control, and management of the board.

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Division IV. Powers and Duties of the Board and the Minister

66. (1) The powers, authorities, and jurisdiction of the board shall extend to and be exercisable within all harbors in the State and to the distance of one nautical league to seaward from low-water mark along the coastlines of the State, and within all other territorial waters of the State.

(2) The board may, at any place within the limits of the jurisdiction of the board or elsewhere within the State, do all such acts and things as may be necessary for the discharge or exercise of any of the duties, powers, authorities, or jurisdictions of the board.

67. The board shall have the exclusive control and management of all harbors in the State, and of navigation therein, and of all such harbor works as are not private property.

. . .

Division V. Pilots and Pilotage

. . .

90. (1) The master of any such ship when within ten miles of any port to which this Part applies, and intending to enter that port shall (unless he has an exemption certificate as aforesaid), until a qualified pilot comes on board, use or display the usual signal for a pilot.

. . .

102. (1) No qualified pilot, except under circumstances of unavoidable necessity, shall, without his consent be taken to sea, or beyond the limits for which he is licensed, in any ship whatever.

(2) Every pilot so taken, under circumstances of unavoidable necessity or without his consent, shall be entitled, over and above his pilotage, to the sum of two pounds two shillings a day, to be computed from and inclusive of the day on which the ship passes the limit to which he was engaged to pilot her up to and inclusive of the day of his being returned in the said

ship to the place where he was taken on board, or up to and inclusive of such day as will allow him, if discharged from the ship, sufficient time to return thereto. In such last mentioned case, he shall be entitled to his reasonable travelling expenses.

. . .

104. Any qualified pilot who demands any rate, in respect of pilotage services, greater than the rate for the time being demandable by law, shall be guilty of an offence and liable to a penalty not exceeding ten pounds.

. . .

(c) OIL IN NAVIGABLE WATERS ACT, 1927 (NEW SOUTH WALES) ¹

. . .

2. (1) In this Act, unless the context or subject-matter otherwise indicates or requires, —

. . .

“Harbour” means any harbour whether natural or artificial, and includes any port, dock, estuary or arm of the sea, any river or canal, and any waters in which vessels can obtain shelter or ship or unship goods or passengers.

“Harbour authority” includes any person entrusted with the duty or invested with the power of constructing, improving, managing, regulating, or maintaining any harbour; and, in regard to waters other than a harbour, means the Superintendent of Navigation.

. . .

“Oil” means oil of any description and includes spirit produced from oil, oil mixed with water, fuel oil, oil sludge, and oil refuse.

. . .

“Vessel” includes any ship or boat or any other description of vessel used in navigation.

(2) This Act applies to the territorial waters of New South Wales, that is the waters within one nautical league of the coast, and also to the waters of any harbour as defined by this Act lying within New South Wales.

3. (1) If any oil is discharged, or allowed to escape, whether directly or indirectly, into any waters to which this Act applies from any vessel or from any place on land or from any apparatus used for the purpose of transferring oil from or to any vessel to or from any other vessel or to or from any place, the owner or master of the vessel, from which the oil is discharged or allowed to escape, the occupier of the land, or the person having charge of the apparatus, as the case may be, shall be guilty of an offence and shall, in respect of each such offence, be liable on summary conviction to a penalty not exceeding one hundred pounds:

Provided that it shall be a good defence to proceedings for an offence under this section to prove:

¹ Text of Act provided by the Permanent Mission of Australia to the United Nations.

(a) If the proceedings are against the owner or master of a vessel that the escape of the oil was due to, or that it was necessary to discharge the oil by reason of, the vessel being in collision or the happening to the vessel of some damage or accident, and also, if the proceedings are in respect of the escape of oil, that all reasonable means were taken by the master to prevent the escape; and

(b) If the proceedings are against any other person and are in respect of an escape of oil, that all reasonable means were taken by that person to prevent the escape.

(2) It shall be lawful for a harbour authority to appoint a place within its jurisdiction at which the ballast water of vessels in which a cargo of oil has been carried may be discharged, and where a place is so appointed any such ballast water may, notwithstanding anything in this section, be discharged at such place, but only at such times and subject to such conditions as the harbour authority may from time to time determine.

. . .

Belgique

(a) ARRÊTÉ ROYAL DU 22 JANVIER 1929 PORTANT RÈGLEMENT DE POLICE DE LA NAVIGATION DANS LES EAUX DU LITTORAL BELGE ET DE SES PORTS, MODIFIÉ PAR LES ARRÊTÉS ROYAUX DES 10 SEPTEMBRE 1930, 12 JANVIER 1935¹ ET 16 OCTOBRE 1953²

DISPOSITIONS GÉNÉRALES

Application du règlement

Article 1er. Le présent règlement est applicable, sauf dispositions spéciales arrêtées ou à arrêter par Nous, à tous les bâtiments qui se trouvent dans les eaux du littoral belge et de ses ports.

Interprétation

Article 2. On entend dans le présent règlement par:

a) Eaux du littoral belge: les eaux situées en deçà de la ligne fictive qui s'étend parallèlement le long de la côte belge à 3 milles (5.556 m.) de la laisse de basse mer ou des extrémités des ouvrages d'art destinés à abriter les étendues d'eau intérieures dont il est question sous le b ci-après:

¹ *Les Codes Larcier*, éd. 1953, t. II, Bruxelles, p. 313.

² L'arrêté royal du 16 octobre 1953 qui modifie la loi du 22 janvier 1929 porte approbation du Règlement pour prévenir les abordages en mer annexé à l'Acte final de la Conférence internationale pour la sauvegarde de la vie humaine en mer, 1948. Le texte de ce règlement est annexé audit arrêté (*Moniteur belge* du 22 novembre 1953, p. 7456; voir également *United Kingdom Treaty Series*, No. 4 (1954), Cmd 9050).

Dans sa note du 27 décembre 1955, la délégation permanente de la Belgique auprès de l'Organisation des Nations Unies a indiqué ce qui suit:

"Le Conseil d'enquête maritime, qui a pour mission de rechercher et de déterminer les causes et circonstances des accidents maritimes intéressant les navires et de prononcer — en vue de la sauvegarde de la sécurité — des peines disciplinaires, n'est pas compétent lorsqu'il s'agit de collisions survenues entre navires étrangers. Toutefois, lorsqu'un abordage a lieu entre un navire étranger et un navire belge, le Conseil est compétent. Il ne peut cependant pas prononcer des peines contre les membres de l'équipage étranger."

b) Eaux des ports du littoral belge: les étendues d'eau intérieures décrites et délimitées à l'annexe du présent règlement;

c) Bâtiment: tout vaisseau, navire, bateau, embarcation, radeau, flotteur, y compris tout hydravion, utilisé pour la navigation sur la mer, sur les rivières ou sur les canaux;

. . .

Conditions d'admission dans les ports du littoral

Article 3. 1° Aucun bâtiment n'est admis à pénétrer dans les eaux des ports du littoral belges si ses dimensions ou son tirant d'eau ne lui permettent pas d'effectuer avec toutes les garanties de sécurité, les manoeuvres d'entrée et de sortie des musoirs et le passage des ouvrages d'art;

2° D'une manière générale, l'accès du port de Blankenberghe est réservé aux bâtiments de pêche; cependant, à titre exceptionnel et moyennant des conditions à déterminer, les administrations des ponts et chaussées, de la marine et de la douane peuvent autoriser l'entrée d'autres bâtiments;

. . .

Port de feux et emploi des signaux

Article 4. Sous réserve de ce qui est prescrit aux articles 10 et 11, tout bâtiment dans les eaux du littoral belge et de ses ports se conforme, pour ce qui concerne le port de feux et l'emploi de signaux, suivant la catégorie à laquelle il appartient, aux prescriptions des règles 2 à 12, 14, 15, 25, 28 et 31 du règlement ayant pour objet de prévenir les abordages en mer.

Règles de navigation dans les eaux du littoral belge et de ses ports

Article 5. 1° Tout bâtiment dans les eaux du littoral belge se conforme, pour ce qui concerne les règles de navigation, aux prescriptions des règles 16 à 27, 29 et 30 du règlement ayant pour objet de prévenir les abordages en mer;

. . .

(b) LOI DU 20 SEPTEMBRE 1903 SUR LES LETTRES DE MER ¹

. . .

Article 12. Tous capitaines de navires, sans distinction de nationalité, sont tenus, à l'entrée et à la sortie d'un port du royaume, de présenter leurs lettres de mer aux autorités du port; faute de ce faire, tout document pourra leur être refusé et le navire pourra être retenu jusqu'à ce que les pièces requises aient été produites.

. . .

(c) LOI DU 18 AVRIL 1885 ² SANCTIONNANT PAR DES PEINES LES PRESCRIPTIONS DE LA CONVENTION INTERNATIONALE DU 14 MARS 1884 RELATIVE À LA PROTECTION DES CÂBLES TÉLÉGRAPHIQUES SOUS-MARINS ³

Article 1^{er}. Sont compétents pour rechercher les infractions aux dispositions de la convention du 14 mars 1884, relative à la protection des câbles

¹ *Ibid.*, p. 304.

² *Recueil de la législation générale en vigueur en Belgique*, publié par une Commission du Conseil de la législation institué auprès du Ministère de la justice, t. VI, 1946, Bruxelles, p. 129 et suiv.

³ *Ibid.*, p. 125 et suiv.; cette convention ainsi que la déclaration faite par les

sous-marins, outre les officiers de police judiciaire, instituées pour les délits de droit commun, les commissaires maritimes, les employés de la douane, les officiers commandants mentionnés à l'article 10 de cette convention. Toutefois, l'action des officiers commandants étrangers est limitée aux eaux non territoriales, et leurs procès-verbaux ne vaudront en justice que comme renseignements.

Article 2. Sera puni d'une amende de 300 à 1.000 francs et d'un emprisonnement de trois mois à cinq ans quiconque, volontairement et hors le cas excepté par l'article 2, § 2, de la convention, aura rompu un câble sous-marin ou lui aura causé une détérioration pouvant avoir pour résultat d'interrompre ou d'entraver, en tout ou en partie, les communications télégraphiques.

Les coupables pourront être condamnés, en outre, à l'interdiction, conformément à l'article 33 du code pénal, *et être placés sous la surveillance spéciale de la police pendant cinq ans au moins et dix ans au plus.*

La tentative de ce délit sera punie d'une amende de 150 à 500 francs et d'un emprisonnement d'un mois à trois ans.

Article 3. Sera puni d'une amende de 26 à 300 francs et d'un emprisonnement de huit jours à deux mois, ou d'une de ces peines seulement, quiconque aura, par négligence coupable, rompu un câble sous-marin ou lui aura causé une détérioration pouvant avoir pour résultat d'interrompre ou d'entraver, en tout ou en partie, les communications télégraphiques.

Article 4. Sera puni de la manière indiquée en l'article précédent, quiconque aura fabriqué, vendu, mis en vente, embarqué ou fait embarquer des instruments ou engins servant exclusivement à couper ou à détruire des câbles sous-marins.

Les instruments et engins seront confisqués.

Article 5. Sera puni d'une amende de 26 à 300 francs et d'un emprisonnement de huit jours à un mois, ou d'une de ces peines seulement, quiconque se sera refusé à exhiber les pièces nécessaires pour rédiger les procès-verbaux.

. . . .

Article 7. Sera puni d'une amende de 26 à 300 francs :

Le capitaine d'un bâtiment occupé à la pose ou à la réparation d'un câble sous-marin, qui n'observera pas les règles sur les signaux adoptés en vue de prévenir les abordages;

Le capitaine ou patron de tout bâtiment qui, apercevant ou étant en mesure d'apercevoir ces signaux, aura négligé de se retirer ou de se tenir éloigné d'un mille nautique au moins du bâtiment occupé à la pose ou à la réparation d'un câble sous-marin;

Le patron de tout bateau de pêche qui, dans les mêmes conditions et sous la réserve stipulée en l'article 5 de la convention, aura négligé de tenir à la même distance ses engins ou filets de pêche;

Le capitaine ou patron de tout bâtiment qui, voyant ou étant en mesure de voir les bouées destinées à indiquer la position des câbles (en cas de pose,

Etats signataires le 1^{er} décembre 1886 et le 23 mars 1887 ont été ratifiées par la Belgique le 16 avril 1885 (*ibid.*, p. 124). Le texte anglais de cette Convention se trouve dans : *United Nations Legislative Series, Laws and Regulations on the Régime of the High Seas*, vol. 1, 1951, p. 351.

de dérangement ou de rupture), ne se tiendra pas éloigné de ces bouées à un quart de mille nautique au moins;

Le patron de tout bateau de pêche qui, dans ces conditions, ne tiendra pas ses engins et filets à la même distance.

Article 8. Les articles 2, 3, 4, 5 et 7 de la présente loi seront applicables, que l'infraction ait été commise dans les eaux territoriales ou dans les eaux non territoriales.

Article 9. Le livre I^{er} du code pénal, sans exception du chapitre VII, des §§ 2 et 3 de l'article 72, du § 2 de l'article 76 et de l'article 85, sera appliqué aux délits prévus par la présente loi.

. . .

(d) LOI DU 7 JUIN 1832 ÉTABLISSANT UN RAYON UNIQUE DE DOUANE ¹

Article 1^{er}. Un rayon unique sera substitué au double rayon établi par la loi du 26 août 1822, n^o 38.

Le pouvoir exécutif tracera, avant le 25 juin prochain, le cours de ce nouveau rayon de douane, à la distance *au plus* d'un myriamètre de l'extrême frontière de terre et d'un demi-myriamètre de la côte maritime.

A partir de la côte, il y aura, sur l'espace d'un myriamètre en mer, une surveillance déterminée par les deux articles suivants:

Article 2. Les préposés de la douane pourront visiter les bâtimens en dessous de cinquante tonneaux, étant à l'ancre ou louvoyant dans ladite distance d'un myriamètre de la côte, hors le cas de force majeure, et se faire représenter les connaissemens et autres papiers de bord relatifs à leur chargement.

Article 3. Si des bâtimens ou des embarcations du port de trente tonneaux et au-dessous, se trouvant à l'ancre, côtoyant ou louvoyant dans la distance d'un quart de myriamètre de la côte, sont chargés de marchandises prohibées ou d'objets soumis aux droits d'accises en Belgique, ils seront saisis et la confiscation en sera prononcée, ainsi que de la partie de la cargaison qui aura donné lieu à la saisie.

Article 4. Toutes les dispositions de la loi générale précitée qui concernent le territoire mentionné à l'article 177, sont rendues applicables au rayon à tracer en vertu de l'article premier.

Les préposés de la douane pourront, en outre, en cas de poursuite de la fraude, la saisir même en deçà du rayon pourvu qu'ils l'aient suivi sans interruption.

. . .

(e) LOI DU 2 JUIN 1890 ² RELATIVE A LA RÉPRESSION DES CONTRAVENTIONS À LA CONVENTION INTERNATIONALE DU 16 NOVEMBRE 1887 ³ CONCERNANT LE TRAFIC DES SPIRITUEUX DANS LA MER DU NORD

Article 1^{er}. Quiconque, en contravention à l'article 2 de la convention internationale du 16 novembre 1887, concernant le trafic des spiritueux dans la mer du Nord, aura vendu des boissons spiritueuses, ou en aura

¹ *Ibid.*, t. III, 1937, p. 24.

² *Les Codes Larquier*, éd. 1953, t. II, Bruxelles, p. 334.

³ Martens, *Nouveau Recueil général de traités*, 2^e série, t. XIX, p. 414.

débité en échange d'autres objets, sera puni d'un emprisonnement de huit jours à un mois et d'une amende de 26 à 100 francs, ou d'une de ces peines seulement.

Quiconque, dans les mêmes conditions, aura acheté des boissons spiritueuses ou en aura accepté en échange d'autres objets, sera puni d'un emprisonnement d'un à sept jours et d'une amende de 1 à 25 francs, ou d'une de ces peines seulement.

Si l'échange des boissons spiritueuses a eu lieu contre des produits de la pêche, des objets d'armement ou des engins de pêche, ceux qui l'auront opéré ou accepté seront punis d'un emprisonnement de quinze jours à deux mois et d'une amende de 26 à 200 francs, ou d'une de ces peines seulement.

Article 2. Sera puni d'un emprisonnement de huit à quinze jours et d'une amende de 26 à 50 francs, ou d'une de ces peines seulement, quiconque, en contravention à l'article 3 de la convention, aura, sans permis débité aux pêcheurs des objets autres que des boissons spiritueuses. Sera considéré comme étant en contravention le navire qui, sauf le cas de force majeure, ne sera pas en mesure d'exhiber son permis à tout officier compétent qui l'exigera.

Le permis est toujours révocable.

Seront punis de la même manière :

Ceux qui auront opéré ou accepté un échange d'objets autres que des boissons spiritueuses contre des produits de la pêche, des objets d'armement ou des engins de pêche ;

Ceux qui, ayant un permis, auront à bord une quantité de spiritueux supérieure à celle jugée nécessaire pour la consommation de l'équipage.

L'infraction aux prescriptions concernant la marque spéciale à porter par les navires munis du permis ci-dessus, sera punie d'un emprisonnement d'un à sept jours et d'une amende de 1 à 25 francs, ou d'une de ces peines seulement.

Article 3. Quiconque aura résisté aux prescriptions des commandants des bâtiments chargés de la surveillance du trafic des spiritueux, ou de ceux qui agissent d'après leurs ordres, sera condamné à une amende de 50 à 500 francs ; la peine d'emprisonnement de huit jours à un an pourra de plus être prononcée, sans préjudice des peines comminées par le Code pénal en cas de rébellion.

Article 4. En cas de récidive, les peines de l'emprisonnement et de l'amende pourront être portées au double.

Il y a récidive lorsque l'auteur d'une infraction prévue par la présente loi a déjà été condamné, dans les deux années précédentes, du chef de la même infraction.

Article 5. Indépendamment des officiers de police judiciaire, les commissaires maritimes et leurs agents, les employés de la douane, les capitaines commissionnés, commandant les navires de l'Etat, les commandants des bâtiments croiseurs étrangers, ces derniers dans les limites fixées par la Convention, rechercheront et constateront les infractions prévues par la présente loi.

Leurs procès-verbaux feront foi jusqu'à preuve contraire.

Article 6. Le tribunal correctionnel de l'arrondissement et le tribunal de police du canton dans le ressort desquels est situé le port d'attache du

bateau de l'inculpé seront, suivant les cas, respectivement compétents pour statuer sur les infractions prévues par les articles qui précèdent.

Article 7. Les dispositions de la présente loi s'appliqueront également, dans les eaux territoriales de la Belgique, aux personnes se trouvant à bord de tout navire ou bâtiment, quelle qu'en soit la nationalité.

Les agents spécifiés à l'article 5, à l'exclusion des commandants des bâtiments croiseurs étrangers seront compétents pour rechercher et constater les infractions commises dans les eaux territoriales.

Ces infractions seront jugées par le tribunal correctionnel de l'arrondissement ou par le tribunal de police du canton dans le ressort desquels elles auront été commises.

. . .

Brazil

REGULATIONS CONCERNING PORT OFFICERS ANNEXED TO DECREE No. 5796 OF 11 JUNE 1940¹

. . .

CHAPTER III

Jurisdiction Exercised by Port Authorities

Article 16. For the purposes of this regulation, the Port Authorities (capitanias) shall have jurisdiction over:

(a) Sea, river and lake waters subject, as provided in the legislation in force, to Brazilian control;

(b) Personnel and material, as specified in Articles 161 and 318, connected with the Brazilian merchant marine; and foreign merchant vessels in Brazilian territorial waters.

Article 17. Sea waters subject to Brazilian control shall comprise all sea waters touching the shore of the country and situated within the limits of the territorial sea, i.e. within a belt three miles wide running parallel to the shore.

(1) At places where the coast, including the shore line of islands, turns in to form a bay, inlet or the like, the three-mile belt of territorial water shall be reckoned from a line extending between two points not more than twelve miles apart situated opposite each other at the seaward end of the inlet.

(2) When there are no points fulfilling these conditions along the coast, the belt shall run parallel to the coast and extend three miles from it.

. . .

CHAPTER XVI

Rules to be Observed in Ports and Waterways

. . .

Article 112. A vessel shall not anchor at any place where port or waterway traffic might be obstructed or damage caused to under water pipes

¹ Republica dos estados unidos de Brazil, *Collecção das leis de 1940*, Vol. VI, alos do poder executive. Decretos leis de Julio a Setembro, Segunda Parte, p. 911. Translation by the Secretariat of the United Nations.

or cables. Any person contravening this provision shall be liable to a fine of 100 cruzeiros and shall be required to repair the damage caused or pay compendation therefor.

Article 129. Rubbish, cinders, oil or other waste matter shall not be thrown into the waters of a port or waterway. Any person contravening this provision shall be liable to a fine of 200 cruzeiros in addition to any penalties provided in other regulations.

Article 130. A vessel carrying stone, coal, bricks or any other non-floating substance shall be liable to a fine of 50 cruzeiros if any such substance falls into the water either while the vessel is in motion or as a result of lack of care in loading or unloading.

Bulgaria

(a) DECREE OF 10 OCTOBER 1951 CONCERNING THE TERRITORIAL AND INLAND WATERS OF THE PEOPLE'S REPUBLIC OF BULGARIA ¹

1. The territorial waters of the People's Republic of Bulgaria extend into the open sea to a distance of twelve miles from the water-line on the mainland and island coasts, from the furthestmost points of port installations and from the boundary of inland waters.

A nautical mile is equal to 1,852 metres.

2. The sea between the coast and a straight line drawn, in the case of Stalin Bay, from Cape Saint Constantine to Cape Ilandzhik and, in the case of Burgas Bay, from Cape Emine to the Cape of Olives (Zeytin Burun) is deemed to be part of the inland waters of the People's Republic of Bulgaria.

3. The belt of territorial waters extending three miles from the territory of the People's Republic constitutes the maritime frontier zone of the People's Republic of Bulgaria.

4. The line of demarcation between the territorial waters of the People's Republic and those of neighbouring States is the geographic parallel extending from the point at which the land frontier meets the coast.

5. The inland and territorial waters of the People's Republic, as well as the air space above them and the sea-bed and subsoil beneath them, are part of the territory of the People's Republic and are subject only to its laws.

6. The People's Republic of Bulgaria exercises sovereignty over the territorial waters referred to in article 5 in accordance with existing laws, the rules of international law and treaties and agreements concluded with other States.

7. The ports of Stalin and Sozopol are declared closed to navigation by foreign ships.

Other ports of the People's Republic of Bulgaria may be declared closed to navigation by foreign ships by order of the Council of Ministers.

¹ Text provided by the Ministry of Foreign Affairs of the People's Republic of Bulgaria. Translation by the Secretariat of the United Nations.

8. A foreign ship other than a warship may without restriction pass through or stop or anchor in the territorial and inland waters of the People's Republic, other than the waters of the maritime frontier zone, or enter ports which are not closed to navigation by foreign ships, when it does so on its regular course or when compelled to do so by damage or storm.

Such ships shall be permitted to pass through inland waters solely for the purpose of entering or leaving ports at the places designated by the port authorities.

A foreign ship other than a warship may, if endangered by a severe storm, request permission to enter one of the bays and ports southwest of Cape Kaliakra or Cape Emine, where it may remain only for the duration of the storm.

9. A foreign warship may not pass through or stop or anchor in the territorial and inland waters of the People's Republic or enter ports which are not closed to navigation by foreign ships except with the prior authorization of the Government of the People's Republic of Bulgaria or in the event of damage or when seeking shelter from a storm.

10. No foreign submarine vessel of any kind may navigate, stop, lie on the bottom or anchor while submerged in the territorial or inland waters of the People's Republic.

Any submarine vessel found submerged in the territorial or inland waters of the People's Republic shall be pursued and destroyed without warning, and no liability for the consequences shall be incurred.

The provisions of article 8 shall apply in the case of submarine vessels navigating on the surface.

11. Foreign ships may not engage, while in the territorial or internal waters or ports of the People's Republic, in sounding, research, study, photography, naval exercises, firing or other similar activities, or make use of radio transmitters, radar, echo-sounding or like devices other than those intended for purposes of navigation. Such ships shall comply strictly with established international rules, the laws of the People's Republic of Bulgaria and the regulations made thereunder by the competent Government authorities for the preservation of the social order, security, sanitary requirements and fiscal interests of the People's Republic.

The use of radio transmitters shall be permitted only in the case of damage or to save the lives of shipwrecked persons, and depth-sounding, in the immediate vicinity of the ship, shall be permitted only if the vessel runs aground.

12. Any foreign ship which within the zone of the territorial and inland waters violates the laws of the People's Republic, the rules and regulations made thereunder or established international rules, treaties and agreements relating to navigation, shall be requested by the competent maritime frontier guard unit or by the port authorities, by means of established international signals or a warning shot, to leave the territorial waters of the People's Republic.

13. A foreign warship which does not comply with a signal requesting it to leave the territorial waters of the People's Republic may be fired on and no liability for the consequences shall be incurred.

14. A foreign ship other than a warship which commits a serious offence (such as the illicit import or export of goods, or the concealing of persons

without documents or persons sought by the authorities) or fails to comply with a signal requesting it to leave the territorial waters of the People's Republic may be detained by the competent maritime frontier guard unit with a view to the prosecution of the offenders or the payment of the dues and fines prescribed by law

A ship which fails to comply with a requirement and attempts to take refuge on the high seas may be pursued with a view to seizure by maritime frontier guard units without interruption to the boundary of the territorial waters of another State.

15. No charge shall be levied upon foreign warships which are authorized to pass through the territorial waters or to enter the ports of the People's Republic, except for specific services rendered.

. . .

(b) DECREE OF 4 APRIL 1952 CONCERNING THE ADMINISTRATION OF PORTS AND COASTS ¹

CHAPTER I. SCOPE AND FUNCTIONS

1. The purpose of this Decree is to ensure order in the ports and on the coasts and the safety of navigation.

2. The functions prescribed under this Decree shall be carried out by the organs of the port administrations. The latter shall co-ordinate their activity with the State undertakings which are assigned functions in ports and on the coasts.

3. The port administrations shall exercise authority over seaports and coasts and the ports and shores of the Danube, adjacent coastal lakes and ponds, island coasts and the territorial waters of the Republic.

4. The boundaries of the sea-coast and the shores of the Danube shall be established by the Council of Ministers in regulations to give effect to this Decree.

CHAPTER II. ORGANIZATION

5. Ports shall be under the authority of the Ministry of Transport, which shall issue orders establishing their class, administrative level and organizational structure. Each port shall be under the direction of a harbour-master.

CHAPTER III. RULES TO BE OBSERVED IN PORTS AND ON THE COASTS

6. Port administrations shall carry out administrative and economic functions such as the loading and unloading of cargo, the registration of ships, the investigation of accidents, the supervision of ships, and other like functions.

7. All establishments and undertakings operating in ports shall observe the established rules therein. All persons in ports and on the coasts shall comply with the regulations issued by the port administrations in connexion with the application of this Decree.

8. Ships other than warships may enter ports with the permission of the port administrations.

¹ Text received from the Ministry of Foreign Affairs of the People's Republic of Bulgaria. Translation by the Secretariat of the United Nations.

9. Ships which are unfit for navigation or are not equipped with the signal lights, flags and other equipment prescribed by laws and regulations to ensure the safety of navigation shall not be admitted to Bulgarian ports.

If a ship lying in a port basin is found to be unfit for navigation under the established rules the harbour-master shall have the right to order the ship to be removed from the port within a specified period of time. On the expiry of the specified period the port administration shall remove the ship to a place where it will not interfere with navigation. The port administration shall incur no liability for the consequences of such removal.

. . .

12. The master of a ship lying in a port shall be responsible for the conduct of the members of his crew and shall ensure that they do not commit a breach of the established rules in the port.

The members of a ship's crew may go ashore only with the permission of the competent authorities.

Masters may not engage crew for their ships at Bulgarian ports without the permission of the port authority.

The master of a ship may not give asylum on board his ship to any person who is sought by the Bulgarian authorities.

13. A harbour-master may detain a ship other than a warship in the event of:

(a) Any violation of the legal provisions relating to the proper loading of ships or any irregularity in the ship's papers;

(b) Failure to pay sums payable in respect of port and customs dues, taxes, fines, fees for services rendered, and the like, for which a claim has been presented by a State or public undertaking or organization.

The detention shall continue until the grounds therefor have been removed.

14. A harbour-master may also detain a ship or cargo on an application made in writing by a person for recovery of sums due in respect of damage, collision or assistance rendered, until the necessary security is furnished by the shipowner or the consignee of the cargo. A detained vessel shall be released after seventy-two hours unless detention is ordered by a court before the expiry of that period.

Liability for such detention shall rest with the person on whose application the detention is effected.

Note. The provisions of articles 13 and 14 shall not apply to ships belonging to Bulgarian State enterprises and undertakings or, subject to reciprocity, to ships belonging to foreign States.

15. A ship which has not completed its voyage may not be detained under the provisions of article 14 or by order of a court on the basis of a claim which is not related to the voyage in question, other than a claim concerning the ownership of the ship.

16. Port fees at the duly approved rates shall be levied on ships other than warships flying the Bulgarian or a foreign flag which call at Bulgarian ports and on all cargoes which pass through such ports.

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CHAPTER V. SHIPPING CASUALTIES AND SALVAGE

26. The organs of the port administration shall hold an investigation into all accidents and casualties involving Bulgarian ships.

The investigation shall be held as soon as possible either on the spot or on the ship's arrival at the first Bulgarian port, according to circumstances.

Where an investigation is held into a casualty involving property insured by the State Insurance Institute, the port administration shall notify the said Institute, which shall have the right to take part in the investigation through its representatives.

27. The organs of the port administration shall hold an investigation into casualties and accidents involving foreign ships in Bulgarian territorial waters in the following cases:

- (a) The collision of ships;
- (b) The collision of a ship with a shore or floating installation;
- (c) Stranding on a shoal or running aground;
- (d) Fire or explosion on board a ship; or
- (e) Any accident resulting in the loss of the ship, personal injury or loss of life.

28. The organs of the port administrations shall hold an investigation into casualties or accidents involving foreign ships in other cases also on application being made in writing by the consul of the country concerned, the ship-owner, or the manager or master of the ship.

CHAPTER VIII. DEFINITIONS

36. For the purposes of this Decree, "ship" means any floating vessel engaged in transport, fishing, hydrographic work, salvage, dredging, sport or other activity, irrespective of its burthen, the material from which it is built and the method of propulsion.

37. For the purposes of this Decree, "port" means any place on the Bulgarian coast protected from the wind and waves by a natural shelter or artificial works in which ships may anchor or berth and in which a port authority has been established in accordance with the laws of the country.

41. For the purposes of this Decree, "roadstead" means a stretch of water on the coast near the entrance to a port where ships can safely anchor.

(c) REGULATIONS OF 20 SEPTEMBER 1955 REGARDING PILOT SERVICE IN BULGARIAN BLACK SEA PORTS ¹

I. ORGANIZATION

1. The piloting of ships through the approaches to and in the precincts of the commercial seaports of the People's Republic of Bulgaria shall be carried out exclusively by State maritime pilots.

The zones in which the piloting of ships by State pilots is compulsory and those in which such piloting is not compulsory shall be determined by

¹ Text provided by the Ministry of Foreign Affairs of the People's Republic of Bulgaria. Translation by the Secretariat of the United Nations.

the Ministry of Transport and published in the Notices to Mariners (*Izvestia do Korabplavatelite*)

II. DUTIES OF STATE MARITIME PILOTS

9. A pilot may board a ship before it has received free pratique.

10. When piloting a ship a pilot shall ensure that the provisions of the Decree concerning territorial waters are observed.

IV. PRINCIPLES GOVERNING THE PILOTING OF SHIPS

32. Any ship which arrives without a pilot and wishes to enter any Bulgarian Black Sea port shall stop in the outer harbour or roadstead and hoist the appropriate flag to its masthead or display the prescribed signal.

(d) RULES OF 4 MAY 1953 FOR THE SANITARY PROTECTION OF THE FRONTIERS OF THE PEOPLE'S REPUBLIC OF BULGARIA¹

PART IV

Sanitary control of ships arriving at ports of the People's Republic of Bulgaria from foreign ports or places

1. On approaching a port of call, the master of a ship shall where possible report to the harbour-master on the state of health of the passengers and crew on board, any cases of communicable diseases or deaths which have occurred during the voyage, on any unusual mortality of rats observed, and on sanitary conditions in the last port of call or in the port of departure. The harbour-master shall immediately transmit the information received to the director of the quarantine clearance station or to the frontier guard unit in order that any necessary sanitary measures may be taken in due time.

Where it is possible to report the above-mentioned information, the master of the ship shall do so, as a rule, six hours before the estimated time of arrival of the ship in port.

2. Every ship arriving at a Bulgarian port from foreign ports or places shall stop, by agreement with the customs authorities, at a point indicated to it by the port authority and shall hoist at its foremast the yellow flag "Q". If the ship has a case of any of the communicable diseases referred to in Part I on board (plague, cholera, yellow fever, smallpox or typhus), the yellow and black flag "L" of the International Code of Signals shall be hoisted.

3. A ship arriving from foreign ports or places shall continue to fly the yellow or the yellow and black flag until the quarantine clearance authorities give it free pratique.

¹ Text provided by the Ministry of Foreign Affairs of the People's Republic of Bulgaria. Translation by the Secretariat of the United Nations.

Note: By night the flag shall be replaced by a single red light at the foremast.

4. Before the sanitary inspection of the ship, no one except the pilot and, if necessary, the chief immigration officer shall be permitted to board or leave the ship; no representatives of the local authorities shall be permitted to board the ship until the medical officer carrying out the inspection gives his permission; and access by private individuals shall be prohibited until the yellow or the yellow and black flag is lowered.

5. Until a ship arriving from foreign ports or places has been given free pratique, no authority (port, customs, etc.) may give it any instructions concerning the disembarkation of passengers or the unloading of cargo, cattle, etc.

6. Where a ship arriving from foreign ports or places stops, on account of damage or for any other navigational reason, at a point on the coast of the People's Republic of Bulgaria where there is no sanitary service (quarantine clearance station) the local authorities, in particular the representative of the Ministry of the Interior, shall institute strict measures of surveillance in order to ensure that the crew and passengers are prevented from holding intercourse with the shore. The ship's arrival shall immediately be reported to the sanitary authorities, the customs office and the representatives of the Ministry of the Interior at the nearest port and, in remote areas, to the local sanitary authorities and the representatives of the Ministry of the Interior at the nearest inhabited locality.

7. Before the representative of the quarantine clearance station arrives and the sanitary inspection is carried out, the crew and passengers of ships referred to in paragraph 3 shall not be permitted to disembark, except where the ship is in danger. In such cases, the nearest local health authority, the customs service, the transport sanitation authorities, the frontier guards or the representatives of the Ministry of the Interior shall be notified immediately of the disembarkation or removal of personnel, in order that the necessary sanitary measures may be taken.

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PART XII

Payment for Medical and Sanitary Measures

1. A quarantine clearance station shall not be permitted to levy any charge on the passengers or crew of a ship in respect of medical assistance provided in pursuance of these rules, their maintenance during quarantine in a medical-sanitary establishment in suspected cases of one of the communicable diseases specified in Part I of these rules, or the cost of other sanitary measures applied in respect of the passengers or crew under these rules.

2. The cost of bringing patients ashore shall be payable by the ship-owners.

3. The sums paid in respect of medical assistance and sanitary services other than those referred to in paragraph 1 of this Part shall not exceed the actual cost thereof.

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Canada

(a) CANADA SHIPPING ACT, 1934 ¹

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INTERPRETATION

2. In this Act,

. . .

14 “coast of Canada” means the sea coast of Canada and the salt water bays, gulfs and harbours on the sea coast of Canada;

(15) “Collision Regulations” means the International Regulations for preventing collision at sea and the Rules of the Road for navigating the Great Lakes including Georgian Bay, their connecting and tributary waters and the St. Lawrence River as far east as the lower exit of the Lachine Canal and the Victoria Bridge at Montreal;

. . .

(55) “minor waters of Canada” means all inland waters of Canada other than Lakes Ontario, Erie, Huron (including Georgian Bay), Superior and Winnipeg and the River St. Lawrence east of a line drawn from Father Point to Point Orient, and includes all bays, inlets and harbours of or on the said lakes and said Georgian Bay and such sheltered waters on the sea coasts of Canada as the Minister may specify;

. . .

(57) “minor waters voyage” means a voyage within the following limits, namely, the minor waters of Canada together with such part of any lake or river forming part of any such water as lies within the United States of America;

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PART VII. SAFETY

Steamship Inspection Service

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385. (1) A steamship inspector, in the exercise of his duties, may go on board any ship at all reasonable times and inspect the same, or any of the machinery or equipment thereof, or any certificate of a master, mate or engineer, and if he considers such ship unsafe, or, if a passenger ship, unfit to carry passengers, or the machinery or equipment defective in any way so as to expose persons on board to serious danger, he shall detain that ship; a steamship inspector may also detain any ship in respect of which any of the provisions of this Act have not been complied with, if, in his opinion, such detention is warranted in the circumstances.

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¹ *Revised Statutes of Canada*, 1952, Chapter 29, with amendment, *Statutes of Canada*, 1952, Chapter 20.

PART VIII. WRECKS, SALVAGE AND INVESTIGATIONS INTO SHIPPING
CASUALTIES

Powers of Receivers

500. (1) When any British or foreign vessel is wrecked, stranded or in distress at any place within Canada or on or near the coasts of Canada, the receiver shall, upon being made acquainted with such stranding or distress, forthwith proceed to such place; and, upon his arrival there, he shall take the command of all persons present and assign such duties and issue such directions to each person as he thinks fit for the preservation of such vessel and of the wreck and of the lives of shipwrecked persons.

(2) If any person so directed by the receiver of wrecks fails without reasonable cause to comply with such directions he is liable to a fine not exceeding two hundred dollars. 1934, c. 44, s. 493.

Passage over Adjoining Lands

505. (1) Whenever any vessel is wrecked, stranded or in distress within the territorial waters of or on or near the coasts of Canada, all persons for the purpose of rendering assistance to such vessel, or of saving any wreck or the lives of any shipwrecked persons, may, unless there is some public road equally convenient, pass and repass, either with or without conveyances or horses, over any adjoining lands, without being subject to interruption by the owner or occupier, if they do so with as little damage as possible; and may also, on the like condition, deposit on such lands any wreck saved.

(2) If the owner or occupier of any property fails to comply with the provisions of this section or hinders, prevents or obstructs the execution thereof, he is liable to a fine not exceeding four hundred dollars. 1934, c. 44, s. 498.

Wreck

510. (1) Whenever any person takes possession of wreck within the limits of Canada, he shall, as soon as possible, deliver the same to the receiver, but the Minister may dispense with any such delivery in the case of any wreck, upon such conditions as he thinks fit.

(2) This section applies to any aircraft or any part thereof or cargo thereof found derelict at sea outside the territorial limits of Canada and brought within the territorial limits of Canada.

(3) If any person who has so taken possession of wreck without reasonable cause fails to comply with the provisions of this section he is liable to a fine not exceeding four hundred dollars, and, in addition, a fine in double the value of the wreck, and he forfeits any claim or right to claim salvage with relation to such wreck. 1934, c. 44, s. 503.

Salvage

527. When, within the territorial waters of or on or near the coasts of Canada, any vessel is wrecked, abandoned, stranded or in distress, and

services are rendered by any person in assisting such vessel or in saving any wreck, there shall be payable to the salvor by the owner of such vessel or wreck, as the case may be, a reasonable amount of salvage including expenses properly incurred. 1934, c. 44, s. 520.

. . .

Shipping Casualties and Accidents on Ships

551. A shipping casualty shall be deemed to occur:

(a) When any ship is lost, abandoned, stranded or damaged in any of the inland waters of Canada or on or near the coasts of Canada, or on a voyage to or from a port in Canada;

(b) When any ship causes loss or damage to any other ship in, on or near such inland waters or coasts;

(c) When, by reason of any casualty happening to or on board any ship in, on or near such inland waters or coast, loss of life ensues;

(d) When any such loss, abandonment, stranding, damage or casualty happens elsewhere, and any competent witness thereof arrives or is found at any place in Canada;

(e) When any loss of life occurs by reason of any casualty happening to or on board any boat belonging to a fishing vessel or other vessel registered or licensed in Canada; and

(f) When any ship is lost or supposed to have been lost, and any evidence is obtainable in Canada as to the circumstances under which she proceeded to sea or was last heard of. 1934, c. 44, s. 544.

. . .

553. (1) Whenever a shipping casualty happens, anywhere in the case of a Canadian ship, or within the limits of or on or near the coasts of Canada in the case of any other British ship, the master, or, if the master is dead, the chief surviving officer, and also every such other person belonging to the ship as the Minister, from time to time, directs, shall within twenty-four hours of his first landing in Canada, after the happening of such casualty, attend and submit himself for examination

(a) At the office of the chief officer of Customs residing at or near the place where such casualty occurred, if the same occurred on or near the coasts of Canada, or any island or place adjacent thereto, or

(b) If the casualty occurred elsewhere, at the office of the chief officer of Customs residing at or near the place of such landing, unless he has been previously examined or excused from attending for examination by any other chief officer of Customs residing at or near either of such places, or by any receiver of wreck in any part of Her Majesty's dominions outside of Canada.

(2) If any such person by this section required or by the Minister directed to attend and submit himself for examination without reasonable cause fails to do so, precisely as so required or directed, he is liable to a fine not exceeding two hundred dollars. 1934, c. 44, s. 546; 1950, c. 26, s. 2.

554. (1) Where any ship, British or foreign, is or has been in distress on the coasts of Canada a receiver of wreck, or at the request of the Minister, a wreck commissioner or deputy approved by the Minister, or, in the absence of the persons aforesaid, a justice of the peace, shall, as soon as conveniently may be, examine on oath (and they are hereby respectively empowered to

administer the oath) any person belonging to the ship, or any other person who may be able to give any account thereof or of the cargo or stores thereof, as to the following matters:

- (a) The name and description of the ship;
- (b) The name of the master and of the owners;
- (c) The name of the owners of the cargo;
- (d) The ports from and to which the ship was bound;
- (e) The occasion of the distress of the ship;
- (f) The services rendered; and
- (g) Such other matters or circumstances relating to the ship, or to the cargo on board the same, as the person holding the examination thinks necessary.

(2) The person holding the examination shall take the same down in writing, and shall send a copy thereof to the Minister.

(3) The person holding the examination has, for the purposes thereof, all the powers of a steamship inspector under this Act.

(4) If any such person belonging to the ship or such other person as aforesaid on being examined as aforesaid refuses to answer any question pertinent under this section that is put to him on his examination pursuant to this section he is liable, in addition to any other liability, to a fine not exceeding two hundred dollars. 1934, c. 44, s. 547.

Preliminary Inquiries into Casualties

555. (1) The Minister may appoint a chief officer of Customs or any officer of the Government of Canada, or any other person to make preliminary inquiries respecting such shipping casualties, and may define the territorial jurisdiction of any such officer or person, and the persons so appointed shall make a preliminary inquiry respecting a shipping casualty wherever so directed by the Minister.

(2) Where, upon a preliminary inquiry, the officer holding it is of opinion that any loss, or damage, or the stranding of any ship, or any loss of life has been caused by the wrongful act or default or by the incapacity of the pilot in charge, or that such pilot has been guilty of any gross act of misconduct or drunkenness, the licence of such pilot may be suspended by such officer until a formal investigation under this Part has been held and a further decision rendered upon the case; but the term shall not exceed a period of three days, unless the Minister notifies such pilot within that time that a formal investigation will be held. 1934, c. 44, s. 548.

556. Every such officer or person may, for the purpose of holding such preliminary inquiry,

- (a) Go on board any vessel or wreck, and inspect it or any part thereof, or any of the machinery, boats, equipments, lading, or articles on board thereof, the boarding or inspection of which appears to him to be requisite for the purpose of his inquiry, not unnecessarily detaining any such vessel from proceeding on any voyage;

- (b) Enter and inspect any premises, the entry and inspection of which appear to him requisite for the purpose of the inquiry;

- (c) Require by summons under his hand the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and require answers or returns to any inquiries he thinks fit to make;

(d) Require and enforce the production of all books, papers or documents which he considers important for such purpose; and

(e) Administer oaths, or, in lieu of requiring and administering an oath, require every person examined by him to make and subscribe a solemn affirmation or declaration of the truth of the statement made by him in his examination. 1934, c. 44, s. 549.

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PART XI. PORT WARDENS

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Port Wardens

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617. (1) The Governor in Council may make regulations prescribing the manner in which grain cargoes and deck cargoes may be carried on any Canadian ship, or on any ship not registered in Canada which shall be within any port in Canada.

(2) When any ship arrives at any harbour in Canada with a grain cargo or deck cargo, any port warden or Customs officer may proceed on board and, when practicable, examine into the manner in which the cargo was stowed; and every person, in charge of such ship at the time of the examination, shall render such officer the assistance he asks to enable him to make the examination.

(3) Such regulations may provide for fines, their recovery, enforcement and disposition, including enforcement by imprisonment for non-payment, but no fine shall exceed for any one offence one thousand dollars nor shall any imprisonment for non-payment of any one fine exceed a term of three months. 1934, c. 44, s. 609; 1950, c. 26, s. 2.

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Duties and Powers of Port Wardens

619. The port warden shall, at the request of any person interested, proceed in person on board any ship for the purpose of examining the condition and stowage of her cargo; and, if there are any goods damaged on board of such ship, he shall inquire, examine and ascertain the cause of such damage, and make a memorandum thereof, and enter the same in full on the books of his office. 1934, c. 44, s. 611.

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PART XII. NAVIGATION—COLLISIONS—LIMITATION OF LIABILITY

Rules, Regulations and Orders

645. (1) The Governor in Council may make rules or regulations for the prevention of collisions at sea and on the inland waters of Canada or any part thereof (which regulations shall for the purposes of this Act be deemed Collision Regulations) and may thereby regulate the lights to be carried and exhibited, the fog signals to be carried and used and the steering and sailing rules to be observed by ships.

(2) The Collision Regulations and Rules as to Signals of Distress set out as Schedule I to the Order of His Majesty in Council dated 13th October

1910, continue to apply to waters within Canadian jurisdiction as heretofore unless and until superseded by other Collision Regulations and Rules as to distress signals respectively.

(3) The Governor in Council may make rules or regulations relating to the safety of life or limb on navigable waters during regattas and marine parades.

(4) The Governor in Council may by order or regulation provide for the government and regulation of any part or parts of the minor waters of Canada defined or described therein and may provide for the enforcement of such order or regulation.

(5) Any rule, regulation or order so made may provide for a fine not exceeding five hundred dollars for contravention of or non-compliance with any provision thereof, and, in case any such provision is made, it has effect as if in and by this Act enacted. 1934, c. 44, s. 637.

646. No local rule or by-law, inconsistent with the Collision Regulations, is of any force or effect; but, so far as not inconsistent therewith, any local rule or by-law is of full force within the locality to which it applies. 1934, c. 44, s. 638.

647. (1) All owners and masters of vessels and rafts shall obey the Collision Regulations as modified by any local rule pursuant to section 646, and shall not carry or exhibit any other lights, or use any other fog signals, than such as are required by the Collision Regulations as so modified.

(2) Every person who fails, without reasonable cause, to comply with the provisions of this section is liable for each offence to a fine not exceeding two hundred dollars.

(3) Where any damage to person or property arises from the non-observance by any vessel or raft of any of the Collision Regulations, the damage shall be deemed to have been occasioned by the wilful default of the person in charge of that raft, or of the deck of that vessel at the time, unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the regulation necessary.

(4) The Collision Regulations, together with the provisions of this Part relating thereto, or otherwise relating to collisions, shall be observed by all foreign ships within Canadian jurisdiction, and in any case arising in a Canadian court concerning matters arising within Canadian jurisdiction, foreign ships shall so far as respects the Collision Regulations and the said provisions of this Act, be treated as if they were Canadian ships. 1934, c. 44, s. 639; 1950, c. 26, s. 2.

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PART XV. LEGAL PROCEEDINGS

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Damage Occasioned by Foreign Ships

693. (1) Whenever any injury has in any part of the world been caused to any property belonging to Her Majesty or to any of Her Majesty's subjects by any foreign ship, and at any time thereafter that ship is found in any port or place in Canada or within three miles of the coast thereof, a judge or district judge of the Admiralty Court may, upon its being shown to him by any person applying summarily that the injury was probably caused by the misconduct or want of skill of the master or mariners of the

ship, issue an order directed to any officer of Customs or other officer named by the judge or court, requiring him to detain the ship until such time as the owner, master or consignee thereof has made satisfaction in respect of the injury, or has given security to be approved by the judge or court, to abide the event of any action, suit, or other legal proceeding that may be instituted in respect of the injury, and to pay all costs and damages that may be awarded thereon; any officer of Customs or other officer to whom the order is directed shall detain the ship accordingly.

(2) Where it appears that, before an application can be made under this section, the ship in respect of which the application is to be made will have departed from the limits of Canada or three miles from the coast thereof, the ship may be detained for such time as will allow the application to be made and the result thereof to be communicated to the officer detaining the ship, and that officer is not liable for any costs or damages in respect of the detention unless the same is proved to have been made without reasonable grounds.

(3) In any legal proceeding in relation to any such injury aforesaid, the person giving security shall be made defendant and shall be stated to be the owner of the ship that has occasioned the damage; and the production of the order of the judge or court, made in relation to the security, is conclusive evidence of the liability of the defendant to the proceeding. 1934, c. 44, s. 685.

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Detention of Ship and Distress on Ship

697. (1) Where under this Act a ship is to be or may be detained, any commissioned officer on full pay in the naval, army or air service of Her Majesty or of the naval, army or air forces of Canada or any officer of Customs may detain the ship, and if the ship after detention or after service on the master of any notice of or order for detention proceeds to sea before it is released by competent authority, the master of the ship, and also the owner, and any person who sends the ship to sea, if that owner or person is party or privy to the offense, are liable for each offence to a fine not exceeding five hundred dollars.

(2) Where a ship so proceeding to sea takes to sea when on board thereof in the execution of his duty any officer authorized to detain the ship, or any officer of Customs, the owner and master of the ship are each liable to pay all expenses of and incidental to the officer being so taken to sea, and also to a fine not exceeding five hundred dollars, or, if the offence is not prosecuted in a summary manner, not exceeding fifty dollars for every day until the officer returns, or until such time as would enable him after leaving the ship to return to the port from which he is taken, and the expenses ordered to be paid may be recovered in like manner as the fine.

(3) Where under this Act a ship is to be detained an officer of Customs shall, and where under this Act a ship may be detained an officer of Customs may, refuse to clear that ship outwards.

(4) Where any provision of this Act provides that a ship may be detained until any document is produced to the proper officer of Customs, the "proper officer" means the officer able to grant a clearance or transire to such ship. 1934, c. 44, s. 689.

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PART XVI. SUPPLEMENTAL

Stevedores and Trimmers

710. (1) Where it is claimed that any sum is due to any person from the owners of a ship for work done at any place in any province of Canada by that person in connection with the stowing or discharging of cargoes on board or from that ship, or the trimming of coal on board that ship, and that ship is at any time found in any place in Canada or within three miles of the coast thereof, a judge or district judge of the Admiralty Court may, upon its being shown to him by any person applying in accordance with rules of court that *prima facie* the claim against the owners is a good claim and that none of the owners reside in the province in which the application is made, issue an order for the arrest of the ship.

(2) An order under this Part shall be directed to a marshal of the court or to some officer of Customs, or some other officer named in the order, and shall require him to detain the ship until such time as satisfaction has been made by the owners, agent, master, or consignee thereof in respect of the claim, or until security to be approved by the judge, has been given by them or him, to abide the event of any action, suit, or other legal proceeding that may be instituted in respect of the claim, and to pay all costs and damages that may be awarded thereon, and where any such order is made, the officer to whom the order is directed shall detain the ship accordingly.

(3) In any legal proceedings in relation to any such claim as aforesaid, the person giving security shall be made defendant, and shall be stated to be the owner of the ship in respect of which the work giving rise to the claim was done, and the production of the order of the judge, made in relation to the security, is conclusive evidence of the liability of the defendant to the proceedings.

(4) Where a complaint is made to the Minister that, before an application can be made under this section, the ship in respect of which the application is to be made will have departed from the limits of Canada or three miles from the coast thereof, the ship shall, if the Minister so directs, be detained for such time as will allow the application to be made and the result thereof to be communicated to the officer detaining the ship, and that officer is not liable for any costs or damages in respect of the detention if made in accordance with the directions of the Minister.

(5) The provisions of section 693 shall apply to the detention of a ship under this Part as they apply to the detention of a ship under Part XV.

(6) Where the owner of a ship is a corporation, the owner shall, for the purposes of this section, be deemed to reside in the province where the application is made if the corporation has an office in that province at which service of writs can be effected.

(7) Where a ship has been demised to charterers, the provisions of this section apply to claims against the charterers of the ship as they apply to claims against the owners of a ship, with the substitution of charterers for owners, but no ship shall be detained on a claim against the charterers of the ship after the expiration of the term for which the ship was demised to them.

(8) Nothing in this section affects the power of any person to enforce any claim to which this Part applies otherwise than in accordance with the provisions of this Part and any person having a claim to which this Part applies may, if he so desires, instead of proceeding under the foregoing

provisions of this Part institute proceedings in Admiralty for enforcing the claim in accordance with the ordinary rules of practice of the Admiralty Court, and such court, if proceedings are so instituted, has the same jurisdiction for the purpose of enforcing the claim as if the claim were a claim for necessaries supplied to the ship. 1934, c. 44, s. 702.

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(b) CUSTOMS ACT ¹

. . .

2. (1) In this Act, or in any other law relating to the Customs,

(a) "Canadian Customs waters" means the waters forming that part of the sea that is adjacent to and extends nine marine miles beyond Canadian waters;

(b) "Canadian waters" means all territorial waters of Canada and all waters forming part of the territory of Canada, including the marginal sea within three marine miles of the base lines on the coast of Canada, determined in accordance with international law and practice; subject, however, to the following specific provisions:

(i) Canadian waters shall not extend beyond the limits of exclusion recommended in the North Atlantic Fisheries Award, answer to question V, as set forth in the Schedule;

(ii) The extent of Canadian waters shall conform with the provisions of any other Act of the Parliament of Canada;

(iii) The Governor in Council may from time to time by proclamation temporarily restrict, for Customs purposes, the extent of Canadian waters and such proclamation shall not be construed as foregoing any Canadian rights in respect of waters thus restricted; and

(iv) The plotting of base lines and of the limits of Canadian waters on a map or chart issued under the authority of and approved by the Governor in Council shall be conclusive evidence of the due determination of such base lines and of the extent of Canadian waters or of Canadian waters temporarily restricted, pursuant to the provisions of sub-paragraph (iii);

. . .

REPORT AND ENTRY INWARDS

7. (1) Unless the Minister, as he may, in respect of any particular vessel or class or classes of vessel otherwise dispenses, for a time or generally, the master of any vessel arriving in or found within Canadian waters or of any vessel registered in Canada or of any unregistered vessel owned by a person resident or domiciled in Canada or of any other vessel or class of vessels that has been specified or enumerated by proclamation of the Governor in Council under subsection (1) of section 139 arriving in and found within Canadian Customs waters shall, if the cargo of his vessel includes intoxicating liquors, have on board a manifest signed by him under oath as to the truth of the statements therein contained; such manifest shall contain;

(a) The names of the ports and description of the places at which the goods comprising the cargo of the said vessel were taken on board, and the

¹ *Ibid.*, Chapter 58, with amendment assented to 28 June 1955, Canada, 3-4 *Elizabeth II*, Chapter 32.

ports of entry of Canada for which the same are destined, particularly describing the goods destined for each such port;

(b) The name, description, and build of the vessel, the tonnage and port of registry of the vessel, the domicile of the owners thereof and the name of the master;

(c) A detailed account of all goods on board such vessel, with the marks and numbers of each package and parcel, and the number and description of the packages and parcels according to their usual name or denomination, such as barrel, keg, hogshead, case or bag;

(d) The names of the persons to whom such packages or parcels are respectively consigned in accordance with the bills of lading issued therefor, except that when such goods are consigned to order the manifest shall so state; and

(e) An account of what surplus stores remain on board.

(2) This section does not apply to any vessel employed in the transport of duty-paid intoxicating liquor from one port or place to another port or place within the limits of Canada. 1936, c. 30, s. 3.

. . .

POWERS AND DUTIES OF OFFICERS

. . .

139. (1) The provisions of this section extend to vessels hovering in Canadian waters, and in the case of any vessel registered in Canada, or of any unregistered vessel owned by a person resident or domiciled in Canada, or of any other vessels or class of vessels which the Governor in Council may specify or enumerate by proclamation shall also extend to vessels hovering in Canadian Customs waters.

(2) Any vessel that has, in Canadian waters or, subject to the provisions of subsection (1), in Canadian Customs waters,

(a) Hovered;

(b) Unladen any dutiable or prohibited goods, or transhipped the same to some other vessel without the authorization of an officer;

(c) Navigated without lights, in breach of any law or regulation to which such vessel was subject; or

(d) Failed to come to a stop in compliance with the provisions of subsection (4),

shall be presumed to be a hovering vessel and to have hovered, but such presumption may, save in cases provided for by paragraph (d), be rebutted by evidence establishing that the vessel was engaged in a legitimate occupation not connected, directly or indirectly, with the smuggling into Canada of dutiable or prohibited goods, or the breach of any laws or regulations in force in Canada.

(3) If any hovering vessel is found or observed in Canadian waters or, subject to the provisions of subsection (1), in Canadian Customs waters, any officer may go on board such vessel and examine her cargo and may also examine upon oath the master or person in command or any other person on board, touching the vessel, cargo and voyage, and may bring the vessel into port; and any such master or person who refuses to comply with the lawful directions of such officer or does not truly answer such questions as are put to him touching such vessel, cargo or voyage, shall be deemed to have violated a provision of this Act.

(4) Any vessel in Canadian waters or, subject to the provisions of subsection (1) in Canadian Customs waters, shall proceed to come to a stop when required so to do in the Queen's name by any officer or upon signal made by any vessel in the service of the Government of Canada hoisting the pennant and ensign approved and appointed for the purpose by order of the Governor in Council.

(5) On any such vessel failing to proceed to come to a stop when required, the captain or master or other person in charge of any vessel in the service of the Government of Canada may, after first causing a gun to be fired as a signal, fire at or into such vessel.

(6) Such captain, master or other person, as well as any person acting in his aid or by his direction, is hereby indemnified and discharged from any indictment, penalty, action or other proceeding for so doing, and Her Majesty is not liable in any claim for damage to life or property by reason of such act.

(7) No person on board any vessel required to proceed to come to a stop, as herein provided, shall throw overboard, stave, or destroy any part of the cargo or any papers or documents relating to the vessel or cargo; any such action renders the vessel and cargo subject to forfeiture.

(8) The evidence of such captain, master or other person that the vessel was within Canadian waters or Canadian Customs waters is *prima facie* evidence of the fact.

(9) Any officer may at any time go on board any vessel at any place in Canadian waters or, subject to the provisions of subsection (1), in Canadian Customs waters, and examine the manifest and inspect, search and examine the vessel and every part thereof, and any person, trunk, package or cargo on board.

(10) Any vessel that is a hovering vessel within the meaning of subsection (2) may be seized and forfeited, together with all stores and cargo that were upon such vessel at the time of the hovering, but the following goods shall be released, without liability resulting directly or indirectly from such seizure or forfeiture, upon the furnishing of proof satisfactory to the Minister that they are

(a) Goods, respecting which there has not been any violation of any of the provisions of this Act, that are in the hands of a person in Canada who acquired the same for value and in good faith;

(b) Effects of an innocent passenger; or

(c) Goods respecting which there has not been any violation of any of the provisions of this Act and in respect to which neither the consignor, nor the consignee, nor the owner, nor any of their agents, had any knowledge or grounds for suspicion that the goods were destined to be smuggled into Canada or into any other country.

(11) The master or person in command and crew of any vessel that is a hovering vessel within the meaning of subsection (2) and all other persons on board at the time of the hovering and all owners or persons beneficially interested in the vessel or cargo shall be deemed to have violated a provision of this Act unless they prove that they had no knowledge or grounds for suspicion that the goods on board were destined to be smuggled into Canada or any other country.

(12) The powers conferred by subsection (3) on an officer, may be exercised, and the provisions of subsections (4) to (11) inclusive are applicable to a hovering vessel, either at the place where the vessel is found or

observed to be hovering, or elsewhere after pursuit, either within or without Canadian waters or Canadian Customs water as the case may be, or in a Canadian port when such vessel subsequently enters a Canadian port. 1936, c. 30, s. 4.

SCHEDULE

NORTH ATLANTIC FISHERIES AWARD

EXTRACT FROM ANSWER OF TRIBUNAL OF ARBITRATION CONSTITUTED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE V OF THE SPECIAL AGREEMENT BETWEEN HIS MAJESTY AND THE UNITED STATES OF AMERICA, SIGNED AT WASHINGTON THE 27TH JANUARY, 1909.

The Hague September 7, 1910

The North Atlantic Coast Fisheries

Question V

From where must be measured the "three marine miles of any of the coasts, bays, creeks, or harbours" referred to in the said article?

* * *

For these reasons the tribunal decides and awards:

In case of bays, the three marine miles are to be measured from a straight line drawn across the body of water at the place where it ceases to have the configuration and characteristics of a bay. At all other places the three marine miles are to be measured following the sinuosities of the coast.

But considering the Tribunal cannot overlook that this answer to Question V, although correct in principle, and the only one possible in view of the want of a sufficient basis for a more concrete answer is not entirely satisfactory as to its practical applicability, and that it leaves room for doubts and differences in practice; therefore the Tribunal considers it its duty to render the decision more practicable, and to remove the danger of future differences by adjoining to it a recommendation in virtue of the responsibilities imposed by Article IV of the Special Agreement.

Considering, moreover, that in treaties with France, with the North German Confederation and the German Empire, and likewise in the North Sea Convention, Great Britain has adopted for similar cases the rule that only bays of ten miles width should be considered as those wherein the fishing is reserved to nationals: And that in the course of the negotiations between Great Britain and the United States a similar rule has been on various occasions proposed and adopted by Great Britain in instructions to the naval officers stationed on these coasts: And that though these circumstances are not sufficient to constitute this a principle of international law; it seems reasonable to propose this rule with certain exceptions, all the more that this rule, with such exceptions, has already formed the basis of an agreement between the two Powers.

Now, therefore, this Tribunal, in pursuance of the provisions of Article IV, hereby recommends for the consideration and acceptance of the High Contracting Parties the following rules and methods of procedure for determining the limits of the bays hereinbefore enumerated:

1. In every bay not hereinafter specifically provided for the limits of exclusion shall be drawn three miles seaward from a straight line across the bay in the part nearest the entrance at the first point where the width does not exceed ten miles.

2. In the following bays, where the configuration of the coast and the local climatic conditions are such that foreign fishermen, when within the geographic headlands, might reasonably and *bona fide* believe themselves on the high seas, the limits of exclusion shall be drawn in each case between the headlands hereinafter specified as being those at and within which such fishermen might be reasonably expected to recognize the bay under average conditions.

For the Baie des Chaleurs the line from the light at Birch Point on Miscou Island to Maquereau Point Light; for the bay of Miramichi, the line from the light at Point Escuminac to the light on the eastern point of Tabusintac Gully; for Egmont Bay, in Prince Edward Island, the line from the light at Cape Egmont to the light at West Point; and off St. Ann's Bay, in the province of Nova Scotia, the line from the light at Point Anconi to the nearest point on the opposite shore of the mainland.

For Fortune Bay, in Newfoundland, the line from Connaigre Head to the light on the southeasterly end of Brunet Island, thence to Fortune Head.

For or near the following bays the limits of exclusion shall be three marine miles seaward from the following lines, namely:

For or near Barrington Bay in Nova Scotia, the line from the light on Stoddart Island to the light on the south point of Cape Sable, thence to the light at Baccaro Point; at Chedabucto and St. Peter's Bays, the line from Cranberry Island light to Green Island light, thence to Point Rouge; for Mira Bay, the line from the light on the east point of Scatari Island to the northeasterly point of Cape Morien; and at Placentia Bay, in Newfoundland, the line from Latine Point, on the eastern mainland shore, to the most southerly point of Red Island, thence by the most southerly point of Marasheen Island to the mainland.

Long Island and Bryer Island on St. Mary's Bay, in Nova Scotia, shall, for the purpose of delimitation, be taken as the coasts of such bays.

It is understood that nothing in these rules refers either to the Bay of Fundy considered as a whole apart from its bays and creeks or as to the innocent passage through the Gut of Canso, which were excluded by the agreement made by exchange of notes between Mr. Bacon and Mr. Bryce, dated February 21st, 1909, and March 4th, 1909; or to Conception Bay, which was provided for by the decision of the Privy Council in the case of the Direct United States Cable Company v. the Anglo-American Telegraph Company, in which decision the United States have acquiesced. 1936, c. 30, Sch.

(c) FOREIGN ENLISTMENT ACT, 1937 ¹

INTERPRETATION

2. In this Act,

(a) "armed forces" includes army, naval and air forces or services, combatant or non-combatant, but does not include surgical, medical,

¹ *Ibid.*, Chapter 124.

nursing and other services engaged solely in humanitarian work and which are under the control or supervision of the Canadian Red Cross or other recognized Canadian humanitarian society;

(b) "conveyance" includes ships, vessels, aircraft, trains, and motor and other vehicles;

(c) "equips" in relation to a ship, includes the furnishing of anything that is used for the purpose of fitting or adapting the ship for the sea, or for naval service, and all words relating to equipment shall be construed accordingly;

(d) "foreign state" includes any foreign prince, colony, province or part of any province or people, or any person or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province or people;

(e) "illegally enlisted person" means a person who has accepted or agreed to accept any commission or engagement, or who is about to quit Canada with intent to accept any commission or engagement, or who has been induced to go on board a conveyance under a misapprehension or false representation of the service in which such person is to be engaged with the intention or in order that such person may accept or agree to accept any commission or engagement contrary to the provisions of this Act;

(f) "within Canada" includes Canadian waters as defined for the purposes of the *Customs Act*. 1937, c. 32, s. 2.

3. Any person who, being a Canadian national, within or without Canada, voluntarily accepts or agrees to accept any commission or engagement in the armed forces of any foreign state at war with any friendly foreign state, or, whether a Canadian national or not, within Canada, induces any other person to accept or agree to accept any commission or engagement in any such armed forces, is guilty of an offence under this Act. 1937, c. 32, s. 3.

4. Any person who, being a Canadian national, quits or goes on board any conveyance with a view of quitting Canada with intent to accept any commission or engagement in the armed forces of any foreign state at war with any friendly foreign state, or, whether a Canadian national or not, within Canada, induces any other person to quit or go on board any conveyance with a view of quitting Canada, with a like intent, is guilty of an offence under this Act. 1937, c. 32, s. 4.

. . .

6. (1) A person who, having the control or direction of, or being the owner of any conveyance, knowingly either takes on board or engages to take on board or has on board such conveyance, within Canada, any illegally enlisted person, is guilty of an offence under this Act.

(2) Such conveyance shall be detained until the trial or conviction of such person or owner and until all fines or penalties imposed on such person or owner have been paid or security approved by the Court having jurisdiction in the matter has been given for the payment thereof. 1937, c. 32, s. 6.

. . .

. . .

12. Where any ship, goods, or merchandise, captured as prize of war within Canada in violation of Canadian neutrality, or captured by any

ship that may have been built, equipped, commissioned or despatched, or the force of which may have been augmented, contrary to the provisions of this Act, are brought within Canada by the captor, or by any agent of the captor, or by any person having come into possession thereof with a knowledge that the same was prize of war so captured as aforesaid, it shall be lawful for the original owner of such prize or his agent, or for any person authorized in that behalf by the government of the foreign state to which such owner belongs, or in which the ship captured as aforesaid may have been duly registered, to make application to the Exchequer Court of Canada for seizure and detention of such prize, and the Court shall, on due proof of the facts, order such prize to be restored. 1937, c. 32, s. 12.

13. Every order referred to in section 12 shall be executed and carried into effect in the same manner, and subject to the same right of appeal, as in case of any order made in the exercise of the ordinary jurisdiction of such Court; and in the meantime, and until a final order has been made, on such application the Court has power to make all such provisional and other orders as to the care or custody of such captured ship, goods, or merchandise, and (if the same be of perishable nature, or incurring risk of deterioration) for the sale thereof, and with respect to the deposit or investment of the proceeds of any such sale, as may be made by such Court in the exercise of its ordinary jurisdiction. 1937, c. 32, s. 13.

16. For the purpose of giving jurisdiction in criminal proceedings under this Act, every offence shall be deemed to have been committed, every cause or complaint to have arisen either in the place in which the same was committed or arose, or in any place in which the offender or person complained against may be. 1937, c. 32, s. 16.

17. Subject to the provisions of this Act, criminal proceedings arising hereunder shall be subject to and governed by the *Criminal Code*. 1937, c. 32, s. 17.

18. All proceedings for forfeiture of conveyances, goods or merchandise, under the provisions of this Act, may be taken in the Exchequer Court of Canada, or in any court of competent jurisdiction 1937, c. 32, s. 18.

19. The Governor in Council may, from time to time, by order or regulation, provide for any or all of the following matters:

(a) The application of the provisions of this Act, with necessary modifications, to any case in which there is a state of armed conflict, civil or otherwise, either within a foreign country or between foreign countries;

(b) The seizure, detention and disposition of conveyances, goods and merchandise;

(c) The requirement of the consent of an authority or authorities to prosecutions, seizures, detentions and forfeiture proceedings;

(d) The designation of officers or authorities who may execute any of the provisions of this Act; and

(e) The issue, restriction, cancellation and impounding of passports, whether within Canada or elsewhere, to the extent to which such action is deemed by him to be necessary or expedient for carrying out the general purposes of this Act. 1937, c. 32, s. 19.

Ceylon

(a) MERCHANT SHIPPING ACT NO. 7 OF 1953 ¹

Note. This Act has not yet entered into force.

(b) MASTERS ATTENDANT ORDINANCE OF 20 OCTOBER 1865 ², AS AMENDED UP TO 1955 ³

PRELIMINARY

3. The Governor may, from time to time, frame and establish such port rules, not inconsistent with this Ordinance, as he may think necessary for any of the following purposes, namely:

(j) For fixing from time to time the charges to be made for boat hire which may be demanded by boats licensed to convey goods and passengers in the said ports; the rates and charges of pilotage on vessels into and out of any of the said ports, from or to a distance of one league out at sea; or for removing or re-mooring any vessel; and the rates to be paid for the use of Government moorings, whenever the same shall be available, and the charges for work connected with mooring of the said vessels;

MASTERS ATTENDANT

7. The Master Attendant may, whenever he shall suspect that any offence has been or is about to be committed in any vessel contrary to this Ordinance, or whenever it is necessary for him so to do in the discharge of any duty imposed upon him by this Ordinance, go on board any vessel within the limits of any port. If the master or other person in charge of such vessel shall, without lawful excuse, refuse to allow any Master Attendant or any of his deputies or assistants to enter such vessel for the performance of any duty imposed upon him by this Ordinance, he shall for every such offence be liable to a fine not exceeding two hundred rupees.

27. Nothing in this Ordinance contained shall extend to any vessel belonging to or in the service of His Majesty, or to any vessel of war belonging to any foreign prince or state, nor affect any law relative to the customs, nor any order or direction which shall have been lawfully made or given in pursuance of the provisions of any such law.

¹ Parliament of Ceylon, 1st Session 1953, *Merchant Shipping Act, No. 7 of 1953*, printed on the Orders of Government, Ceylon Government Press, Colombo.

² *Legislative Enactments of Ceylon*, Vol. VI, Revised 1938, p. 129. Text provided by the Ministry for External Affairs of Ceylon.

³ By Act No. 27 of 1955.

(c) GREAT BASSES LIGHTHOUSE ORDINANCE OF 17 DECEMBER 1869¹

2. The lighthouse about to be erected on the Great Basses Rocks, near the south-east coast of this Island, is erected with the consent of the said Governor and Council, and any dues which may hereafter be fixed by Her Majesty, by Order in Council, in respect of the said lighthouse, ought to be and may be levied in this Island, in manner provided by the said Act, on all ships arriving or touching at any port or place therein, after or before passing the lighthouse, or deriving the benefit therefrom.

(d) MINICOY LIGHTHOUSE AND LIGHTHOUSE DUES ORDINANCE OF 14 OCTOBER 1882², AS AMENDED UP TO 1951³

And whereas Her Majesty has signified through her Principal Secretary of State for the Colonies that the dues to be levied by Her Order in Council in Ceylon on each vessel will be as follows, namely:—In respect of the lighthouse of the Island of Minicoy at cents ($2\frac{1}{2}$) two and a half per ton; in respect of the lighthouse on the Great Basses Rocks and the lighthouse on the Little Basses Rocks at cents ($7\frac{1}{2}$) seven and a half per ton:

It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

3. The opinion of the Legislature is hereby signified that the dues so to be fixed by Her Majesty by Order in Council under the authority of section 2 of the said recited Act in respect of the said lighthouse on the Island of Minicoy, and in respect of the lighthouse on the Great Basses Rocks and of the lighthouse on the Little Basses Rocks, ought to be and may be levied in this Island on all ships (other than ships belonging to the Government of Ceylon) arriving or touching at any port or place therein, before or after passing any such lighthouse, or deriving benefit therefrom.

(e) BAHAMAS AND LEEWARD ISLANDS LIGHT DUES ORDINANCE OF 22 DECEMBER 1934⁴

2. The opinion of the legislature is hereby signified that on all ships, other than ships belonging to His Majesty or to the Government of Ceylon, which before arriving or touching at any port or place in this Island have passed and derived benefit from any of the lighthouses or the buoy enumerated in the First Schedule, there shall be levied the light dues fixed by

¹ *Ibid.*, p. 186. Text provided by the Ministry for External Affairs of Ceylon.

² *Legislative Enactments of Ceylon*, Vol. VI, Revised 1938, p. 184. Text provided by the Ministry for Foreign Affairs of Ceylon.

³ By the Minicoy Lighthouse and Lighthouse Dues (Amendment) Act, No. 29 of 1951. Text of this Act provided by the Ministry for Foreign Affairs of Ceylon.

⁴ *Ibid.*, p. 181. Text provided by the Ministry for External Affairs of Ceylon.

His Majesty by Order in Council dated the seventeenth day of December, nineteen hundred and thirty-one, and set out in the Second Schedule, or such other charges as may hereafter be fixed in like manner, and that the the dues shall be levied in accordance with the provisions of any Order of His Majesty in Council for the time being in force in that behalf.

. . . .

(f) PILOTS ORDINANCE OF 20 OCTOBER 1899 ¹

. . . .

3. The Governor may, from time to time, by Proclamation declare the ports which are to be brought within the operation of this Ordinance, and define the limits of such ports respectively.

. . . .

6. No pilot shall be in anywise bound to conduct any vessel to sea, neither shall any vessel proceed to sea, until the full amount of the outward pilotage of such vessel and the charges due on account of such vessel to the Master Attendant's department shall be first paid or secured to be paid to the satisfaction of such pilot and Master Attendant.

. . . .

7. Every pilot in charge of any vessel in, or entering, or proceeding from any port, who shall remain on board any such vessel for a period exceeding forty-eight hours, either on account of stress of weather or under quarantine, shall be entitled to demand and receive over and above the amount of pilotage charged under port rules made or to be made under the authority of section 3 of the Masters Attendant Ordinance the sum of five rupees for each and every day he shall so remain on board any vessel.

. . . .

13. Nothing in this Ordinance contained shall extend to any vessel belonging to or in the service of His Majesty, or to any vessel of war belonging to any foreign prince or state, nor affect any law relative to the customs, nor any order or direction which shall have been lawfully made or given in pursuance of the provisions of any such law.

. . . .

(g) CUSTOMS ORDINANCE OF 1 JANUARY 1870, AS AMENDED UP TO 1952 ²

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PART VII

Regulations Outwards

. . . .

65. It shall be lawful for the officers of the customs to go on board any ship before and after clearance outwards within the limits of any port in

¹ *Ibid.*, p. 146. Text provided by the Ministry for External Affairs of Ceylon.

² For the text of this Ordinance as amended up to 1938, see *ibid.*, vol. IV, p. 491. The texts of the amendments to this Ordinance have been provided by the Ministry for External Affairs of Ceylon.

this Island or within two leagues of the coast thereof, and to demand the certificate of clearance and the victualling bill, and if there be any goods on board subject to duty and not duly entered outwards, such goods shall be re-landed and forfeited; and if any goods contained in such clearance or victualling bill be not on board, the master shall forfeit a sum not exceeding two hundred rupees for every package or parcel of goods contained in such clearance or victualling bill and not on board.

. . . .

PART XI

General Regulations

. . . .

116. It shall be lawful for the officers of customs to go on board any ship in any port or place in this Island, or hovering within one league of the coast thereof, and to rummage and search all parts of such ship for prohibited and uncustomed goods, and freely to stay on board such ship so long as she shall remain in such port or place or within such distance; and if any such ship shall be bound elsewhere, and shall continue so hovering for the space of twenty-four hours after the master shall have been required to depart, it shall be lawful for the officers of customs to bring such ship into port, and to search and examine her cargo, and to examine the master touching the cargo and voyage; and if there be any goods on board prohibited to be imported into this Island, and if the master shall not truly answer the questions which shall be demanded of him on such examination, he shall forfeit a sum not exceeding one thousand rupees.

. . . .

PART XII

Smuggling, Seizures, and Prosecutions Generally

. . . .

135. It shall be lawful for any officer of customs to go on board any ship which shall be within the limits of any port in this Island, and search any person on board, and it shall be lawful for him to search any person who shall have landed from any ship, or any person passing or having passed through the custom house, provided such officer shall have good reason to suppose that such person shall have any uncustomed or prohibited goods secreted about his person; and if any person shall obstruct any such officer in the performance of any such duty, every such person shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding one thousand rupees.

. . . .

138A.¹ (1) If any ship or boat which is liable to seizure or examination under this Ordinance, or which officers of customs are empowered by this Ordinance to board, shall not bring to when required so to do—

(a) The master of such ship or boat shall forfeit the sum of two hundred rupees; and

¹ This article has been added by the Customs (Amendment) Act No. 9 of 1949.

(b) It shall be lawful for the officer of customs having the charge or command of any vessel flying the Ceylon Customs Flag, having first caused a gun to be fired as a signal, to fire at or into such ship or boat; and such officer of customs or any other person acting in his aid or assistance or by his direction shall be and is hereby indemnified and discharged from any action or prosecution, whether civil or criminal, in respect of any act done in pursuance of the powers conferred by this section:

Provided, however, that the powers conferred on any officer of customs by the preceding provisions of this section shall not be exercised except in relation to a ship or boat which is for the time being within the territorial waters of Ceylon.

140.¹ In any information or other proceeding for any offence against this Ordinance or averment that such offence was committed within the limits of any port or of the territorial waters of Ceylon shall be sufficient, without proof of such limits, unless the contrary be proved.

(h) LIQUOR (ON BOARD HIS MAJESTY'S SHIPS) REGULATIONS ORDINANCE
OF 4 DECEMBER 1886²

2. It shall not be lawful for any person to take any spirituous or fermented liquor of any description on board any of His Majesty's ships or vessels in any part of the sea adjacent to the coast of this Island and within the territorial sovereignty of His Majesty, without the previous consent of the officer commanding the ship or vessel on board of which the same may be taken; and it shall be lawful for any officer in His Majesty's service, or warrant or petty officer of the navy, or non-commissioned officer of marines, with or without seamen or persons under his command, to search any boat or vessel hovering about or approaching, or which may have hovered about or approached, any of His Majesty's ships or vessels; and if any spirituous or fermented liquor be found on board such boat or vessel, to seize such spirituous or fermented liquor, and the same shall be forfeited to His Majesty and His successors; and if any person shall take any spirituous or fermented liquor on board any of His Majesty's ships or vessels without such previous consent as aforesaid, or shall approach or hover about any of His Majesty's ships or vessels for the purpose of taking any spirituous or fermented liquor on board the same, without such previous consent, or for the purpose of giving or selling without such previous consent, spirituous or fermented liquor to men in His Majesty's service, every such person shall, upon a summary conviction thereof before a Magistrate, pay a fine not exceeding one hundred rupees for every such act or offence; and it shall be lawful for any officer in His Majesty's service, or any such warrant or petty officer or non-commissioned officer as aforesaid, or for any police officer, with or without any warrant or other process, to apprehend or cause to be apprehended any such offender or person so acting and to bring him or cause him to be brought before any Magistrate, for the purpose of having the offender summarily convicted of the same.

¹ This article has been amended by the Customs (Amendment) Act No. 29 of 1952.

² *Legislative Enactments of Ceylon*, vol. VI, Revised 1938, p. 62. Text provided by the Minister for External Affairs of Ceylon.

Chile

(a) NAVIGATION ACT OF 3 JULY 1878 ¹

TITLE IV. CERTIFICATE OF SEAWORTHINESS AND CLEARANCE

Article 41. No Chilean vessel may sail for a foreign port unless previously certified as seaworthy.

This provision shall also apply to foreign vessels, in any case in which there is doubt of their seaworthiness, subject to the consent of the consul concerned, if any, who shall be given due notice of the fact.

Article 42. Sailing vessels engaged in the coastal service, whether Chilean or foreign, shall be inspected annually for the purpose of determining their seaworthiness and steam vessels every six months.

The craft referred to in article 27 of this Act shall be exempted from this provision.

Article 45. No vessel may sail from any port of the Republic until the clearance certificate, signed by the port authority, the crew list, the contract of employment issued by the office concerned, and, where appropriate, a certificate to the effect that the vessel has been inspected, have been produced to the maritime authorities.

Failure to comply with the provisions of this article shall be punishable by a fine of 200 to 500 pesos.

Article 46. Maritime health officers shall not issue health certificates unless the master of the Chilean or foreign vessel concerned produces the crew list, duly stamped by the national maritime authority or the consular agent concerned.

Article 47. Even where the above requirements have been satisfied, the maritime authority, after advising and obtaining the concurrence of the administrative authority, shall withhold the papers of any vessel which is badly loaded or which is thought, for good reason, likely to become a loss. In the event of disagreement, the final decision shall lie with the inspection board. The foregoing provision shall not apply to foreign vessels calling at Chilean ports or sailing direct to foreign ports.

If, on account of obvious improper loading or overloading, a vessel is wrecked or suffers any major disaster, the maritime authority responsible for allowing it to sail shall be held liable.

A master putting to sea against the order of the maritime authority shall be punishable by a sentence of rigorous imprisonment and barred henceforth from serving in any capacity in the Chilean marine.

Article 48. The maritime authority shall issue to all vessels satisfying the requirements of this title, a sailing permit, which shall be noted on the clearance certificate.

¹ *Leyes Promulgadas* 1810-1913, p. 429. Translation by the Secretariat of the United Nations.

TITLE IX. TRANSPORT OF MAIL

. . .

Article 108. The masters of Chilean and foreign vessels shall be required to deliver to the maritime authority, against a receipt, and at the time of the first entry, all correspondence and printed matter carried on board whether received in the course of coastal traffic or from abroad, consigned to points in the Republic. Only correspondence addressed to the charterer of the vessel itself, to a weight not exceeding 155 grammes, shall be exempted from the foregoing provision.

All members of the crew and the passengers are subject to the same requirement.

A person who contravenes the foregoing provisions shall be liable to a fine of four times the postage due on the mail concerned or to a fine of twenty-five pesos, if the amount of the postage is less than that sum.

Officers of the maritime authority shall not admit vessels to ports until the correspondence carried on board has been handed over.

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TITLE X. TRANSPORT OF PASSENGERS

Article 110. Sailing or steam vessels, whether Chilean or foreign, used for the transport of passengers between Chilean ports, shall not take on more passengers than may be accommodated with comfort in the cabin space available on board; and the maritime authorities, after advising and obtaining the concurrence of the port authorities, may prohibit the sailing of any such vessel which has embarked more passengers than are permitted under the regulations concerning space, safety, seaworthiness, comfort and other conditions.

Article 111. No merchant vessel, whether Chilean or foreign, may carry passengers on deck, whether to ports in Chile or abroad, unless there is arranged above the deck, at an appropriate height, an awning of wood or waterproof material to provide cover or shelter from inclement weather.

In the absence of any special agreement, the passengers shall receive the same rations as are received by members of the crew of ships of the Chilean Navy.

Article 112. Any Chilean vessel which carries passengers shall take on, in addition to the provisions for the crew, such water and food supplies as are considered necessary for the voyage, in view of the number and category of the passengers.

This provision shall also apply to foreign vessels carrying passengers between Chilean ports.

. . .

Article 114. Any Chilean or foreign vessel intended for the transport of passengers between Chilean ports shall carry on board, in good condition, a number of smaller boats, in the proportion of one boat to every forty persons who may be conveniently carried by the vessel, including both passengers and crew.

In no case shall the number of boats carried be less than two, and no vessel shall be required to carry more than ten. Where there are more than five boats, one shall be equipped as a lifeboat.

Each vessel shall also carry on board a fire-extinguisher and the necessary life-saving equipment.

. . .

Article 116. In any case in which the maritime authority considers it desirable, it may inspect any vessel engaged in the transport of passengers between Chilean ports, and the master of the vessel shall provide all facilities for such inspection, furnishing all the information which may be required of him regarding food supplies, water, condition of the boats, comfort of the passengers, etc.

Article 117. Whatever may be the nature of the voyage and the number of passengers aboard, the health authorities shall require the maritime authorities to prohibit the sailing of any vessel having on board persons suffering from contagious diseases.

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(b) CUSTOMS ORDINANCE OF 22 JULY 1953¹

PRELIMINARY TITLE

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4. *Zones of jurisdiction*

Article 22. The jurisdiction of each custom-house shall include two zones: a primary zone and a secondary zone.

The primary zone shall be the sea or land area in which maritime and land operations relating to the movement of goods are carried out and which is declared, for these purposes, to be a customs district, and every loading, unloading or admission of goods shall take place in the said district if it is to be regarded, subject to the satisfaction of the other prescribed conditions and formalities, as a lawful act of import, export, transit, transshipment, cabotage or customs operation of any other nature.

The secondary zone shall be that part of the territory and territorial waters which is assigned to the particular custom-house in the division of the territory into customs districts made by the General Customs Board for the purposes of the competence and obligations of each custom-house.

The General Customs Board, with the approval of the President of the Republic, may, in the secondary zones, establish frontier perimeters under special surveillance in which the presence and movement of goods shall be subject to the prohibitions and restrictions to be laid down for that purpose.

Persons who violate the said prohibitions and restrictions shall be held liable for a customs offence.

No customs authority or officer may intervene in the secondary maritime zone without the prior approval and consent of the maritime authority.

. . .

Article 26. It is hereby laid down, without prejudice to the powers of the maritime authority, that any vessel or other conveyance, its crew, passengers and cargo, shall, so long as the vessel or conveyance is present in the primary zone of jurisdiction, be subject to the authority of the custom-

¹ *Diario Oficial*, No. 22613, 3 August 1953, pp. 1718 *et seq.* Translation by the Secretariat of the United Nations.

house; the custom-house in question, shall, however, be answerable solely for the goods which it has inspected and definitively admitted.

The provisions of the preceding paragraph shall also apply to goods which are to be put aboard ship; such goods shall likewise be subject to the authority of the said custom-house until they are released from that custom-house with its proper authorization.

Article 31. The loading and unloading of ships' stores for warships, aircraft and troop transports belonging to foreign powers shall take place in accordance with the regulations to be made by the General Customs Board, with the approval of the President of the Republic, after prior consultation with the Ministry of National Defence.

BOOK II. ENTRY AND EXIT OF GOODS THROUGH CUSTOMS

Title I. Arrival at port and admission of vessels, trains and other conveyances

1. *Arrival and admission of vessels and other conveyances*

Article 87. All trains, beasts of burden, or conveyances which enter Chile from abroad, and all vessels of any kind and origin which stop at a port must, on arrival, be inspected by the director of the custom-house concerned, or by an officer designated by him for the purposes of the lawful admission of the train, conveyance or vessel in question; a refusal to submit to inspection shall be punishable as provided in this Ordinance.

Article 88. The maritime authority shall not grant a vessel "free pratique", even if the vessel has been admitted by the said authority and by the health authority, so long as the vessel has not also been admitted by the custom-house, after fulfilment of the obligations laid down for that purpose in the succeeding articles of this Title.

With the exception of the persons empowered by law or especially authorized by the director of the custom-house, no other person may board the vessel or disembark, so long as leave to land passengers and cargo has not been in conformity with this Ordinance.

In any case in which it should be necessary, the custom-house shall request the maritime authority to suspend the "free pratique".

Article 89. The director of the custom-house may order the closing and sealing of any compartments, holds or offices of a vessel that are thought to contain foreign merchandise, whether declared in the manifest or not, which might be sold to the public in port or landed clandestinely.

China

(a) PORT REGULATIONS, PROMULGATED BY THE NATIONAL GOVERNMENT ON 27 JUNE 1933, ENTERED INTO FORCE ON 1 JULY 1946¹

Article 1. For the purposes of the present regulations, "ports" shall mean those harbours within Chinese territory to which foreign merchant vessels are admitted.

¹ Text of Regulations provided by the Permanent Mission of China to the United Nations. Translation by the Secretariat of the United Nations.

Such ports shall be specifically designated by order of the National Government.

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Article 4.

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A vessel entering a port may request the maritime authorities of the port for the assignment of a pilot if such services are needed.

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Article 6. If obstacles to navigation such as newly-formed sand banks or hidden rocks have been encountered in the fairway, the captain of the vessel shall report the fact to the maritime authorities of the port immediately upon entry.

Article 7. The maritime authorities of a port shall regularly station special personnel at the entrance of the breakwater of the port so as to facilitate the assignment of berths to all vessels entering the port.

. . .

Article 17. A vessel may not load or unload cargoes or permit embarkation or disembarkation of passengers or crew except in the area designated by the maritime authorities of the port.

Article 18. Within the boundaries of a port, a vessel may not discharge firearms or fireworks or use explosives without the permission of the maritime authorities.

Article 19. Within the boundaries of a port, a vessel may not sound sirens or whistles except in compliance with the regulations for the prevention of collisions at sea or for purposes of warning or in other cases of necessity.

Article 20. A vessel may not discharge cinders, ashes, waste oil or other refuse within the boundaries of a port.

Article 21. Upon finding wreckage or flotsam within the boundaries of a port, the maritime authorities may order the owner of the vessel or the possessor of the object to remove such wreckage or flotsam within a specified time-limit. In case of non-compliance, the maritime authorities shall remove the wreckage or flotsam and charge the costs to the owner or possessor.

Article 22. When a fire breaks out in a vessel within the boundaries of a port, the vessel shall, in addition to sounding the fire alarm, hoist the fire signal flag, if in day time, and blue signal lights or blinking signal lights, if at night, until such time as help arrived.

Article 23. A vessel carrying explosives other than those included in regular equipment or other dangerous goods of an inflammable nature shall be anchored outside the port zone upon arrival and shall hoist signal flags in daytime and red signal lights atop the foremast at night.

Such a vessel may not enter the port zone without the special designation of a berth by the maritime authorities of the port and may not load or unload dangerous cargoes without authorization.

Article 24. If epidemic or contagious diseases are discovered aboard a vessel, or if a vessel comes from a contaminated port, the vessel concerned

shall hoist signal flags in daytime and signal lights consisting of one red and one white light atop the foremast at night. Upon arrival, such a vessel shall be anchored outside the port zone to await inspection by public health officials.

Persons from such a vessel shall not disembark or communicate with other vessels without the authorization of public health officials. The signals mentioned in the preceding paragraph may not be removed without permission.

A vessel which carries livestock or other animals suffering from infectious diseases or originating from contaminated localities may not unload such animals or their carcasses or transfer them to another vessel without authorization by public health officials.

Article 25. The maritime authorities of a port may designate special mooring areas for quarantined vessels and may examine the quarantine reports of such vessels.

Article 26. A vessel departing from a port shall hoist the departure signal flag and shall apply for a permit from the maritime authorities of the port. Scheduled liners and vessels with fixed departure dates may dispense with the application for a departure permit.

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Article 28.

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The vessel concerned shall not leave the port before payment of the fine or the posting of surety.

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(b) PROVISIONAL RULES GOVERNING THE ENTRY AND EXIT OF MERCHANT VESSELS AND CIVIL AIRCRAFT OF STATES HAVING NO DIPLOMATIC RELATIONS WITH THE REPUBLIC OF CHINA, APPROVED BY THE EXECUTIVE YUAN ON 15 DECEMBER 1950¹

Article 1. These Rules shall apply to merchant vessels and civil aircraft of States having no diplomatic relations with the Republic of China (hereinafter referred to as "these merchant vessels" and "these aircraft", respectively), on their entering and leaving the Chinese territorial sea and territorial air.

Article 2. These merchant vessels or aircraft shall be required to have special permits if they want to enter Chinese ports and Chinese territorial waters open to oversea trade and shipping, or to land on Chinese airports open to international civil aviation; the application for such permit shall be made by the companies or agents concerned to the proper authorities at the place where the entry or landing is to take place. Such special permits shall be valid for a period of six months, three months, or one month or for one entry only. With the exception of those valid for one entry, the permits shall take effect on the day of issuance, and renewal may be requested upon expiration.

¹ Text of Rules provided by the Permanent Mission of China to the United Nations. Translation by the Secretariat of the United Nations.

During the period of validity of the special permit, the vessel or aircraft in question may, subject to the conditions specified therein, make any number of entries into and departures from Chinese territory.

The proper authorities referred to in the first paragraph of this article shall be, in the case of merchant vessels, the navigation and shipping authorities of the particular locality; and, in the case of aircraft, the Civil Aeronautics Administration of the Ministry of Communications, or any other government offices designated by them. All cases dealt with by these offices shall be duly reported to the Ministry of Foreign Affairs, the Ministry of Finance and the Ministry of Communications.

Article 3. All persons aboard these merchant vessels or aircraft shall, while present in Chinese territory, be required to observe Chinese laws and orders and to obey instructions given by the proper authorities. Any person who fails to comply with this provision shall be subject to prosecution in accordance with law.

Article 4. Any matters not specifically provided for in these rules shall be governed by other rules and regulations relating to the same subject.

Article 5. Regulations for the implementation of these rules shall be made separately by the Ministry of Communications.

Article 6. These rules shall come into force on the date of approval by the Executive Yuan.

(c) REGULATIONS FOR THE IMPLEMENTATION OF THE PROVISIONAL RULES GOVERNING THE ENTRY AND EXIT OF MERCHANT VESSELS OF STATES HAVING NO DIPLOMATIC RELATIONS WITH THE REPUBLIC OF CHINA, AMENDED AND APPROVED BY THE EXECUTIVE YUAN ON 24 JULY 1952, AND PROMULGATED BY THE MINISTRY OF COMMUNICATIONS ON 31 JULY 1952¹

Article 1. These Regulations are made pursuant to article 5 of the "Provisional Rules Governing the Entry and Exit of Merchant Vessels and Civil Aircraft of States Having No Diplomatic Relations with China".

Article 2. Merchant vessels of States having no diplomatic relations with China (hereinafter referred to as "these merchant vessels") may apply to the competent navigation and shipping authorities, in the manner presented in these regulations, for "special permits provisionally issued to merchant vessels of countries having no diplomatic relations with China" (hereinafter referred to as "special permits") through the responsible officials of their companies or their agents, for the purpose of entering and leaving Chinese ports and territorial waters open to overseas trade and shipping.

(d) CUSTOMS PREVENTIVE LAW OF 19 JUNE 1934²

The following is the authorised English version of the Customs Preventive Law, which was promulgated on 19th June 1934:

Article 9. Any vessel engaged in international trade entering any port of China not open to such trade shall be confiscated, and the master thereof

¹ Text of Regulations provided by the Permanent Mission of China to the United Nations. Translation by the Secretariat of the United Nations.

² China, *Code of Customs Regulations and Procedure*, Second Edition, Shanghai, Statistical Department of the Inspectorate General of Customs, 1935, p. 248.

shall be liable to a fine not exceeding \$2,000, but not less than \$500. Should, however, the entry of a vessel at an unauthorised place be due to reasons of distress or other unavoidable circumstances, which are duly notified by the master of the vessel to the local authorities at the place of entry, the penalties herein prescribed may be waived.

Article 10. Should any vessel, within the limit of 12 marine miles from the coast of China, refuse to heave to when called upon to do so by a Customs preventive vessel through the firing of a rifle or gun as signal, such vessel may be fired upon by the Customs vessel.

The master of a vessel refusing to heave to under the above circumstances shall be fined a sum not exceeding \$2,000, and the vessel shall be liable to confiscation.

Article 11. Should any vessel, within or pursued from within the limit of 12 marine miles from the coast of China, be found to have any part of her cargo, or any of her documents relating to the vessel or cargo, either destroyed or thrown overboard in order to prevent seizure, the offender shall be fined a sum not exceeding \$2,000, and the vessel shall be liable to confiscation.

Article 12. Should the master of any vessel bound for China from a foreign port allow any merchandise or ship's stores to be discharged within the limit of 12 marine miles from the coast of China before arrival at the proper place of discharge and before receipt of a Permit to Discharge, he shall be fined a sum not less than the value and not exceeding twice the value of the goods or stores thus discharged, and the merchandise or stores concerned and/or the vessel shall be liable to confiscation.

The aforesaid penalties shall be likewise applicable to any vessel unauthorisedly used for transshipping, placing, or receiving on board such merchandise or stores, or for assisting in the loading and discharge thereof.

Note. Paragraph 6 of Chapter XXXII of the Chinese Code of Customs Regulations and Procedure (Second Edition, Shanghai, 1935, p. 282) provides:

“For the protection of the revenue the Chinese Government claims the right of exercising preventive measures at sea within a limit of 12 marine miles measured at low-water mark from China's coast-line, which includes dependent islands and banks. Should a vessel, or some one on board her, while within this 12-mile limit commit an infraction of China's revenue laws—such as refusing to heave to, after due warning, for Customs search—such vessel may be pursued into the open seas and there arrested.”

Colombia

CUSTOMS LAW No. 79 OF 19 JUNE 1931¹

Article 91. A vessel arriving at a Colombian port shall be boarded by the sanitary authorities and proper customs officials at any time after

¹ *Leyes expedidas por el Congreso Nacional en su Legislature de 1931, Sesiones Extraordinarias, 2nd Edition, 1945. Translation by the Secretariat of the United Nations.*

entering Colombian territorial waters, and immediately on entering the customs zone unless it does so after the hours established by law for the entry of ships. The regulations may, however, with the approval of the Department of Public Health, allow vessels having a medical officer on board to be brought alongside a pier if there is one at the port. When so required by the regulations, the boarding party shall be accompanied by the immigration authorities and a representative of the postal service, to whom shall be delivered all mail for the port carried by the vessel. The shipping company's agent or his representative may likewise accompany the boarding party.

. . .

Article 192. If a vessel is wrecked in territorial waters or an aircraft is wrecked in the territory of the Republic, the Director of the Customs District in which the accident has occurred shall render all possible assistance in saving the crew, passengers and cargo and shall take possession of any cargo salvaged and prepare an inventory thereof in proper form.

. . .

Article 195. If the owner of any vessel or aircraft wrecked in the territory of the Republic or its territorial waters wishes to export or re-export salvaged cargo, he may do so by leave of the Director of Customs given in conformity with the regulations.

. . .

Article 363. Customs or coastguard officials and persons thereunto authorized by the Director-General of Customs or for this purpose appointed in writing by any customs administrator, may, at any time, board any vessel, vehicle or aircraft present in the territory of the Republic or in its territorial waters up to a distance of twenty kilometres from the coast, whether inside or outside the districts of the said officials, for the purpose of examining the manifest and carrying out a careful search and inspection of the vessel, vehicle or aircraft, and each and every part thereof, as well as of the persons, baggage or packages on board. For this purpose they may order the vessel, vehicle or aircraft to be stopped, if it is in motion, and may use such force as may be necessary to secure compliance with the order. If it should appear that the laws of the Republic have been violated in some way which renders the vessel, vehicle or aircraft or all or part of the goods on board liable to confiscation, it shall be the duty of the said officials to carry out such confiscation and to arrest, or, in case of flight or attempted flight, to pursue and arrest, any person liable for the violation.

. . .

Article 367. If, in the case of a vessel or aircraft coming from a foreign port or place, the master of the vessel or person in command of the aircraft permits goods to be unloaded from his vessel or aircraft after it has reached a point twenty kilometres from the Colombian coast and before he has received permission, in conformity with law, to unload such goods, or if the master of a vessel or person in command of an aircraft takes on board, without being thereunto authorized, goods subject to export duties, then such master or person in command shall be liable to a fine amounting to twice the value of the goods, though not less than 1,000 pesos (\$1,000) in

any case, the goods being liable to confiscation. Nevertheless, if part of the cargo of a vessel or aircraft is unloaded, jettisoned or transhipped as the result of an accident, storm or other fortuitous circumstances, the master of the vessel or the person in command of the aircraft shall as soon as possible inform the administrator of the first customs district reached, and shall submit evidence to show that the goods were discharged, jettisoned or transhipped as the result of an accident, storm or fortuitous circumstance; in these circumstances, provided the administrator is satisfied that the evidence submitted shows good and proper cause, the aforesaid fines shall not be applicable.

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Cuba

(a) CUSTOMS REGULATIONS OF 22 JUNE 1901¹

. . .

Article 9. Customs officers are authorized to board vessels bound for the Island of Cuba, whether in port or within four leagues of the coast; to demand manifests or make search and examine any or all parts of the vessel; to seal and take account of any packages found separated from the residue of the cargo; but in the case of foreign vessels protected by treaty, notice of an intended search must be given to the proper foreign consul.

. . .

Article 64. In order to secure the collection of the legal duties the custom houses shall exercise surveillance over the coast, beginning with the moment when a vessel enters the jurisdictional waters of the Island of Cuba and concluding when the merchandise imported therein has been legally passed through the custom houses, except that in case of justifiable suspicion of fraud said merchandise may be followed in its transportation by coasting vessels, by railroad or by any other means or in any other way by land or water, from one point of the Island to another, in which case a new examination shall be made and proof required of the payment of the proper duties at the custom house of arrival.

The jurisdictional waters of Cuba extend to four leagues from the coasts of the Island or from the keys belonging to it.

. . .

Article 79. The master of every vessel bound to a port of Cuba must, on arrival within four leagues of the coast or within the limits of any collection district in which the cargo or any part thereof is intended to be unladen, produce the manifest for inspection to any officer of the customs who may first come on board the vessel, and deliver to him a copy thereof subscribed by him.

The officer, after the requisite examination and comparison of the original and copy, shall certify on the original to its production, and on the copy

¹ *Colección Legislativa*, 1901, vol. 2, p. 91; J. F. Vizcaino y Ortiz, *Ordenanzas de Aduanas* (Habana, 1947), pp. 36, 127, 176, 719. Translation from *Headquarters Department of Cuba, Civil Orders and Circulars, 1901 (Civil Report of Military Governor, vol. 2)*. See also: United Nations *Legislative Series, Laws and Regulations on the Régime of the High Seas*, vol. I, 1951, p. 64.

to the fact of its agreement with the original, and shall forthwith transmit such copy or copies to the collector of the district to which the merchandise may be consigned.

Article 244. It shall be the duty of officers of revenue vessels, whenever possible, to board vessels arriving within the waters of the Island of Cuba or within four leagues of the coast thereof if bound for Cuba, to search and examine the same, to demand, receive, and certify the manifests required of them by law, to seal the hatches and other communications with the cargo, and where necessary, to place an officer on board to remain until arrival at the port of destination.

(b) LEGISLATIVE DECREE NO. 1942 OF 25 JANUARY 1955¹

Article 1. The Navy shall be responsible for dealing with applications for, and for initiating, processing, settling and giving effect to documents relating to, temporary concessions for the purpose of works, structures and installations of a non-permanent character in the maritime and coastal zone on any part of the coast, beaches, harbours and the mouths and banks of navigable rivers.

The Chief of the Naval General Staff shall have authority to issue permits in respect of the temporary concessions aforesaid for a period not exceeding six months, and such permits shall be deemed to be valid. Permits for a period not exceeding one year shall be issued through the same channels but shall be referred to the President of the Republic. Any such provisional permit shall be subject to the condition that masonry works are not erected which, after the expiry of the twelve months, will hamper the free use of the area in the maritime and coastal zone.

Article 2. The Navy shall be responsible for dealing with applications for concessions in the coastal and inland reaches of rivers, up to the point to which the rivers are navigable.

Article 3. The Navy shall deal with applications for, and shall initiate and process documents relating to, permanent concessions for the purpose of works, structures and installations of a permanent character in the maritime or coastal zone on any part of the coast, beaches, harbours and the mouths and banks of navigable rivers.

If in a particular case with which he is concerned under the two foregoing articles the Chief of the Naval General Staff considers it necessary, in conformity with the principles set forth in other statutory provisions and in the Harbours Act and the regulations made under the said Act, to obtain reports from State, provincial or municipal bodies, he shall transmit the documents in the case to the said bodies; upon the completion of the formalities the file of documents must be submitted to the President of the Republic for consideration and approval, and, if the President considers that the concession in question should be granted, the grant shall be embodied in a Presidential Decree.

¹ Text of Decree provided by the Permanent Mission of Cuba to the United Nations. Translation by the Secretariat of the United Nations.

Article 4. Concessions relating to forest products, the working of sea salt, maritime and river sand, or to fishing, do not come within the authority of the Navy.

. . .

Article 12. For the purposes of this Legislative Decree, the territorial sea or jurisdictional waters of Cuba extend to the distance specified in article 64 of the Customs Ordinances now in force.

- (c) ORGANIC LAW OF THE NAVY (LEGISLATIVE DECREE No. 1459 OF 1954, AS AMENDED BY LEGISLATIVE DECREE No. 2033 OF 1955) ¹

CHAPTER II

Function of the Navy

Article 3. It is the function of the Navy:

. . .

(8) To take enforcement action to deal with any contraventions of Acts, Decrees and Regulations which are committed in territorial waters and to guard the maritime frontiers and coasts of Cuba.

. . .

- (d) DECREE No. 725 OF 10 MARCH 1942. THE NAVY. MARITIME TERRESTRIAL ZONE. SPECIAL PERMIT FOR BRINGING TO THE SURFACE MATERIAL OR IRON OBJECTS IN THE TERRITORIAL WATERS OF THE REPUBLIC ²

1. Any individual or corporation desiring to bring to the surface of the jurisdictional waters of the Republic or the terrestrial maritime zone iron material or objects consisting of wrecked ships or vessels or of parts thereof, or of portions or fittings therefrom, or separate material of such kind in any form whatsoever, must apply to the Chief of the Naval Staff for a permit, to be granted by the President of the Republic after due inquiry and decision concerning the source of the application and after consideration of the action taken by the Naval Staff thereon. Concessions and authorizations of such nature obtained in virtue of a statutory provision before the date of this Decree shall henceforth be valid only if ratified in the form and according to the procedure aforesaid.

Note. See also: Organic Law of the Army and Navy, approved by Decree-Law No. 7 of 27 January 1942, article 36 (*supra*, Chapter I, under Cuba (a)); and Decree No. 335 of 10 February 1942 (*supra*, Chapter I, under Cuba (b)).

¹ Text of Law provided by the Permanent Mission of Cuba to the United Nations. Translation by the Secretariat of the United Nations.

² *La Jurisprudencia al Día*, 1942, p. 471. Translation by the Secretariat of the United Nations.

Denmark

(a) PILOTAGE ACT No. 131 OF 17 APRIL 1916¹, AS AMENDED BY ACT
No. 201 OF 11 JUNE 1954²

Article 11. Pilotage shall ordinarily not be compulsory in Danish waters unless in the interest of general shipping and communications it appears that a canal, dredged channel, harbour or a particularly difficult or narrow fairway should be navigated with more than ordinary care or skill. The Minister may in such cases require vessels to be piloted in those areas to such extent as may appear necessary.

The Minister may make pilotage temporarily compulsory even though the conditions mentioned in the first paragraph of this article are not present if such action is absolutely essential in the interest of the State. During such time as pilotage in any waters is compulsory as herein provided, the cost of pilotage etc. in such waters shall be defrayed wholly or in part by the Treasury as the Minister may direct.

Article 12. Save as otherwise provided by international agreement, no ship wishing to be piloted may engage any person other than a Danish licensed pilot for pilotage in Danish ports or the Danish territorial sea.

No ship of Danish nationality wishing to be piloted may, even though it is outside the Danish territorial sea, engage any person other than a Danish licensed pilot for pilotage:

(a) In the Great Belt, Little Belt and Sound, including all adjacent inlets, bays and sounds, but excluding the areas belonging to the territorial sea of a foreign State (cf., however, first paragraph);

(b) From a Danish port or an area of the Danish territorial sea to another Danish port or area of the Danish territorial sea without an intermediate stop at a foreign port or passage through the territorial sea of a foreign State (cf., however, first paragraph); or

(c) From the Danish territorial sea en route to the North Sea or the Baltic Sea without an intermediate stop at a foreign port or passage through the territorial sea of a foreign State (cf., however, first paragraph).

A ship wishing to engage a Danish pilot in any case not provided for in the first or second paragraph may engage a licensed pilot as aforesaid only if he is duly authorized to provide pilotage in the waters concerned.

If no pilot appears after a ship has requested a pilot in the prescribed manner (cf. article 20), the master of the ship shall be free to engage as emergency pilot any person knowing the waters, for such fee as may be agreed upon with that person.

Article 44. All measures for the guidance of navigation in Danish waters shall be subject to the supervision of the Minister of Defence. The Minister shall determine the manner in which and the organs of the Ministry of Defence by which such supervision shall be exercised.

¹ *Danmarks Love* 1665-1946, p. 515. Translation by the Secretariat of the United Nations.

² Denmark, *Lovtidende A*, 1954, pp. 428 *et seq.* Translation by the Secretariat of the United Nations.

Article 46. Without the permission or approval of the Ministry of Defence or of an authority authorized by the Minister of Defence for the purpose, it shall be unlawful to mark off waters, as by setting out sea-marks or setting up lights, radio beacons, fog signals, ordinary beacons or other navigation devices; to place objects in navigable waters which may hamper navigation, to set up illuminated advertisements or the like which may constitute a source of confusion to navigation.

(b) ACT No. 118 OF 28 MARCH 1951

CONCERNING MEASURES FOR THE SAFETY OF NAVIGATION ¹

Article 5. The precautions to be taken on board Danish ships for the avoidance of collisions and for protection against dangers to navigation, and also the day and night signals to be used in case of distress at sea shall be prescribed by Royal Order. Such Order shall also determine the extent to which the provisions of the Order shall be applicable to foreign ships in the Danish territorial sea.

The signals or signs thus prescribed shall not be used for any purpose other than that prescribed. No private distinguishing marks for ships or private signals (such as flag, light-signals or sound-signals) may be used without prior authorization from the Ministry of Trade, Industry and Navigation.

The Minister of Trade, Industry and Navigation may, after consultation with the Minister of Defence make regulations for the maintenance of order and the prevention of danger in Danish waters, including regulations on the measures to be taken to prevent the obstruction of free navigation. ²

(c) NOTICE OF 1 FEBRUARY 1955 RELATING TO NAVIGATION INSIDE ARSUK FIORD, GREENLAND ³

Article 1. (1) All non-military ships and vessels shall be prohibited from navigating; or anchoring anywhere in Arsuk Fiord east of a line

¹ Supplement, 1951, to *Karnous Lousamling*, 4th edition, 1948, Copenhagen, pp. 3529-30. Translation by the Secretariat of the United Nations.

² The power thus given to the Minister of Trade whereby, after consultation with the Minister of Defence, he may make regulations for the maintenance of order and the prevention of danger in Danish waters is clearly intended in the first place to enable regulations to be imposed on shipping—both Danish and foreign—as regards navigation in Danish waters. The provision is nevertheless also intended to provide the necessary authority to make other regulations on order and safety with regard, for example, to such matters as the limits for the placing of seines off the coast. As, however, a number of civil agencies concerned with navigation—and consequently the fields in which they exercise supervision over navigation in Danish waters—come under the Minister of Defence as provided in article 16 of the Defence Arrangements Act (No. 242) of 27 May 1950, matters concerning such agencies must be cleared with the Minister of Defence. Thus, the power here granted the Minister of Trade may be exercised only after due consultation with the Minister of Defence.

³ Office of the Prime Minister, Greenland Department. Proclamations etc. relating to Greenland. *Afsnit* (Section) 24, *Gruppe* (Group) 6, 1b nr. 1. 5 January 1955. Translation by the Secretariat of the United Nations.

running from Nuluk light (61° 13' 48" N, 48° 11' 52" W) to the most easterly anchorage beacon at Ivigtut (61° 12' 35" N, 48° 09' 45" W), unless prior authorization has been obtained from the Greenland Command (Grønnedal Naval Station).

(2) The Greenland Command (Grønnedal Naval Station) shall be authorized to order off, or, if necessary, to seize ships and vessels which fail to comply with this regulation or with the Greenland Command's instructions on navigation and anchoring in the area designated in article 1.

(3) Any inward-bound ship or vessel passing Kamigtalik Point shall as far as possible answer the signal from the Naval Station, giving its name, home port and destination.

. . .

(d) CUSTOMS ACT No. 171 OF 11 MAY 1928 ¹

Article 48.

. . .

4. Any vessel under 120 net tons which within the territorial limits (one nautical mile or four *kvartmil*) ² is found to be carrying on board goods of the type mentioned in paragraph 1 the customs duties on which amount to not less than 200 kroner shall be considered to be attempting to engage in smuggling unless there is strong evidence that the vessel is not being used for such purpose.

(e) CUSTOMS REGULATIONS OF 1 FEBRUARY 1797 ³

. . .

Article 137. A vessel, whether bound for Denmark or a foreign country, shall be subject to the supervision of the Customs Administration as soon as it anchors off the coast of the Kingdom or approaches within such distance of that coast that such supervision can be exercised; and if a Danish Customs officer signifies his desire to go on board, he shall not be prevented or hindered from doing so, but the master and crew of the vessel shall, especially when the Customs officer has identified himself by showing his Customs flag or badge, stop the vessel and render him all necessary assistance for the aforesaid purpose, and give him any information in respect of the vessel and its cargo which he in his capacity as a Customs officer may request, subject in all cases to the penalties prescribed by Part 1, Articles 90-95, of this Order.

. . .

(f) ROYAL DECREE No. 234 OF 9 SEPTEMBER 1927 ON MEASURES TO PREVENT SMUGGLING ⁴

In pursuance of Article 1, first paragraph, of Act No. 275 of 13 November 1926 respecting measures for the prevention of smuggling etc., and in

¹ *Danmarks Love* 1669, p. 946; translation by the Secretariat of the United Nations.

² *kvartmil* equals one quarter of the old Danish long mile.

³ *Ibid.*, 1665-1946, p. 42. Translation by the Secretariat of the United Nations.

⁴ Denmark, *Lovtidende A*, July-December 1927, No. 37, 13 September 1927, p. 1312. Translation by the Secretariat of the United Nations.

connexion with Royal Order No. 281 of 17 November 1926, it is hereby decreed that the provisions of the Customs laws relating to the carriage of goods by sea etc. and the penal provisions issued in connexion therewith, including the provisions of Article 48, fourth paragraph, of the Customs Act of 29 March 1924, shall henceforth apply not only to vessels of Danish, Estonian, Finnish, Latvian, Norwegian and Swedish nationality, but also to vessels of Polish, Danzig and German nationality within the areas and to the extent specified in Article 9 of the Convention for the Suppression of the Contraband Traffic in Alcoholic Liquors and the Final Protocol thereof, signed at Helsinki on 19 August 1925, ratified by Denmark on 23 April 1926, and promulgated by a Ministry of Finance Notice of 20 May 1926 (cf. Ministry of Finance Notice of 8 September 1927 respecting the accession of various countries to the said Convention).

(g) ROYAL DECREE NO. 219 OF 4 DECEMBER 1929 ON MEASURES TO PREVENT SMUGGLING ¹

In pursuance of Article 1, paragraph 1, of Act No. 275 of 13 November 1926 on measures to prevent smuggling etc., and in connexion with Royal Order No. 281 of 17 November 1926, Royal Order No. 234 of 9 September 1927, and Royal Order No. 181 of 25 August 1929, it is hereby provided that the rules of customs law relating to the carriage of goods by sea etc. and the penal provisions connected therewith, and the provisions of the Customs Act of 29 March 1924, Article 48, paragraph 4, shall henceforth apply to ships of Russian nationality—in addition to ships of Danish, Estonian, Finnish, Latvian, Norwegian, Swedish, Polish, Danzig, German and Lithuanian nationality—in the areas and to the extent laid down by Article 9 of the Convention for the suppression of the contraband traffic in alcoholic liquors and the Final Protocol thereto, signed at Helsingfors on 19 August 1925 and ratified by Denmark on 23 April 1926, and notified by a Finance Ministry notification of 20 May 1926 (cf. Finance Ministry notifications of 8 September 1927, 22 August 1929 and 3 December 1929 on the accession of foreign countries to the said Convention).

(h) ACT NO. 219 OF 1 JULY 1955 RESPECTING MEASURES TO PREVENT SMUGGLING, ETC. ²

Article 1. (1) Pursuant to the Convention for the Suppression of the Contraband Traffic in Alcoholic Liquors, signed at Helsinki on 19 August 1925, a Royal Order may be made for the purpose of applying the customs legislation as it relates to the carriage of goods by sea, etc., and the relevant penal provisions (including the provisions of article 48, paragraph (4), of the Customs Act of 29 March 1924) to Danish and foreign vessels within the areas and to the extent specified in the said Convention, in which the expression "twelve nautical miles" (*sømil*) shall be understood to mean twelve Danish quarter-miles (*kvartmil*).

(2) A Royal Order may be made for the purpose of providing that customs officers of a foreign State with which an agreement has been

¹ *Dansk Lovsamling*, 1929, p. 297. Translation by the Secretariat of the United Nations.

² *Lovtidende A*, 1955, pp. 620 *et seq.* Translation by the Secretariat of the United Nations.

concluded concerning the joint control of certain waters for the suppression of the illegal import of alcoholic liquors shall, when carrying out their duties in such portions of the Danish customs area as are covered by the agreement, including the enlarged Customs zone referred to in paragraph (1) of this article, possess the same authority and enjoy the same legal protection as Danish customs officers.

Article 5. This Act, which shall not apply to the Faroe Islands, shall enter into force forthwith.

Dominican Republic

(a) MEANS OF COMMUNICATION ACT NO. 1474 OF 22 FEBRUARY 1938,
AS AMENDED BY ACT NO. 42 OF 21 DECEMBER 1938 ¹

TITLE I. GENERAL PROVISIONS

Chapter I. Means of Communication

Article 1. This Act shall apply to the following means of communication:

(a) The territorial sea, the extent and limits of which shall be those laid down in statute and by international usage and treaties;

Chapter III. Utilization and Exploitation of Sea Routes and Inland Waterways

Article 54. The planning, designing, construction, installation, repair and improvement of ports and of all other structures erected in or on sea routes and inland waterways shall be carried out by the State Department of Communications and Public Works, in so far as the operations in question do not form the subject of a concession or licence authorizing a private person, or a municipal authority or the District of Santo Domingo to carry out the work.

Article 55. The policing of the ports shall be governed by the relevant laws and regulations.

Article 56. The ports are the property of the State and shall be reserved for public use.

Article 57. No person shall have the right to erect any structures whatsoever in the territorial sea, or in the sea routes and inland waterways, or on the strips of land bordering on the same, except as authorized by the provisions of Title I of the Finance Act No. 1113 of 3 May 1929.

(b) LAW NO. 55 OF 27 DECEMBER 1938 DECLARING LAS CALDERAS BAY
TO BE A NAVAL AND AIR STATION ²

Article 1. Las Calderas Bay, situated on the southern coast of the territory of the Republic, between Calderas and Matasola headlands, at lat.

¹ Text of Acts provided by the Secretariat of State for External Relations of the Dominican Republic. Translation by the Secretariat of the United Nations.

² *Gaceta Oficial*, No. 5260, 30 December 1938; *Colección de Leyes, Decretos y Resoluciones*, 1938, vol. 1, p. 648. Translation by the Secretariat of the United Nations. See also *United Nations Legislative Series, Laws and Regulations on the Régime of the High Seas*, vol. 1, 1951, p. 66.

18°13'23" N and long. 70°31'32" W, is declared to be a naval and air station and is destined for use as a base for units of the Dominican Navy and for military aircraft.

Article 3. The whole area of the bay between the points mentioned, together with the territorial waters over an area extending three leagues out to sea from the outermost coastal point or from the low-water mark at that point, is declared a military area; consequently, with the exceptions stated below, national or foreign sailing or power-driven merchant ships and aircraft as well as foreign warships and military aircraft, may not enter these territorial waters without authorization from the Chief of the General Staff.

A law shall be issued to delimit the military area upon land.

Article 4. Nevertheless, national and foreign merchant ships shall not be prevented from entering or passing through the territorial waters, nor stopped for inspection if it is evident from their course, distance from land and other indications that they are making for a port in the Republic.

Nevertheless, the right of search shall be exercised within the territorial waters when information has been received that a vessel that has been sighted is similar in appearance to a vessel the particulars of which are known and concerning which orders have been received to watch or inspect it.

(c) HARBOUR AND COASTAL POLICE ACT No. 3003 OF 1951¹

Article 4. Harbour-masters (*Commandantes de Puerto*) are officials of the Judicial Police. In that capacity they shall, in the event of any crime or offence committed on board a Dominican or foreign merchant vessel, whether in a port or in the territorial waters of the Republic, report the circumstances to the ordinary courts, this action to be without prejudice to whatever action may be taken by other officials of the Judicial Police. A copy of the report and its supporting documents shall be sent to the Secretary of State for War, Marine and Aviation for information.

(a) In the event of a crime or offence committed on board a warship, the harbour-master concerned shall not go on board but shall instead prepare a report setting forth the facts which have come to his notice; this report shall be transmitted to the said Secretary of State for information.

Ecuador

MARITIME POLICE CODE, PROMULGATED BY DECREE No. 765 OF 9 AUGUST 1944²

TITLE I

MARITIME POLICING: JURISDICTION AND COMPETENCE

Section II

Article 18. The right of maritime policing extends to the territorial sea and foreshores specified in articles 582 and 583 of the Civil Code, and in

¹ Text of Act provided by the Secretariat of State for External Relations of the Dominican Republic. Translation by the Secretariat of the United Nations.

² Text of Code provided by the Permanent Mission of Ecuador to the United Nations. Translation by the Secretariat of the United Nations.

addition to all internal waters of the gulfs, bays, inlets, channels and canals of the Republic on the mainland, and to the internal waters of the Galapagos (Colon) Archipelago.

. . .
TITLE III. FORESHORES AND BAY AREAS

Section I. General Provisions

Article 80. Foreshores as far as the high water mark on their natural slope, whether gradual or abrupt, rivers and large lakes, as well as the zone of the sea within the policing limit (12 nautical miles), belong to the national domain, for the purposes of the regulation of their use and the application of fiscal laws, and accordingly no part of a foreshore or bay, above or below the water, may be permanently occupied without the due authorization from the Ministry of National Defence, to be applied for through the competent port authority.

. . .

Article 97. It is unlawful within the territorial sea for any vessel, Ecuadorian or foreign, to carry out hydrographic or topographical surveys of any part of the sea or foreshore without due authorization. Consequently, soundings may not be taken except along regular shipping lanes, and there only when necessary for the vessel's safe navigation.

. . .
Section II. Fishing and maritime hunting

Article 99. Within the waters subject to maritime policing and the fishing regulations, fishing and maritime hunting shall be reserved to Ecuadorian nationals who have registered in conformity with this enactment or such other persons as have obtained the licence presented by Ecuadorian legislation.

. . .
TITLE V. MARITIME TRAFFIC

. . .
Section III. River and Coastal Shipping

Article 187. In the matter of position or guide lights, the use of foghorns and steering manoeuvres when there is danger of collision, vessels of Ecuadorian nationality everywhere and vessels of foreign nationality in waters under Ecuadorian jurisdiction shall conform to the international regulations for the prevention of collision at sea approved by Great Britain and modified by the London Chamber of Commerce in 1937.

. . .
TITLE VII. VIOLATIONS AND PROCEDURE

Section I. General Provisions

. . .

Article 353. The authority competent to try and decide cases involving offences against this Code shall be the port authority within whose jurisdiction the particular offence was committed.

FINAL TITLE. TRANSITIONAL PROVISIONS

Article 392. The maritime authorities shall make no public announcement of the arrival in, or departure from, port of a merchant vessel or warship of an Allied country or of a country friendly to the Allies.

El Salvador*(a)* NAVIGATION AND MARITIME ACT OF 27 OCTOBER 1933 ¹

Article 2. National dominion shall extend over salt lakes, coves and bays as well as over the adjacent open sea, up to a distance of one marine league measured from the low-water mark; but the right of police, in matters related to the security of the country and to the observance of fiscal laws, extends up to a distance of four marine leagues measured in the same manner.

Article 16. Each commandant and port captain shall make effective the right of police which belongs to the nation with respect to the four marine leagues mentioned in Article 2, within the limits marked by prolongations of lines which delimit their respective departments.

Article 217. Any vessel which navigates in the waters of the Republic shall be liable to search regardless of its nationality or status. Warships and vessels carrying foodstuffs or supplies for warship shall be exempted from this rule unless they are also carrying general merchandise.

Article 241. If a person commits a non-political offence while on board a vessel in the waters of El Salvador, he shall be tried under the laws of El Salvador, and the master of the vessel shall be bound to surrender him immediately upon receiving a request for his surrender from the authorities. Similarly, any person who is a fugitive from justice and who has taken refuge on the vessel shall be surrendered. This provision shall not apply to any person who commits an offence on board a foreign warship and who is a member of the crew or of the armed forces.

(b) MARINE ADMINISTRATIVE REGULATIONS OF 27 OCTOBER 1933 ²

TITLE III

Navigation

Article 33. While a vessel, whether a sailing or steam-propelled vessel, is navigating or anchored or moored in the territorial sea the captain or

¹ *Diario Oficial*, No. 254, 16 November 1933, p. 2373. Text of Articles 217 and 241 provided by the Ministry of Foreign Affairs of El Salvador. Translation by the Secretariat of the United Nations. See also: *United Nations Legislative Series, Laws and Regulations on the Régime of the High Seas*, vol. I, 1951, p. 71.

² Text of Regulations provided by the Ministry of Foreign Affairs of El Salvador. Translation by the Secretariat of the United Nations.

master of the vessel shall be under a duty to ensure that it does not obstruct traffic or cause damage to other vessels, or to the coastal defence works, piers, buoys, signals or other aids to navigation, and to take proper precautions against rats.

. . .

Article 43. It shall be unlawful to engage in fishing or hunting within the limits of ports, and it shall only be lawful to engage in fishing and hunting outside ports if the express permission of the maritime authorities has been obtained.

. . .

Article 51. If a vessel runs aground in territorial waters at any point within the limits of a port, the master or pilot of the vessel shall be under a duty to display in a conspicuous position the internationally recognized signal for a stranded vessel, *viz*: three black balls placed in a vertical position not less than one metre apart, and by night, three circular red lights at the same distance apart, and he shall notify the maritime and customs authorities forthwith.

. . .

TITLE IV

Assistance and salvage in case of shipwreck

. . .

Article 75. If a vessel suffers shipwreck in Salvadorian waters it may be removed by its owner, subject to prior authorization by the Ministry of Marine; the operation shall be carried out under the supervision of the competent maritime authority which shall, if the operation is capable of affecting navigable channels, prescribe the conditions to be observed.

If the Ministry of Marine considers such action proper it shall, either directly or through the port authority, request the agent, owner or representative of a vessel which has suffered shipwreck in Salvadorian waters to arrange for the removal of the same within a time limit and in the manner to be specified by the Ministry in each particular case.

. . .

Article 84. Any person who is required to remove a vessel or any articles or objects whatsoever that are lying in territorial waters shall give the maritime authority advance notice of the operation, so that the authority may, if it considers such action advisable, supervise and direct the operation.

. . .

TITLE VI

Registration of vessels

. . .

Article 119. In the territorial sea, fishing shall be reserved to nationals of and aliens resident in El Salvador, but in the maritime areas and rivers which are open to public use fishing may be carried on without restriction during the seasons specified in the relevant regulations, provided that the permission of the competent authority has been obtained.

The maritime authority shall be responsible for enforcing strict compliance with the regulations relating to fisheries which are enacted by the Executive Power.

(e) CIVIL CODE OF 1860

. . .

TITLE III

*Property of the State*¹

. . .

Article 578. The ownership of newly formed islands in the territorial sea, or in rivers and lakes which are navigable by vessels of over 100 tons, shall vest in the State.

. . .

Article 585. Neither Salvadorian nor foreign vessels shall put in at or approach any place on the shore which is not by statute designated as a port, an exception being permissible in case of necessity such as imminent peril of shipwreck or capture or like compelling circumstance; if the captain or master of a vessel contravenes this rule in circumstances not covered by the exception he shall be liable to the penalties prescribed by the relevant legislative provisions and ordinances.

Shipwrecked persons shall have free access to the shore and shall be assisted by the local authorities.

. . .

Article 592. Fishing in the high seas shall not be subject to any restriction. Fishing in the territorial sea shall, however, be restricted to nationals of El Salvador and to aliens who are resident in El Salvador.

Fishing in rivers and lakes open to public use shall likewise not be subject to restriction.

. . .

Ethiopia

MARITIME PROCLAMATION No. 137 OF 1953²

. . .

A. JURISDICTIONAL PROVISIONS

I. *Public Necessity—Jurisdiction*

2. Jurisdiction, administration and control of and over the territorial waters, maritime domain and defence areas of Our Empire, and of and over Ethiopian ships and vessels on the high seas and elsewhere, and of and over the marine industries and enterprises established or to be established within Our Empire, are hereby declared and determined to be of public necessity and of primary concern to the national defence and to the regulation of foreign and interstate commerce and of external and interstate communications, including ports. The said jurisdiction, administration and control shall be vested exclusively in the Imperial Ethiopian Govern-

¹ Text provided by the Ministry of Foreign Affairs of El Salvador. Translation by the Secretariat of the United Nations.

² *Negarit Gazeta*, 13th Year, No. 1, 25 September 1953, pp. 21-54.

ment except in so far as specified portions of the maritime domain and defence areas may be declared by Imperial Decrees to be not subject to the exclusive jurisdiction and control of the said Government.

3. The establishment of defence areas along or in the vicinity of Our coasts and elsewhere within Our Empire is declared to be of public necessity and of primary concern to the national defence. Such defence areas may include ports.

Imperial Decrees shall determine and establish such defence areas and the rights, jurisdiction, legislation, regulations and controls that may be exercised therein.

4. Our Ministry of National Defence shall have general and exclusive supervision of the territorial waters, the maritime domain and the defence areas of Our Empire, of all Ethiopian merchant ships and vessels, and of the crews of the same, and of all marine industries and enterprises within Our Empire. It shall also be charged with the direction of Our Coast Guard and, except as otherwise ordered by Us, with the direction of all activities on behalf of Our Government within the territorial waters and the maritime domain of Our Empire. It shall issue all such regulations as may be necessary and appropriate, in conformity with the provisions of the present Proclamation, in the exercise of the said supervision and in the direction of the said activities.

5. Jurisdiction over and administration and control of all means of marine telecommunications and telecommunications utilized for marine transportation are declared to be of public necessity for the national defence as well as for external and interstate communications, including ports and as such shall be subject to such measures and regulations as shall from time to time be promulgated by Our Minister of National Defence and Our Imperial Board of Telecommunications.

B. MERCANTILE MARINE PROVISIONS

I. *Definitions*

6. For the purposes of this Proclamation and the regulations and instructions to be issued in conformity therewith,

. . .

(f) The territorial waters of Our Empire are defined as extending from the extremity of sea-board at maximum annual high tide of the Ethiopian continental coast and of the coasts of Ethiopian islands, in parallel line on the entire sea-board and to an outward distance of twelve nautical miles, except that in the case of the Dahlac archipelago the seaward limit of the territorial waters shall be that defined in Our Federal Revenue Proclamation No. 126 of 1952, and that in the case of pearl and other sedentary fisheries the seaward limit of the territorial waters shall extend to the limits of the said fisheries. The Imperial Ethiopian Government have full dominion over the said waters and exclusive control over the natural resources within and beneath the said waters. Fishing of all sorts, including pearl fishing, within the said territorial waters shall be reserved exclusively to nationals of Our Empire except as provided in article (9) of this Proclamation.

(g) The maritime domain of Our Empire is defined as extending inward

from the extremity of sea-board at maximum annual high tide to a distance of one hundred meters along each of the aforesaid coasts and as including, in addition, the gulfs and bays along the said coasts; the areas heretofore reserved, on or near the said coasts, for military, naval and aeronautical installations; and the port areas defined in regulations of Our Ministry of National Defence. The said domain shall be within the exclusive jurisdiction and control of the Imperial Ethiopian Government except in so far as may be otherwise determined by Imperial Decree.

. . .

IV. *Protective Measures*

9. The right to transport persons or goods, for profit, from one point to another on Our coasts and the right to engage in fishing, towing or salvage within the territorial waters of Our Empire are reserved to Ethiopian merchant ships and vessels and, with the exemption of pearl fishing, to such foreign ships and vessels as may be accorded these rights for limited periods within three years from the date of this Proclamation, by Our Ministry of National Defence, upon the application of marine industries and enterprises duly registered under the regulations of the said Ministry.

10. The right to engage in any of the maritime operations mentioned in article 6 (e) hereof is reserved to marine industries and enterprises duly registered under the regulations of Our Ministry of National Defence and to such foreign persons, including juridical persons, as may be accorded this right by the said Ministry.

11. Whenever it is ascertained by Our Ministry of National Defence that any foreign country is according to its own merchant ships or vessels special privileges in derogation of the principle of freedom of the seas and to the detriment of Ethiopian merchant ships or vessels, Our Ministry of National Defence, with the approval of Our Ministries of Foreign Affairs, Finance, and Commerce and Industry, may adopt such counter-measures as may be deemed appropriate.

. . .

VI. *International Conventions*

13. The regulations to be issued by Our Ministry of National Defence with respect to any matter which is governed by the provisions of generally accepted international law or of any international treaty or convention to which We are a party shall be in conformity with the said provisions.

14. The regulations that may be issued by Our Ministry of National Defence to assure the maintenance of sanitary conditions in Our ports and on board Ethiopian ships and vessels shall be in general conformity with the International Sanitary Conventions of 1938 and 1944.

15. All Ethiopian ships and vessels as well as foreign ships and vessels within the territorial waters of Our Empire must comply with the international signalling regulations and the regulations governing the international code of signals, placed into force in 1934 in conformity with the decisions of the International Congress of Telecommunications of Washington 1927.

. . .

XIII. *Foreign Currency*

32. Subject to the presentation to the Authorized Dealer of certifications by Our Ministries of Finance and of National Defence that any of the conditions stated in the following paragraphs exist and that the proposed remittance is not to an enemy country.

(a) Ethiopian subjects or foreigners permanently residing in Our Empire who present satisfactory evidence that they have entered into *bona fide* contracts to purchase abroad ships or vessels which will be registered in Our Empire shall be entitled to the foreign currency required for this purpose, subject to the prior consent of the Authorized Dealer.

(b) The owners of Ethiopian ships engaged exclusively in maritime operations between points on Ethiopian coasts or in the Red Sea or the Gulf of Aden, with their base of operations in an Ethiopian port, in need of fuel or materials or of foreign currencies for the repayment of foreign loans on such ships declared at the time of registration, or for payment of insurance premiums, wages, expenses of salvage, repairs, dry docking, surveys, or ship-building shall be entitled, for these purposes, to foreign currencies of the countries in which the said fuel or materials are purchased, or the said repayment is due, or the said premiums, wages and expenses are payable, provided that foreign currencies required for repayment of foreign loans shall be made available only with the approval of the Authorized Dealer.

(c) Foreign nationals serving in any capacity on an Ethiopian ship operating exclusively between points on Ethiopian coasts or in Our territorial waters and foreign nationals engaged abroad to perform essential technical services for duly registered marine industries or export monthly in foreign currency at the choice and discretion of the Authorized Dealer from 50 % of their salaries or emoluments from such employment.

(d) Foreign nationals who are owners or co-owners of or shareholders in Ethiopian ships or in marine industries or enterprises duly registered under the regulations of Our Ministry of National Defence, shall have the right to export every three months or every semester or every year at their option, in foreign currencies of the monetary areas of the countries of which they are nationals, the profits received by them in Our Empire during such respective period or periods.

33. The owners of any Ethiopian ship calling at an Ethiopian port not less than six times a year and importing into Ethiopia foreign currency earned by it abroad shall be permitted to use said currency so far as may be necessary for the foreign exchange requirements in connection with the operation of the said ship, and shall have the free disposal of the amount in excess of these requirements, except that all such foreign exchange imported, transferred or otherwise brought into Ethiopia shall be subject to Our foreign exchange laws and regulations.

C. COMPETENT COURTS AND APPLICABLE LAWS

I. *Courts sitting in Admiralty—Disciplinary Boards—Police Courts*

34. In Articles 36 and 39 of the present Proclamation, the words “matter” and “matters” shall include, whether civil or criminal, cases, controversies, causes, suits, libels, actions, issues, questions, principal, subsidiary and pendent, and proceedings.

35. Our Federal Courts sitting in admiralty alone shall have jurisdiction to hear and decide matters of whatever nature arising on or within Our territorial waters, or maritime domain or on Ethiopian ships on the high seas.

36. Jurisdiction over all matters based on or concerning the application or interpretation of the present or any other maritime law of Our Empire shall be vested exclusively in Our Federal Courts. Our High Court sitting as Our Federal High Court shall have original jurisdiction in all such matters, subject to the right of appeal to Our Supreme Court sitting as Our Federal Supreme Court, as determined by the rules of court of Our Supreme Court sitting as Our Federal Supreme Court. In all such matters, Our Federal High Court shall sit in such admiralty divisions as may be necessary for the prompt and efficient consideration and judgment of the same, with the exception of non-maritime matters based on or concerning Articles 54, 55, 57 and 87 in which cases Our Federal High Court shall have its normal composition.

. . .

40. Injuries to the person or to personal rights and interests as well as damage to or destruction of property or interests when effected within the territorial waters or maritime domain of Our Empire or on Ethiopian ships on the high seas shall be within the exclusive jurisdiction of Our Federal Courts sitting in admiralty.

. . .

42. The regulations that may be issued by Our Ministry of National Defence for the maintenance of order within Our maritime domain and Our defence areas may provide for the establishment of police courts under the direction of Our port authorities and may provide penalties to be imposed by the said police courts, after due hearing in each case, for offences, not constituting felonies or misdemeanours, which may be specified in the said regulations. The said penalties may not in any case be in excess of imprisonment for one month or a fine of Eth. \$200.— or both.

II. *Applicable Laws*

43. Our federal courts sitting in admiralty shall in all criminal cases and in all cases calling for the application of criminal law and in all cases involving injuries to the person or to personal rights or interests or destruction of or damage to property or interests, apply the federal law of Our Empire except that the said Courts may, in their discretion, apply the appropriate foreign law (*a*) when the internal discipline of a foreign ship or vessel is alone involved; (*b*) in cases in which a foreign wrongful death statute could by its terms be applied; and (*c*) in cases in which a foreign statute for limitation of liability could by its terms be applied.

44. Our federal courts sitting in admiralty shall, in any case of maritime contract, have the discretion to apply internationally accepted rules of conflicts of laws for determining the law of the contract.

45. Our federal courts sitting in admiralty shall, in all cases of tort and/or contract in the absence of statutory provisions, apply the principles generally recognized in admiralty courts throughout the world including procedural and remedial principles as well as substantive principles and,

in the matter of tort, the generally recognized principles of Admiralty law in respect of contributory negligence, contribution between tortfeasors, etc.

D. PROPERTY RIGHTS

II. *Wrecks*

48. All abandoned wrecks on Our coasts or within Our territorial waters are the property of Our Government. A wreck shall be deemed to have been abandoned if the owners, having been called upon by Our Coast Guard or Our port authorities to remove the same, have refused or neglected to do so within a reasonable time. In the event that any wreck on Our coasts or within Our territorial waters is considered by Our Coast Guard or by Our port authorities to be an obstacle to navigation, the said Coast Guard or port authorities, upon the refusal or neglect of the owners, after due notice, to remove or destroy the same within a reasonable time may remove or destroy the said wreck at the expense of the owners.

III. *Wrongful Death*

49. (a) Whenever the death of a person shall be caused by wrongful act, neglect, or default occurring on the high seas or within the territorial waters, the maritime domain or the defence areas of Our Empire, the personal representative of the decedent may maintain a suit for damages in any division of Our Federal High Court sitting in admiralty, for the exclusive benefit of the decedent's wife, husband, parent, child or dependent relative against the vessel, person, or corporation which would have been liable if death had not ensued.

(b) The recovery in such suit shall be a fair and just compensation for the pecuniary loss sustained by the persons for whose benefit the suit is brought and shall be apportioned among them by the court in proportion to the loss they may severally have suffered by reason of the death of the person by whose representative the suit is brought.

(c) Suit shall be begun within two years from the date of such wrongful act, neglect, or default, unless during that period there has not been reasonable opportunity for securing jurisdiction of the vessel, person, or corporation sought to be charged; but after the expiration of such period of two years the right of action hereby given shall not be deemed to have lapsed until ninety days after a reasonable opportunity to secure jurisdiction has offered.

E. PENAL PROVISIONS

VIII. *Confiscation of Ships or Vessels*

98. The regulations that may be issued by Our Ministry of National Defence for the supervision and control of fishing within Our territorial waters may provide that any ship or vessel of whatever registration engaged in such fishing without authorization as required by law or using means of fishing prohibited by the said regulations, as being wantonly destructive of marine life, shall be subject to condemnation and confiscation by decree of a division of Our Federal High Court sitting in admiralty in an appropriate

proceeding. Any ship or vessel condemned and confiscated pursuant to the provisions of this article shall be transferred in title and possession to Our Ministry of National Defence.

. . .
F. FINAL PROVISIONS
. . .

102. The present law shall not be construed to exclude the application within the territorial waters or maritime domain of Our Empire or upon Ethiopian ships on the high seas, of any other federal laws including federal laws made in execution of international treaties or obligations or concerning foreign and interstate commerce or external and interstate communications.

. . .
Finland

CUSTOMS REGULATIONS OF 8 SEPTEMBER 1939, ARTICLE 1
(*supra*, CHAPTER I, UNDER FINLAND (a))

France

(a) DÉCRET DU 1^{er} OCTOBRE 1934, PORTANT RÈGLEMENT, POUR LE TEMPS DE GUERRE, DES CONDITIONS D'ACCÈS ET DE SÉJOUR DES NAVIRES AUTRES QUE LES BÂTIMENTS DE GUERRE FRANÇAIS DANS LES MOUILLAGES ET PORTS DU LITTORAL FRANÇAIS, DES COLONIES ET DES RÉGIONS DONT LA DÉFENSE INCOMBE À LA FRANCE ¹

Article 2. Aucun navire de commerce français, aucun navire étranger, de guerre ou de commerce, ne peut, sans s'exposer à être détruit, s'approcher des côtes, dans les eaux territoriales françaises ou dans celles des colonies, protectorats ou pays sous mandat dont la défense incombe à la France, à moins de trois milles, avant d'y avoir été autorisé.

Cette zone d'interdiction est portée à six milles des côtes au large des ports militaires de Cherbourg, Brest, Toulon, Bizerte et Dakar, entre les limites fixées ci-après:

Cherbourg: du méridien du cap Lévi au méridien de la pointe de Jardeheu;

Brest: du parallèle du phare du Four au parallèle de la pointe du Raz;

Toulon: du méridien du Bec de l'Aigle au méridien du cap Bénat;

Dakar: du parallèle 14° 30 N au parallèle 15° N.

(b) LOI DU 17 DÉCEMBRE 1926 PORTANT CODE DISCIPLINAIRE ET PÉNAL DE LA MARINE MARCHANDE ²

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Chapitre IV. Délits concernant la police de la navigation

Article 63. Toute personne, même étrangère embarquée sur un navire français ou étranger, qui, dans les eaux maritimes et jusqu'à la limite des eaux territoriales françaises, ne se conforme pas aux règlements ou aux

¹ Cour internationale de Justice, *Affaire des pêcheries* (Royaume-Uni c. Norvège) vol. III, p. 683.

² *Journal officiel*, n° 295 du 19 décembre 1926, p. 13252.

ordres émanant des autorités maritimes et relatifs, soit à la police des eaux et rades, soit à la police de la navigation maritime, est punie d'un emprisonnement de six jours à six mois et d'une amende de 50 francs à 500 francs ou de l'une de ces deux peines seulement.

(c) CODE DES DOUANES ANNEXÉ AU DÉCRET N° 48-1985
DU 8 DÉCEMBRE 1948 ¹

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TITRE II. ORGANISATION ET FONCTIONNEMENT DU SERVICE
DES DOUANES

Chapitre 1^{er}. Champ d'action du service des douanes

. . .

Article 44. 1. Le rayon des douanes comprend une zone maritime et une zone terrestre.

2. La zone maritime est comprise entre le littoral et une limite extérieure située en mer à 20 kilomètres des côtes.

3. La zone terrestre s'étend :

a) Sur les frontières maritimes, entre le littoral et une ligne tracée à 20 kilomètres en deçà du rivage de la mer et des rives des fleuves, rivières et canaux affluant à la mer jusqu'au dernier bureau de douane situé en amont, ainsi que dans un rayon de 20 kilomètres autour dudit bureau ;

b) Sur les frontières de terre, entre la limite du territoire douanier et une ligne tracée à 20 kilomètres en deçà.

4. Pour faciliter la répression de la fraude, la profondeur de la zone terrestre peut être portée, sur une mesure variable jusqu'à 60 kilomètres, par des arrêtés du ministre des finances.

5. Les distances sont calculées à vol d'oiseau sans égard aux sinuosités des routes.

. . .

Chapitre IV. Pouvoirs des agents des douanes

Section I. Droit de visite des marchandises, des moyens de transport et des personnes

. . .

Article 62. Les agents des douanes peuvent visiter tous navires au-dessous de 100 tonneaux de jauge nette se trouvant dans la zone maritime du rayon des douanes.

Article 63. 1. Les agents des douanes peuvent aller à bord de tous bâtiments, y compris les navires de guerre, qui se trouvent dans les ports ou rades ou qui montent ou descendent les rivières et canaux. Ils peuvent y demeurer jusqu'à leur déchargement ou sortie.

. . .

4. Sur les navires de guerre, les visites ne peuvent être faites après le coucher du soleil.

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¹ *Code des douanes*, législation applicable au 1^{er} mai 1954, Paris, p. 11.

TITRE X. TAXES DIVERSES PERÇUES PAR LA DOUANE

. . .

*Chapitre III. Droits de navigation**Section I. Droit de quai*1. Généralités¹

. . .

2. Taxes sur les navires

Article 271. Il est perçu par tonneau de jauge nette, dans chaque port une taxe calculée ainsi qu'il suit:

. . .

Article 276. Sont exempts des taxes prévues ci-dessus:

. . .

Les navires de guerre;

. . .

(d) ARRÊTÉ DU 1^{er} FÉVRIER 1932² (ZONES INTERDITES AU SURVOL ET À LA PHOTOGRAPHIE AÉRIENNE)

L'annexe I de l'arrêté du 20 avril 1926, modifié par arrêtés en date du 26 octobre 1928, du 24 mai 1929 et du 20 juin 1929, relatif aux zones du territoire français interdites au survol et réglementant le transport des appareils photographiques et cinématographiques à bord des aéronefs est remplacé par l'annexe I ci-après:

ANNEXE I DE L'ARRÊTÉ DU 20 AVRIL 1926

Liste des zones interdites au survol et à la photographie aérienne

A la demande des ministres intéressés, sont interdites au survol et à la photographie aérienne, les zones suivantes:

Frontière maritime

Cherbourg. Zone comprise à l'intérieur d'une ligne passant:

. . .

Sur mer: à 6 milles au large de la laisse de basse mer entre Quineville et le cap de Flamanville.

Brest. Zone comprise à l'intérieur d'une ligne jalonnée par les points suivants:

. . .

Sur mer: 6 milles à l'Ouest du cap de la Chèvre, 6 milles à l'Ouest et au Nord de l'île d'Ouessant.

Lorient. Zone comprise à l'intérieur d'une ligne passant:

. . .

¹ Le décret n° 52-152 du 13 février 1952, art. 14 (*J.O.* du 14 février 1952) a étendu aux départements français d'outre-mer, sous certaines réserves, les dispositions des articles 270, 271, 272, 273, 274 et 277 du présent code.

² *Journal officiel*, n° 135 du 11 février 1932, p. 1567.

Sur mer: à 6 milles de la laisse de basse mer au large de la côte de l'île de Groix.

Toulon. Zone comprise à l'intérieur d'une ligne passant:

Sur mer: par Saint-Cyr-sur-Mer, Signes, Méounes, Solliès-Pont, Bormes.

Sur mer: par les points situés à 3 milles du Sud de la laisse de basse mer de Saint-Cyr-sur-Mer, de la pointe Sud des Embiez, du cap Sicié, du cap d'Armes, de la Gabinière (îlot de Port-Cros), du phare du Titan, par le phare du Titan et Bormes.

Bouches de Bonifacio. Zone délimitée comme suit:

Au Nord: une ligne joignant le cap Rocapina, à l'Ouest, à l'île Pinarella à l'Est.

Au Sud: une ligne joignant la côte à 6 milles de la laisse de basse mer entre les deux points précités, sauf dans les Bouches elles-mêmes où cette limite est la ligne de partage entre les eaux territoriales franco-italiennes.

La ligne de séparation des eaux situées entre la Corse et la Sardaigne est déterminée par les deux alignements suivants:

Le premier est déterminé par un pilier de maçonnerie, haut de 8 mètres, élevé sur la Guardia del Turco (île de Maddalena) et un autre pilier en maçonnerie, haut de 10 mètres, élevé sur les rochers de la pointe Sud de l'île Budelli.

Le second est défini par un pilier de 10 mètres élevé sur le rocher, à 500 mètres en avant du sémaphore de Contro-di-lo-Scalo, et un autre pilier de 12 mètres construit sur le rivage à proximité de la pointe de Marmorata.

Tous ces piliers sont peints en blanc.

Toutefois, le passage des aéronefs sera toléré dans la zone comprise entre la limite des eaux territoriales franco-italiennes et les deux lignes tracées à partir de l'écueil de Lavezzi vers le N 75 W (285) et le N 40 E (40).

Bizerte. Zone comprise:

. . .

Sur mer: à l'intérieur d'une ligne passant à 6 milles de la laisse de basse mer entre les points extrêmes de la zone terrestre interdite.

Frontière du Sud-Est

Zone délimitée par:

A l'Est, la frontière des Alpes.

A l'Ouest, la ligne: col de la Seigne, Beaufort, Moutiers, col des Encombres, Saint-Michel-de-Maurienne, col du Galibier, col du Lautaret, crête ouest des vallées de la Gulsanne et de la Durance, Embrun, col du Parpaillon, Barcelonnette, col d'Allos, vallée du Var, jusqu'à la hauteur de Saint-Isidore.

Le quadrilatère déterminé par le Var, de son embouchure à la hauteur de Saint-Isidore, Saint-Isidore-la-Trinité, la Trinité, Beaulieu-sur-Mer, les eaux territoriales, reste accessible à la navigation aérienne.

A travers les Alpes, un seul passage est autorisé par les avions. Il suit la ligne brisée Chambéry, Modane, Lans-le-Bourg, et de cette commune, la route carrossable du Mont-Cenis jusqu'à la frontière.

Le passage dans les différents couloirs de franchissement délimité par le présent arrêté s'effectuera à l'altitude maximum de 1.000 mètres.

Germany (Federal Republic)

(a) WRECKAGE ACT OF 17 MAY 1874, ¹ AS AMENDED ²

CHAPTER I

Coastal authorities

. . .

Article 2. The organization of the coastal inspectorates and the delimitation of their areas of jurisdiction, the appointment of coastal inspectors, the relationship of receivers of wreck to the coastal inspectorates, the determination of the authorities exercising supervision over the coastal inspectorates and coastal inspectors, and the fixing of the remuneration of the coastal inspectors shall be matters within the jurisdiction of the various State Governments in accordance with their respective legislation.

The officer in charge of a coastal inspectorate may at the same time be appointed receiver of wreck for the whole or part of the district placed under his jurisdiction.

Article 3. General supervision over the administration of matters relating to wreckage shall be exercised by the Reich Government.

. . .

CHAPTER III

Jetsam, flotsam, lagan and derelict

. . .

Article 25. If navigation in a navigable channel or in a roadstead or harbour is impeded by a vessel or wreck which is adrift or has been stranded or sunk, or by an anchor or other object lying on the bottom, the authorities may cause such impediment to be removed.

Once the authorities have intervened and their action has been publicly notified or been brought to the notice of the persons concerned, the impediment may not be removed and nothing may be taken from the vessel or wreck without the approval of the authorities.

. . .

Article 45. In so far as the equipment used in the provision of seamarks, such as buoys, chains and other accessories, including unmanned lightships, is the property of the Reich, the Reich Government may prescribe as salvage charges the rates of remuneration fixed in advance for salvage operations, and in so far as such equipment is the property of a State, the State Government shall have the same prerogative. The said rates shall apply irrespective of whether the salvage is effected inside or outside German territorial waters or in the territory of one or other of the States. Any special provisions embodied in State treaties shall be applicable.

. . .

¹ *Reichsgesetzblatt* No. 17 of 22 May 1874, pp. 73 *et seq.* Translation by the Secretariat of the United Nations.

² By Act of 30 December 1901 (*Reichsgesetzblatt*, 1902, p. 1) and Act of 19 July 1924 (*ibid.*, I, p. 667). Translation by the Secretariat of the United Nations.

(b) CUSTOMS ACT OF 20 MARCH 1939¹

Article 3. Customs border. (1) The customs border shall enclose the customs territory.

(2) Except as otherwise provided in paragraph (3), the customs border, except where it marks the limit of a customs-free area or includes a customs-enforcement area, shall coincide with the national frontier.

(3) The maritime customs border shall be the actual coastline. The Minister of Finance shall determine the maritime customs border at the mouths of rivers and of the fresh-water lakes known as *Haffs* and may determine deviations of the maritime customs border from the coastline.

Article 5 (1) Customs-free areas shall be:

1. Those portions of seaports that are excluded from the customs territory and are designated as free ports;

2. Those land areas excluded from the customs territory that are situated on the national frontier and outside the national territory;

3. Coastal waters (three-mile zone), except in so far as they are included in the customs territory (article 3, paragraph (3));

4. Inland waters (including islands lying therein) which are excluded from the customs territory, and roads running along the national frontier which are similarly excluded;

5. The island of Heligoland.

(2) The establishment of new, and the abolition of existing, customs-free areas other than those referred to in paragraph (1), items 3 and 4, shall require an Act of the Reich. The area of a free port may be altered by the Minister of Finance. The said minister may declare inland waters and roads running along the national frontier (paragraph (1), item 4) to be customs-free areas.

(3) Customs posts may be advanced into customs-free areas. The provisions of article 1, paragraph (3), shall apply as appropriate.

Article 14. Inspection on entry. (1) Vessels, vehicles, draught animals, saddle animals and beasts of burden shall be checked against the manifest in order to verify that all dutiable goods have been declared.

(2) Persons in charge of the means of transport concerned shall facilitate the inspection and shall afford assistance in accordance with official instructions. They shall voluntarily declare any secret containers. Persons in charge of vessels or vehicles shall produce on demand descriptions of the vessel or vehicle, inventories of equipment and spare parts and any other documents relating to the vessel or vehicle.

(3) Ships may not, prior to inspection, communicate with the land or with other vessels. Exceptions may be permitted by the Minister of Finance.

¹ *Reichsgesetzblatt* 1, p. 529. Text provided by the Permanent Observer of the Federal Republic of Germany to the United Nations. Translation by the Secretariat of the United Nations.

Article 35. Restrictions on movement. In coastal waters not included in the customs territory, and in inland waters along the national frontier excluded from the customs territory, the master of a ship shall stop or heave to on the instructions of a customs officer. The master shall allow customs officers to come on board and to leave the ship, examine the cargo manifests and customs-clearance certificates and inspect the ship.

Article 36. (1) The Minister of Finance may order that ships having dutiable goods on board may approach only to within a certain distance of the coast or river bank.

(2) It shall be unlawful in coastal waters not included in the customs territory or in inland waters excluded from the customs territory to sink or anchor dutiable goods, to allow them to drift or to deposit them on reefs, rocks or sandbanks. The requirements of fishing, oystercatching and the like shall not be affected by this provision.

Greece

(a) LAW NO. 4141 OF 26 MARCH 1913 CONCERNING PASSAGE AND SOJOURN OF MERCHANT VESSELS ALONG THE GREEK SHORES AND POLICING OF THE PORTS AND HARBOURS IN TIME OF WAR ¹

Article 1. The passage and sojourn of merchant vessels, Greek or foreign, may be prohibited at any time and in any area of Greek seas, whether closed or open, whenever the interests of national defence require such prohibition.

Especially in connexion with the application of this law, "Greek sea" means the maritime belt comprised from the shore to a distance of ten nautical miles. With regard to gulfs and bays, the entrance of which does not exceed in width twenty miles, the ten nautical miles belt shall be measured from a straight line drawn across the seaward limit of the gulf or bay.

Article 2. The areas in which passage and sojourn of merchant vessels are prohibited shall be determined by Royal Decrees always issued upon the advice of the Council of Ministers; under urgent circumstances, the areas shall be determined by Orders of the Minister (of Marine), which shall always be issued upon the advice of the Council of Ministers and shall be published in the *Official Journal*.

The above-mentioned Decrees and Orders of the Minister shall be posted in all the port offices and shall be communicated to the consuls of foreign States in the maritime towns.

(b) LOI No. 1165 DU 17 MARS/6 AVRIL 1918 (CODE DES DOUANES) ²

Article 85. 1) Dans une zone située en mer à trois kilomètres des côtes, le personnel du service douanier et de la police, a le droit de visiter les navires d'un tonnage ne dépassant pas les 100 tonnes et de demander la présentation du manifeste de l'article 18, ainsi que des autres documents de navigation du navire.

¹ *Ephemeris Tes Kyberneseos*, 11 April 1913, No. 68, p. 204. Translation by the Secretariat of the United Nations.

² Le texte français de cette loi a été fourni par la Mission permanente de la Grèce auprès de l'Organisation des Nations Unies.

2) En cas de non présentation du manifeste et s'il ressort de documents du navire que celui-ci se dirige vers un port national, ou s'il existe des indices d'une infraction douanière quelconque, le navire est conduit à la douane la plus proche où les marchandises sont saisies et où un procès-verbal relatif est dirigé.

3) Si les navires précités battent pavillon étranger, ils sont soumis aux dispositions des traités internationaux.

Guatemala

(a) ACT OF 10 JUNE 1934 FOR THE ADMINISTRATION AND CONTROL OF THE PORTS OF THE REPUBLIC ¹

Chapter I. General Provisions

Article 1. In each legally appointed port there shall be a Port Authority, with jurisdiction extending over the territory of the municipality concerned; if the port receives maritime or river traffic, the Port Authority shall have jurisdiction over all merchant and private vessels, whatever their nationality, which are anchored in the territorial waters; such waters shall be deemed to extend for twelve miles from the most salient point on the coast at low water, without prejudice to the provisions of the special treaties governing the bay of Puerto Barrios or Amatique. (Superseded by the enactment of 21 April 1939.)

(b) REGULATIONS GOVERNING THE ADMINISTRATION AND POLICE SUPERVISION OF THE PORTS OF THE REPUBLIC, 21 APRIL 1939 ²

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PART II. THE MARITIME SERVICE IN GENERAL

Chapter I. Port Authorities and their Jurisdiction

Article 1. In each port authorized by law, there shall be a Port Commandant and Captain, whose jurisdiction shall extend to the territorial limits of the municipality; and whether the port be a river or a seaport, that jurisdiction shall cover all private or merchant vessels, of whatever nationality, which are anchored in territorial waters, the latter being considered to extend twelve miles off the coast measuring from low-water mark, or from the most salient point of the coast-line.

. . .

Honduras

(a) ACT OF 9 APRIL 1927 CONCERNING THE UTILIZATION OF TERRITORIAL AND INLAND WATERS ³

. . .

Article 8. The right to use the territorial sea, navigable rivers, lagoons, inlets, roads, bays and coves shall be freely exercisable for the purposes of

¹ Text provided by the Permanent Mission of Guatemala to the United Nations. Translation by the Secretariat of the United Nations.

² Text of Regulation provided by the Permanent Mission of Guatemala to the United Nations. Translation by the Secretariat of the United Nations.

³ Text provided by the Secretary of State for External Relations of Honduras. Translation by the Secretariat of the United Nations.

shipping, fishing, embarking, disembarking, anchoring and other similar purposes in conformity with the legislative provisions governing such use.

The foregoing provision is also applicable to the use of the foreshore, all persons being authorized (any restrictions being applicable equally to all) to cross the same and to use it for the purposes of bathing, stretching and drying clothing and nets, beaching, careening and constructing boats, dipping livestock and gathering shells, plants, edible molluscs and like products.

. . .

Article 14. All persons are free to engage in fishing in waterways which are the property of the nation, on the condition that they comply with the laws and police regulations applicable specifically to fishing, and that they do not obstruct shipping and rafting.

(b) DECREE NO. 191 OF 9 APRIL 1935¹ CONCERNING PORT
ADMINISTRATION AND SUPERVISION REGULATIONS

TITLE I. RULES APPLICABLE INSIDE AND OUTSIDE THE PORT

Chapter I. Harbourmasters

Article 1. The Executive Authority shall appoint at each port in Honduras a Chief Harbourmaster (*Comandante Principal y Capitán de Puerto*) whose jurisdiction shall extend throughout the military district of which the port is the headquarters and seawards as far as the limit of Honduran territorial waters.

. . .

Chapter III. The Maritime Health Service

Article 7. Immediately upon its arrival at the entrance to a port, a vessel shall heave to and await the health inspection.

Article 8. Every merchant ship, whether of Honduran or foreign nationality, which arrives from a foreign country shall remain hove to, flying its national flag, until the health inspection has taken place and permission to enter port has been given.

. . .

Chapter IV. Inspections of Vessels

Article 45. Immediately after the Health Service representative has returned from his inspection of a vessel, it shall be visited by the Harbourmaster or his executive officer, accompanied by the customs official concerned. The Harbourmaster shall request the Captain to furnish particulars of the last sailing, the crew list, the passenger list, the watch bill, the ship's manifest relating to cargo for the port, the number of mail-bags, and information about the deaths, if any, which occurred on board during the voyage, with a view to establishing their causes. In the case of a merchant vessel which is armed, the Harbourmaster shall also call for production of its authorization to carry armament.

. . .

¹ Text provided by the Secretary of State for External Relations of Honduras. Translation by the Secretariat of the United Nations.

Chapter V. Foreign warships—admission to and presence in Honduran territorial waters and ports

Article 54. In time of peace, foreign warships may, when notice of their visit has been given through the diplomatic channel, enter Honduran territorial waters and sea-ports with facilities for foreign trade under an authorization which shall in each case be issued by the Ministry of War, Marine and Air and transmitted by the Ministry of Foreign Affairs to the Government concerned or to its accredited diplomatic representative in Honduras.

Not more than three warships of the same nationality shall be permitted to be present in Honduran territorial waters or ports at any one time.

Article 55. A foreign warship shall not be permitted to be present in Honduran territorial waters or ports for more than fifteen days except as specially authorized by the Executive, and it shall put to sea within six hours after the local authorities have directed it to do so, even if the period set for its visit has not yet expired.

Article 56. The provisions of the foregoing articles shall not apply:

(1) To foreign warships whose visit has been authorized in exceptional circumstances;

(2) To warships which are forced by distress, bad weather or other unforeseen circumstances to take shelter in Honduran waters or ports, for so long as such circumstances persist;

(3) To warships carrying on board Chiefs of State, members of reigning dynasties or diplomatic officials accredited to the Government of Honduras.

Article 57. The Harbourmaster shall designate the anchorage at which a foreign warship may lie.

Article 58. Foreign warships entering Honduran territorial waters and ports shall be under a duty to observe the laws regulating public order, health and fiscal matters.

Article 59. A foreign warship for the time being present in Honduran waters shall in no circumstances whatsoever carry out topographical or hydrographical operations, study the defences or emplacements or the military or naval strength of Honduran ports, make sketches, take soundings or carry out work under water, with or without divers; nor shall such warship conduct landing, gunnery or torpedo exercises.

The number of men who may be permitted to land at any one time and the hours for landing and re-embarkation shall be determined by mutual agreement between the ship's commanding officer and the Harbourmaster.

Article 60. The death sentence shall not be carried out in a foreign warship so long as it is present in Honduran waters.

Article 63. If a foreign warship fails to observe the provisions of these Regulations, the local military authority shall in the first instance bring the breach to the commanding officer's attention and formally require him to observe the Regulations. If these representations should not be effective the Ministry of War, Marine and Air shall be informed accordingly. The Ministry may then order that the warship be directed to leave the port and Honduran territorial waters immediately.

Article 65. The admission to and presence in Honduran waters and ports of warships of belligerent States shall be governed by the relevant provisions of the Hague Convention (XIII); nevertheless, the Executive shall retain the power to impose special rules governing the admission of such ships, or to bar their admission temporarily, or even to prohibit their admission in any case in which, in the opinion of the Executive, it would be irreconcilable with the rights and duties attaching to neutrality to admit such ships.

Article 66. The admission to Honduran waters and ports of submarines of non-belligerent foreign States shall be governed by the provisions of these Regulations. Such submarines shall not be permitted to enter territorial waters unless they proceed on the surface and fly their national flags.

Article 67. If a state of war exists between two foreign Powers, the Executive shall be empowered to prohibit the entry, sailing or presence in Honduran territorial waters or ports of naval submarines of the belligerents; nevertheless, this prohibition may be waived in respect of a submarine which is forced to enter Honduran waters by reason of damage or heavy seas or for the purpose of saving human lives. In these circumstances, the submarine shall be required to proceed on the surface, fly its national flag and hoist the appropriate international signal to announce the purpose of its entry into territorial waters. It shall leave territorial waters as soon as this purpose has been achieved or as soon as directed to do so by the Executive.

Article 68. The provisions of these Regulations shall also apply to auxiliary naval vessels and transports and to seaplanes landing on Honduran coastal waters, rivers or lakes.

Chapter VI. Port regulations

. . .

Article 77. While a merchant vessel is in Honduran territorial waters, it shall be unlawful for its master to order any punishment on board other than penalties for breach of discipline or for insubordination. Within the territory of Honduras, the court of the particular district has exclusive competence to deal with cases relating to criminal offences committed on board a vessel, and to impose penalties.

. . .

Article 81. Every vessel at anchor in Honduran ports and territorial waters shall hoist its national flag if the Honduran flag is raised over the Harbourmaster's Office.

. . .

TITLE II. STATE OF WAR: WARSHIPS, TRUCE SHIPS AND ARMED MERCHANT VESSELS

Article 126. If it should happen that, while a state of war exists between nations with which Honduras maintains friendly relations and towards which Honduras has declared itself neutral, two or more mutually hostile ships are due to sail from any one port, roadstead or anchorage, the Harbourmaster shall warn the commanding officer of the warship or armed merchant vessel which is due to sail first that the vessel will not be permitted to slacken speed or stop while in Honduran waters, or to return to the place

of sailing within three days, except on account of bad weather or for urgent repairs.

Article 127. A warship or armed merchant vessel present for the time being in Honduran territorial waters shall conduct itself in conformity with the following rules:

(1) It shall refrain from hostile action against any ships anchored in the port, including any warships or armed merchant ships of its enemy;

(2) It shall not increase the number of its crew or recruit new members, even from among its own nationals;

(3) It shall not increase the number of its guns, or replace them by others of larger calibre or take on board small arms and munitions of war;

(4) It shall not lie in wait for the arrival and departure of enemy vessels in Honduran ports and territorial waters;

(5) It shall not put to sea to pursue vessels announced by the port look-out;

(6) It shall not leave the port or Honduran territorial waters until twenty-four hours have elapsed since the departure of an enemy vessel;

(7) It shall not attempt by force or stratagem to secure the release of any prisoners of its own nationality who may be held at the place where it is lying;

(8) It shall not trade in goods seized from the enemy;

(9) It shall not signal to ships of its own nationality outside Honduran waters, by rocket, lamp or any other means, to inform them of the departure of enemy vessels. This provision shall also apply to consular officials and other nationals of the country concerned who are resident in the area.

Article 128. Notwithstanding the provisions of paragraphs 2 and 3 of the foregoing article, vessels of a belligerent nation shall be permitted, in conformity with the principle of exterritoriality, to go alongside one another for the purpose of transferring from one vessel to another such personnel, weapons and munitions of war as the latter vessel may require.

Article 129. If two mutually hostile warships or armed merchant vessels desire to put to sea, the vessel which arrived first shall have priority.

. . .

Article 135. It shall be absolutely unlawful for a warship of any kind to conclude contracts for the provision of warlike arms, munitions or supplies in Honduran territory or to take delivery of such provisions in Honduran territory, even if the nation to which it belongs uses its own supply services for the purpose.

. . .

TITLE V. SUPPLEMENTARY PROVISIONS

. . .

Article 164. A foreign vessel whose master is not prepared to observe such of the provisions of these Regulations as apply to him shall be required to leave the port within a period which shall in no case exceed three hours; this provision shall not affect the liability of the vessel for the payment of any sums due in respect of duties, taxes or other charges.

. . .

(c) CONGRESSIONAL DECREE No. 131 OF 20 APRIL 1925 (SMUGGLING AND CUSTOMS DUTY EVASION ACT)¹

Article 3. A person shall be liable for the criminal offence of smuggling if he:

(11) Sails, within one marine league of the Honduran coast, any Honduran or foreign vessel of light tonnage carrying goods which are prohibited or subject to a Government monopoly in Honduras, even if the cargo is consigned to a foreign port, this provision not to apply, however, in cases in which such vessel is compelled to put in to shore or, owing to damage, is rendered unfit for navigation; nevertheless, even in such exceptional circumstances, the cargo shall be deemed to be contraband if it is consigned to a person domiciled or resident in the Republic. For the purposes of this article, the expression "vessel of light tonnage" means any vessel of less than twenty tons, regardless of its description;

(12) Anchors any Honduran or foreign vessel of heavy tonnage, carrying goods which are subject to a Government monopoly or prohibited, in a harbour other than an authorized port or in a bay, creek or other indentation on the coast of the Republic, or stands off such places within two marine leagues from the Honduran coast, even if the cargo is consigned to a foreign port, this provision not to apply, however, in cases in which such vessel is compelled to put in to shore or, owing to damage, is rendered unfit for navigation; nevertheless, even in such exceptional circumstances, the cargo shall be deemed to be contraband if it is consigned to a person domiciled or resident in the Republic;

(13) Conceals, or fails to declare, when required to do so by the local authorities or by Treasury officers, any part of the cargo of a ship which is compelled to put in to a harbour other than an authorized port or in to a bay, creek or other indentation on the coast of the Republic; this provision shall apply to all vessels, regardless of capacity or flag.

Iceland

ACT No. 33 OF 9 JANUARY 1935 GOVERNING INTOXICATING BEVERAGES²

Article 5. It shall be unlawful for any person to receive any illegally imported intoxicating beverage of any description whatsoever from a vessel at any point on the coast or in the territorial waters of Iceland, or to receive an intoxicating beverage afloat, whether for payment or otherwise.

For the purposes of this Act, territorial waters are deemed to extend for four nautical miles to seaward from the low-water mark at spring tide, this distance being measured from the outermost rocks and islets projecting above the sea; and it is further provided that all that part of bays and inlets

¹ Text provided by the Secretary of State for External Relations of Honduras. Translation by the Secretariat of the United Nations.

² *Lagasafn* (1945), columns 2367 and 2368. Translation by the Secretariat of the United Nations.

lying to landward of a straight line, twelve nautical miles in length, drawn between headlands nearest to the mouth of the bay, and the area extending seaward for four miles from that line, shall be deemed to be within territorial waters.

India

(a) INDIAN MERCHANT SHIPPING ACT, 1923 ¹

PART I. [INTRODUCTORY

. . . .

4. *Exemption of public ships.* This Act shall not, except where specially provided, apply to ships belonging to [the Government or] His Majesty . . . or to ships belonging to any foreign Prince or State . . . and employed otherwise than for profit in the public service of that Prince or State . . .

. . . .

PART IV. [UNBERTHED PASSENGER SHIPS] AND PILGRIM SHIPS

147. *Application of Part.* [(1) This Part applies —

(a) To all citizens of India wherever they may be; and

(b) To all Commonwealth citizens for the time being in India.]

(2) But the provisions of this Part relating to [unberthed passenger ships] do not apply —

[(a) To any steam-ship not carrying more than sixty unberthed passengers;]

[(b) To any ship not intended to carry unberthed passengers to or from any port in [India]; or]

(c) To any ships to which the provisions of the Inland Steam Vessels Act, 1917 (I of 1917), are applicable.

(3) Notwithstanding anything in sub-sections (1) and (2), the [Central Government] may, . . . , declare all or any of the provisions of this Part relating to [unberthed passenger ships] to apply to sailing-ships, or any class of sailing-ships, [carrying more than fifteen unberthed passengers] and to steam-ships, or any class of steam-ships, [carrying more than thirty such passengers.]

. . . .

152. *Power to enter on and inspect ship.* After receiving the notice, the officer or a person authorised by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores on board.

. . . .

PART V. SAFETY

. . . .

Detention of unsafe ships by the [Central Government]

232. *Power to detain unsafe ship and procedure for detention.* (1) Where a British ship in any port to which the [Central Government] may specially extend this section is an unsafe ship, that is to say, is by reason of the defec-

¹ Text of Act provided by the Ministry for External Affairs of India.

tive condition of her hull, equipments or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, such ship may be provisionally detained for the purpose of being surveyed and either finally detained or released . . .

. . .
Costs of detention and damages incidental thereto
 . . .

238. *Application to foreign ships of provisions as to detention.* When a foreign ship is in a port in [India] and is, whilst at that port, unsafe [by reason of the defective condition of her hull, equipments or machinery, or] by reason of overloading or improper loading, the provisions of this Part with respect to the detention of ships shall apply to that foreign ship as if she were a British ship with the following modifications, namely:

(i) A copy of the order for the provisional detention of the ship shall forthwith be served on the consular officer for the country to which the ship belongs at or nearest to the port in which such ship is detained;

(ii) The consular officer, at the request of the owner or master of the ship, may require that the person appointed by the [Central Government] to survey the ship shall be accompanied by such person as the consular officer may select, and in that case, if the surveyor and that person agree, the [Central Government] shall cause the ship to be detained or released accordingly; but, if they differ, the [Central Government] may act as if the requisition had not been made, and the owner and master shall have the like appeal to a Court of Survey touching the report of the surveyor as is hereinbefore provided in the case of a British ship; and

(iii) Where the owner or master of the ship appeals to the Court of Survey, the consular officer, at his request, may appoint a competent person to be assessor in the case in lieu of the assessor who, if the ship were a British ship, would be appointed otherwise than by the [Central Government].

. . .
 245 . . . M. *Detention of foreign ships in cases not referred to in section 238.* Where any foreign ship is detained under this Part in any case to which the provisions of section 238 do not apply, or where any proceedings are taken under this Part against the master or owner of any such ship, notice shall forthwith be served on the Consular Officer for the country to which the ship belongs at or nearest to the port where the ship is for the time being, and such notice shall specify the grounds on which the ship has been detained or the proceedings have been taken.

. . .
 (b) INDIAN PORTS ACT, 1908 ¹

CHAPTER I. PRELIMINARY

1. *Title and extent*—(1) This Act . . .

(2) It shall extend, save as otherwise appears from its subject or context, —

(a) To the ports mentioned in the first schedule, and to such parts of the navigable rivers and channels leading to such ports respectively as

¹ Text of Act provided by the Ministry for External Affairs of India.

have been declared to be subject to Act XXII of 1855 (*for the Regulation of Ports and Port-dues*) or to the Indian Ports Act, 1875 (XII of 1875), or to the Indian Ports Act, 1889 (X of 1889);

(b) To the other ports or parts of navigable rivers or channels to which the [Government], in exercise of the power hereinafter conferred, extends this Act.

. . .
2. *Savings*.—Nothing in this Act shall—

(i) Apply to any vessel belonging to, or in the service of, [the Central Government or a State Government] . . . or to any vessel of war belonging to any Foreign Prince or State, . . .

. . .
CHAPTER III. PORT-OFFICIALS AND THEIR POWERS AND DUTIES

7. *Appointment of conservator*.—The [Government] shall appoint some officer or body of persons to be conservator of every port subject to this Act.

. . .
15. *Power to board vessels and enter buildings*. (1) The conservator or any of his assistants may, whenever he suspects that any offence against this Act has been, or is about to be, committed, or whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

and the person appointed under this Act to receive any port-dues, fees, or other charges, payable in respect of any vessel, may, whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

either alone or with any other person, board any vessel, or enter any building or place, within the limits of any port subject to this Act.

. . .
17. *Appointment and powers of health-officer*. (1) The [Government] may appoint at any port subject to this Act an officer to be called the health-officer.

(2) A health-officer shall, subject to the control of the [Government], have the following powers, within the limits of the port for which he is appointed, namely:

. . .
(b) Power to enter on board any vessel and medically examine all or any of the seamen or apprentices on board the vessel;

. . .
CHAPTER V. PORT-DUES, FEES AND OTHER CHARGES

. . .
34. *Variation of port-dues by Government*. The [Government] may, [after consulting the authority appointed under section 36], exempt [subject to such conditions, if any, as it thinks fit to impose, any vessel or class of vessels] entering a port subject to this Act from payment of port-dues and cancel the exemption, or may vary the rates at which port-dues are to be levied in the port, in such manner as, having regard to the receipts and charges on account of the port, it thinks expedient, by reducing or raising the dues, or

any of them [or may extend the periods for which any vessel or class of vessels entering a port shall be exempt from liability to pay port-dues]:

Provided that the rates shall not in any case exceed the amount authorized to be taken by or under this Act.

35. *Fees for pilotage and certain other services.* (1) Within any port subject to this Act, fees may be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels, at such rates as the [Government] may direct:

(2) The fees now chargeable for such services shall continue to be chargeable unless and until they are altered in exercise of the power conferred by sub-section (1).

[(3) The Government may, in special cases, remit the whole or any portion of the fees chargeable under sub-section (1) or sub-section (2).]

36. *Receipt, expenditure and account of port-charges.* (1) The [Government] shall appoint some officer or body of persons at every port at which any dues, fees or other charges are authorized to be taken by or under this Act to receive the same and, subject to the control of the [Government], to expend the receipts on any of the objects authorized by this Act.

48. *Port-due not to be chargeable in certain cases.* No port-due shall be chargeable in respect of—

- (a) Any pleasure yacht, or
- (b) Any vessel which, having left any port, is compelled to re-enter it by stress of weather or in consequence of having sustained any damage, or
- (c) Any vessel which, having entered [any port in the State of Madras or in the State of Andhra or the Port of Gopalpur in the State of Orissa], leaves it within forty-eight hours without discharge or taking in any passengers or cargo.

CHAPTER VIII. SUPPLEMENTAL PROVISIONS

[68C. *Application of certain provisions of the Act to aircraft.*

(1) The provisions of sections 6, 13 to 16 (both inclusive), 18, 21 and 28 sub-section (2) of section 31 and sections 33, 34, 35, 39, 42 to 48 (both inclusive) and 55 shall apply in relation to all aircraft making use of any port subject to this Act, while on water as they apply in relation to vessels.

(2) No such aircraft shall enter or leave any port subject to this Act, except with the permission granted by the Conservator of the Port or by such other officer as may be authorised in this behalf by the Conservator.]

(c) SEA CUSTOMS ACT, 1878 ¹

CHAPTER VII. ARRIVAL AND DEPARTURE OF VESSELS

Arrival and Entry of Vessels inwards

53. The [Chief Customs-authority] may, by notification in the . . . Official Gazette, fix a place in any river or port, beyond which no vessel

¹ Text of Act provided by the Ministry for External Affairs of India.

arriving shall pass until a manifest has been delivered to the pilot, officer of Customs or other person duly authorized to receive the same.

. . .

CHAPTER VIII. GENERAL PROVISIONS AFFECTING VESSELS IN PORT

67. The Customs-collector at any customs-port may at any time depute at his discretion one or more officers of Customs to board any vessel in or arriving at such port.

Every officer of Customs so sent shall remain on board of such vessel by day and by night unless or until the Customs-collector otherwise orders.

68. Whenever an officer of Customs is so deputed on board of any vessel, the master of such vessel shall be bound to receive on board such officer, and one servant of such officer, and to provide such officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water, and with the means of cooking on board.

. . .

71. When an officer of Customs is deputed under section 67 to remain on board a vessel the tonnage of which does not exceed six hundred tons, a period of thirty working days, reckoned from the date on which he boards such vessel or such additional period as the Customs-collector directs, shall be allowed for the discharge of import-cargo and the shipment of export cargo on board of such vessel.

One additional day shall, in like manner, be allowed for every fifty tons in excess of six hundred.

No charge shall be made for the services of a single officer of Customs for such allowed number of working days, or for the services of several such officers (if available) for respective periods not exceeding in the aggregate such allowed number of working days.

If the period occupied in the discharge and shipment of cargo be in excess of thirty working days, together with the additional period (if any) allowed under this section, the vessel shall be charged with the expense of the officer of Customs at a rate not exceeding five rupees per diem (Sundays and holidays excepted) for such excess period.

In calculating any period allowed, or any charge made under this section, the period (if any) during which a vessel, after the completion of the discharge of import-cargo, and before commencing the shipment of export-cargo, is laid up by the withdrawal of the officer of Customs, upon application from the master, shall be deducted.

. . .

CHAPTER XVII. PROCEDURE RELATING TO OFFENCES, APPEALS, ETC.

169. Any officer of Customs duly employed in the prevention of smuggling may search any person on board of any vessel in any port in [India] or any person who has landed from any vessel:

Provided that such officer has reason to believe that such person has dutiable or prohibited goods secreted about his person.

. . .

170 A. (1) Where any officer of Customs duly employed in the prevention of smuggling has reason to believe that any person on board of any

vessel in any port in India or any person who has landed from any vessel has any dutiable, or prohibited goods secreted inside his body, such officer of Customs may detain such person and produce him without unnecessary delay before the nearest Magistrate.

. . .

171. Any duly empowered officer of Customs or other person duly employed for the prevention of smuggling, may stop and search for smuggled goods any vessel, cart or other means of conveyance: provided that he has reason to believe that smuggled goods are contained therein.

. . .

173. Any person against whom a reasonable suspicion exists that he has been guilty of an offence under this Act may be arrested in any place, either upon land or water, by any officer of Customs or other person duly employed for the prevention of smuggling.

. . .

Iran

- (a) LOI DU 24 TIR 1313 (19 JUILLET 1934) RELATIVE À LA LIMITE DES EAUX TERRITORIALES ET À LA ZONE DE SUPERVISION ET DE CONTRÔLE, ARTICLE 1 (*supra*, CHAPITRE I, IRAN (a)).
- (b) LOI DU 19 JUIN 1955 RELATIVE À L'EXPLORATION ET À L'EXPLOITATION DU PLATEAU CONTINENTAL DE L'IRAN, ARTICLE 5 (*supra*, CHAPITRE I, IRAN (b)).

Israel ¹

- (a) DEFENCE (EMERGENCY) (AMENDMENT) REGULATIONS, 1948²
- . . .

1. These Regulations shall be read and construed as one with the Defence (Emergency) Regulations, 1945, hereinafter referred to as "the principal Regulations".

2. The principal Regulations shall be amended by the insertion therein, immediately after Regulation 138 thereof, of the following Regulations, as Regulations 138A:

138A—(i) The Ports Authority as defined in the Ports Ordinance may prohibit any vessel from entering any port, any part of a port or any portion of the territorial waters of Palestine.

(ii) The Ports Authority as defined in the Ports Ordinance may direct the master or any person in charge of or manning a vessel within the territorial waters of Palestine to proceed to any port, or to any anchorage or berth within any port of Palestine, and may give directions as to the manner in and the time at which he shall proceed with his vessel to, or approach, lie along-side, or depart from, any vessel, pier, quay, jetty or other place

¹ In connexion with this Chapter, see: Reply of 24 January 1950 from the Ministry for Foreign Affairs of Israel to questionnaires of the International Law Commission (Document A/CN.4/19, paragraphs 41a, 47 and 48).

² *Palestine Gazette* No. 1641, Supplement No. 2, 15 January 1948, p. 473. Text provided by the Ministry for Foreign Affairs of Israel.

to which he shall proceed with his vessel for the purpose of embarking or disembarking passengers, or loading or unloading goods; as to the nature of the goods that he shall load or unload at or alongside the vessel, pier, quay, jetty, or as to the mode of embarkation upon or disembarkation from any vessel of passengers or goods.

The Ports Authority may also direct the master or any person in charge of or manning a vessel within the territorial waters of Palestine to re-load any goods which have been unloaded in Palestine or the territorial waters thereof, and which, in the opinion of the Ports Authority, should not have been so unloaded, or may direct the master or other person aforesaid not to unload any goods in Palestine or the territorial waters thereof, or may direct the master or other person aforesaid forthwith to take the vessel out of the territorial waters of Palestine and direct the route by which he is to do so.

(iii) The master or person in charge of any vessel which contravenes any prohibition made under sub-regulation (i) of this Regulation, and the master or any person in charge of or manning a vessel, who fails to obey any direction given under sub-regulation (ii) of this Regulation shall be guilty of an offence against this Regulation and shall be liable to imprisonment for a term not exceeding eight years or to a fine not exceeding two thousand pounds or to both such penalties.

. . .

(b) EMERGENCY REGULATIONS (FOREIGN TRAVEL) (EXTENSION OF VALIDITY)
ORDINANCE, 1948¹

. . .

SCHEDULE

Emergency Regulations (Foreign Travel)

. . .

5. No person shall sail at large in the territorial waters of the State of Israel save under a general or special licence issued by a competent authority.

6. Any immigration officer or police officer may, at any time, board any ship, boat or other vessel, as well as any aircraft and any train, motor-bus, car or other vehicle, and detain or question any person if there is reason to believe that he has contravened or is attempting to contravene any of these Regulations.

7. These Regulations shall not apply to —

(a) A person enjoying diplomatic immunity, including a representative of the United Nations;

(b) A person belonging to the regular consular service of a foreign state;

(c) A person in possession of a diplomatic passport or a service passport of the State of Israel.

. . .

¹ Published in *Iton Rishmi* No. 33 of the 17th Cheshvan, 5709 (19th November, 1948); *Laws of the State of Israel*, Vol. II, 5709-1948/49, p. 16; provided by the Ministry of Foreign Affairs of Israel.

9. Any criminal action under these Regulations shall be heard by a Magistrate's Court.

(c) OIL IN NAVIGABLE WATERS ORDINANCE, 1936¹

2. (2) The waters to which this Ordinance applies are the territorial and inland waters of Palestine.

3. If any oil is discharged, or allowed to escape, whether directly or indirectly, into any waters to which this Ordinance applies from any vessel or hulk or from any place on land or from any apparatus used for the purpose of transferring oil from or to any vessel or hulk, to or from any other vessel or hulk, or to or from any place on land, the owner or master of the vessel or hulk from which the oil is discharged or allowed to escape, the occupier of the land, or the person having charge of the apparatus, as the case may be, shall be guilty of an offence and shall, in respect of each offence, be liable on conviction to a fine not exceeding one hundred pounds:

Provided that it shall be a good defence to proceedings for an offence under this section to prove:

(a) If the proceedings are against the owner or master of a vessel or hulk, that the escape of oil was due to, or that it was necessary to discharge the oil by reason of, the vessel or hulk being in collision or the happening to the vessel or hulk of some damage or accident, and also, if the proceedings are in respect of an escape of oil, that all reasonable means were taken by the master to prevent the escape; and

(b) If the proceedings are against any other person and are in respect of an escape of oil, that all reasonable means were taken by that person to prevent the escape.

4. (1) It shall not be lawful during the hours between sunset and sunrise to transfer any oil to or from any vessel or hulk lying in the waters to which this Ordinance applies unless application in writing for permission so to do has been made in accordance with the provisions of this section and written permission for such transfer has been obtained from the Officer in charge of the Port.

(d) WRECKS AND SALVAGE ORDINANCE, 16 MARCH 1926²

2. In this Ordinance, unless the context otherwise requires—"salvage" includes all expenses properly incurred by the salvor in the performance of salvage services;

"waters of Palestine" means the territorial waters of Palestine, the navigable inland waters, the seashore and the banks of navigable inland waters;

"wreck" includes the following objects found in the waters of Palestine—

(a) Goods which have been cast into the sea and remain under water;

¹ *Government of Palestine, Ordinances, Regulations, Rules, Orders and Notices*, vol. 1, 1936, p. 234.

² R. H. Drayton, *Laws of Palestine*, 1933, vol. II, p. 1566.

- (b) Goods which have been cast or fall into the sea and remain floating on the surface;
- (c) Goods which are sunk in the sea but are attached to a floating object in order that they may be found again;
- (d) Goods which are thrown away or abandoned and ships abandoned without hope or intention of recovery.

. . .
Vessels in Distress

4. (1) Whenever any vessel is wrecked, stranded or in distress in the waters of Palestine, an assistant receiver shall, upon being made acquainted with the circumstances, forthwith proceed there and, upon his arrival, shall take the command of all persons present and shall assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel and the lives of the persons belonging to the vessel (hereinafter referred to as "shipwrecked persons") and the cargo and apparel of the vessel:

Provided that the assistant receiver shall not interfere between the master and the crew of the vessel in reference to the management thereof, unless he is requested so to do by the master.

(2) Any person who wilfully disobeys the direction of the assistant receiver is guilty of an offence and is liable to a fine of fifty pounds.

. . .
7. (1) Whenever any vessel is wrecked, stranded or in distress within the waters of Palestine and any person plunders, creates disorder or obstructs the preservation of the vessel or of the shipwrecked persons or wreck, the assistant receiver may cause such person to be apprehended and kept in custody until he can conveniently be taken before a competent authority and may use force for the suppression of any such plundering, disorder or obstruction and may command all persons present to assist him in the use of such force.

(2) If any person is killed or injured by reason of his resisting the assistant receiver or any person acting under his orders in the execution of his duties, neither the assistant receiver nor the person acting under his orders shall be liable to any punishment or to pay any damages by reason of the person being so killed or injured.

8. (1) Where any ship is, or has been, in distress or is lost, abandoned or materially damaged in the waters of Palestine, an assistant receiver may, as soon as conveniently may be, examine on oath, which oath he is hereby empowered to administer, any person belonging to the ship or any other person who may be able to give any account thereof or of the cargo or stores thereof, as to the following matters —

- (a) The name and description of the ship;
- (b) The names of the master and of the owners;
- (c) The names of the owners of the cargo;
- (d) The ports from and to which the ship was bound;
- (e) The occasion of the distress of the ship;
- (f) The services rendered;
- (g) Such other matters or circumstances relating to the ship or to the cargo on board the ship as the assistant receiver thinks necessary.

(2) The assistant receiver shall take the examination down in writing and shall make a report upon the nature and causes of the loss, damage or casualty and shall forward a copy of the evidence and report signed by him to the Chief Secretary who shall, in turn, forward a copy of the evidence to the Secretary for managing the affairs of Lloyds in England and a copy of the evidence and report to the Board of Trade in England.

(3) For the purpose of such examination, an assistant receiver shall have all the powers of a Commission of Enquiry specified in section 5 of the Commissions of Enquiry Ordinance; and the proceedings shall be deemed to be judicial proceedings within the meaning of sections 78 to 86 of the Criminal Law Amendment Ordinance.

(4) An assistant receiver shall be further entitled to go on board any ship and inspect it or any part thereof and the equipment or articles on board thereof, not unnecessarily detaining or delaying the ship from proceeding on any voyage.

. . .

10. (1) Where a vessel is wrecked, stranded or in distress in the waters of Palestine, any cargo or other articles belonging to, or separated from, the vessel, which may be washed on shore or otherwise lost or taken from the vessel, shall be delivered to an assistant receiver.

(2) Any person, whether the owner or not, who secretes or keeps possession of any such cargo or article, or refuses to deliver it to an assistant receiver or any person authorised by him to demand it, is guilty of an offence and is liable to a fine of one hundred pounds.

(3) An assistant receiver or any person so authorized may take any such cargo or article by force from the person so refusing to deliver such cargo or article.

. . .

Offences in respect of Wreck

16. If any person takes into any foreign port any vessel stranded, derelict or otherwise in distress, found in the waters of Palestine, or any part of the cargo or apparel thereof, or anything belonging thereto, or any wreck found in the waters of Palestine, and there sells the same, he is guilty of an offence and is liable to imprisonment for three years.

17. (1) Any person, other than an assistant receiver or a person lawfully acting for or under the orders of an assistant receiver, who shall, without the leave of the master, board or endeavour to board, any vessel which is wrecked, stranded or in distress, is guilty of an offence and is liable to a fine of fifty pounds and the master of the vessel may repel him by force.

(2) Any person who —

(a) Impedes or hinders, or endeavours in any way to impede or hinder, the saving of any vessel stranded or in danger of being stranded or otherwise in distress in the waters of Palestine or of any part of the cargo or apparel thereof or of any wreck,

(b) Secretes any wreck or defaces or obliterates any marks thereon, or

(c) Wrongfully carries away or removes any part of a vessel stranded or in danger of being stranded or otherwise in distress in the waters of Palestine, or any part of the cargo or apparel thereof, or any wreck, is guilty of an offence and is liable to a fine of fifty pounds which may be

inflicted in addition to any other punishment to which the offender may be liable by law.

Salvage

19. (1) Where any services are rendered wholly or in part within the waters of Palestine in saving life from any vessel, or in assisting any vessel which is wrecked, stranded or in distress, or saving the cargo or apparel of that vessel, or any part thereof, and where services are rendered by any person, other than the receiver or assistant receiver, in saving any wreck, there shall be payable to the salvor by the owner of the vessel, cargo, apparel or wreck, a reasonable amount of salvage to be determined in case of dispute in manner hereinafter mentioned.

(2) Salvage in respect of the preservation of life of any person belonging to the vessel shall be payable by the owner of the vessel in priority to all other claims for salvage payable by him.

24. (1) The Government of Palestine shall be entitled to claim and to receive and shall be liable to pay salvage for services rendered in the waters of Palestine by or to any vessel belonging to the Government to the same extent as the owner of a vessel.

(2) Claims for salvage made by or against the Government shall be made and prosecuted by or against the Attorney General on behalf of the Government in the like manner as claims are made and prosecuted by or against the owner of a vessel:

Provided that no vessel belonging to the Government shall be detained or arrested nor shall the Government or the Attorney General be required to give any security.

Miscellaneous

27. Whenever any articles belonging to, or forming part of, any foreign ship which has been wrecked on or near the coast of Palestine or belonging to, or forming part of, the cargo thereof, are found on or near such coasts or are brought into any port of Palestine, the consul of the country to which such ship, or in the case of cargo, the consul of the country to which the owners of such cargo, may have belonged, or any consular officer of such country authorised in that behalf by any treaty or agreement with such country, shall, in the absence of the owner of such ship or articles and of the master or other agent of the owner, be deemed the agent of the owner, so far as it relates to the custody and disposal of such articles.

(e) POST OFFICE ORDINANCE, 7 AUGUST 1930 ¹

PART VI. TELEGRAPHS

55. (1) Every vessel shall be so navigated by the master thereof that neither the vessel nor her anchor or other gear shall injure or endanger any telegraph lying under any of the territorial waters of Palestine.

¹ R. H. Drayton, *Laws of Palestine*, 1933, vol. II p. 1176.

(2) In case of default the owner or master of a vessel is guilty of an offence and is liable to a fine of fifty pounds and to pay the costs of repairing any telegraph injured by reason of the vessel being navigated in contravention of this section.

. . .
(f) EMERGENCY REGULATIONS (MA'PILIM SHIPS)
(EXTENSION OF VALIDITY) ORDINANCE, 1948 ¹
. . .

SCHEDULE

Emergency Regulations (Ma'pilim Ships)

1. In these Regulations —
“ship” includes any part of a ship and its accessories; “ma'pilim ship” means any ship in which immigrants came to Palestine without immigration certificates of the Mandatory Government and which reached the waters of Palestine by the 6th Iyar, 5708 (15th May, 1948) and has ever since that day been in the waters of the State of Israel;

“waters of the State of Israel” include the territorial waters of the State and every port in it.

2. The Minister of Communications may, by notice in *Iton Rishmi*, declare any ship mentioned in the notice to be a ma'pilim ship, and the notice shall be conclusive evidence of its contents.

3. The Minister of Communications may appoint a person to be Controller of Ma'pilim Ships (hereinafter referred to as “the Controller”). The appointment shall be published in *Iton Rishmi*.

4. (a) (1) The Controller shall, either himself or through another person to be appointed for this purpose, inspect every ma'pilim ship;

(2) If after inspecting a ma'pilim ship the Controller is of the opinion that it constitutes a danger or obstruction to ships or other vessels which are or may be near it, or to the movement of such ships or vessels, he shall declare it to be an obstructing ship.

(b) Any declaration of a ma'pilim ship as an obstructing ship shall be published by a notice in *Iton Rishmi* and by a notice posted up in a conspicuous position at the customs-house nearest to the place where the ship is situated. The notices shall describe the obstructing ship to an extent sufficient to identify it. The day of publication of the notice in *Iton Rishmi* shall be deemed to be the day of the declaration.

(c) As from the day of the declaration, the obstructing ship shall be in the possession and charge and under control of the Controller.

. . .
(g) CUSTOMS ORDINANCE, 15 MARCH 1929, AS AMENDED ²
. . .

PART I. PRELIMINARY

2. In this Ordinance and in all customs Ordinances, unless the context otherwise requires —

¹ Published in *Official Gazette* No. 36 of the 8th Kislev, 5709 (10th December, 1948); *Laws of the State of Israel*, Vol. II, 5709-1948/49, p. 46; provided by the Ministry of Foreign Affairs of Israel.

² R. H. Drayton, *Laws of Palestine*, 1933, vol. I, p. 524.

“ Palestine ” includes the territorial waters of Palestine;

. . .

PART IV. THE IMPORTATION OF GOODS

. . .

Importation of goods by sea

48. For the purpose of securing the due importation of goods by sea —

- (a) The ship may be boarded;
- (b) The cargo shall be reported;
- (c) The goods manifested for discharge shall be unshipped or unloaded and may be examined.

49. The master of a ship shall not suffer his ship to enter any place other than a port or approved place unless from stress of weather or other reasonable cause.

50. The master of every ship arriving within the territorial waters of Palestine shall bring his ship to for boarding on being approached by, or hailed or signalled from, any vessel in the service of the Customs having hoisted the Customs flag, or from any vessel in the service of the Government of Palestine or of His Majesty, having hoisted the proper ensign and pennant.

51. The master of every ship from a foreign country bound to, or calling at, any port shall bring his ship to for boarding at the boarding station appointed for that port.

52. The master of every ship bringing to for boarding shall by all reasonable means facilitate boarding by the officer.

. . .

The unshipment, landing, examination and entry, of goods

61. The bulk cargo of a ship arriving within the territorial waters of Palestine shall not be broken, except with the permission of the collector or as regards goods for which entry has been passed.

. . .

PART XII. OFFICERS

Powers of Officers

170. The commander or officer in charge of any ship or boat in His Majesty's service or in the service of the Customs, such ship or boat having hoisted and carrying the proper ensign or customs flag, may pursue any ship within the territorial waters of Palestine which does not bring to when lawfully signalled or required to do so and may, after having fired a gun as a signal, fire at or into such ship to compel her to bring to.

171 (1) Any officer, as defined in the last preceding section, may require the master of any ship hovering within the territorial waters of Palestine to depart and, if such ship shall fail to depart forthwith, may board and bring such ship into port and search her.

(2) The collector may examine all persons on board of such ship, and they shall each thereupon answer questions relating to the ship and her cargo, crew, stores and voyage and produce documents relating to the ship and her cargo.

. . .

PART XIII. FORFEITURES AND PENALTIES

Forfeitures

202. (1) The following ships or boats, not exceeding two hundred and fifty tons registered tonnage, shall be forfeited to the Government of Palestine —

(a) Any ship or boat used in smuggling or knowingly used in the unlawful conveyance of any smuggled or forfeited goods;

(b) Any ship or boat found within the territorial waters of Palestine failing to bring to for boarding upon being lawfully required to do so;

(c) Any ship or boat hovering within the territorial waters of Palestine and not departing forthwith after being required to depart by the commander or officer in charge of any ship or boat in His Majesty's service or by an officer;

(d) Any ship or boat from which any goods are thrown overboard, staved or destroyed to prevent seizure by the Customs;

(e) any ship or boat found within any port with cargo on board and afterwards found light or in ballast or with the cargo deficient and the master of which is unable to account lawfully for the difference;

(f) Any ship or boat within the territorial waters of Palestine having false bulkheads, false bows, sides or bottoms, or any secret or disguised place adapted for the purpose of concealing goods, or having any hole, pipe or other device adapted for the purpose of running goods.

. . .

(h) SALT ORDINANCE, 16 NOVEMBER 1925 ¹

. . .

2. In this Ordinance, unless the context otherwise requires —

. . .

“contraband” in relation to salt means —

(a) Any salt brought within territorial waters except under a licence to import;

. . .

8. Any officer of Customs and Excise or any police officer may at any time without a warrant —

. . .

(d) Board and search in a port, or within territorial waters, or in inland waters, any vessel suspected of carrying salt with the intention of smuggling;

. . .

(i) TOBACCO ORDINANCE, 1 MAY 1925 ²

. . .

Control of Imported Tobacco

15. (1) Tobacco shall be imported only at prescribed ports or places of entry.

. . .

¹ *Ibid.*, vol. II, p. 1309.

² *Ibid.*, p. 1418.

16. Save as hereinafter provided, tobacco shall not be brought within territorial waters nor carried coastwise in vessels of under sixty tons register.

. . .

Offences and Penalties

37. For the purpose of this Ordinance, tobacco shall be contraband in the following cases:

. . .

(c) Manufactured or unmanufactured tobacco brought within territorial waters or carried coastwise in vessels of under sixty tons register;

. . .

38. (1) Contraband tobacco shall be confiscated.

(2) Any person who is found in possession of contraband tobacco is guilty of an offence and is liable to a fine of not less than one pound and not more than three pounds for every kilogramme of such tobacco or part thereof in his possession: in the case of a second or subsequent offence he is liable in addition to imprisonment for six months: further, any vessel not exceeding two hundred and fifty tons register or any means of conveyance made use of in the importation, removal or transport of such tobacco may be seized or detained in any place by an officer of the Customs or any police officer and may be confiscated by order of the court:

Provided that the owner of a vessel exceeding two hundred and fifty tons register which would be liable to be confiscated if the vessel were less than two hundred and fifty tons shall be liable to a penalty of one thousand pounds, and the vessel may be detained until the penalty is paid or security is given for payment.

(3) If, in any prosecution in respect of any tobacco seized as contraband, a dispute shall arise as to whether the tobacco has been lawfully stored, manufactured, carried, imported or possessed, the burden of proof thereof shall be upon the defendant.

. . .

(j) PORTLAND CEMENT ORDINANCE, 1944¹

. . .

2. In this Ordinance, unless the context otherwise requires —“ cement ” means Portland cement;

“ contraband ” in relation to cement means —

(a) Any cement brought within territorial waters except under a licence to import;

(b) Any cement imported, or in process of importation, into Palestine except under a licence to import and at a prescribed place of entry;

(c) Any cement in respect of which the excise or import duty has not been paid;

(d) Any cement in the possession of any person which has been obtained contrary to the provisions of this Ordinance;

. . .

¹ *Government of Palestine, Ordinances, Regulations, Rules, Orders and Notices*, vol. I, 1944, pp. 39 *et seq.*

7. Any officer of Customs and Excise or any police officer may at any time without a warrant —

. . .

(d) Board and search in a port, or within territorial waters, or in inland waters, any vessel suspected of carrying cement with the intention of smuggling;

. . .

9 . . . (4) Any person who is found in possession of contraband cement is guilty of an offence and is liable, if the amount of such cement found in his possession be less than fifty kilogrammes, to a fine of one hundred mils for every kilogramme and, if the amount of such cement be fifty kilogrammes or more, to a fine of five hundred mils for every kilogramme: in the case of a second or subsequent offence, he is liable, in addition, to imprisonment for one year.

. . .

Note. See also: Colonial Air Navigation (Application of Acts) Order, 1937, as amended (The principal Order is to be found in *Palestine Gazette* 707 of 29 July 1937, Suppl. 2, p. 675 and the Amendment thereto in *ibid.*, 749 of 13 January 1938, Suppl. 2, p. 49), 1939 (*ibid.*, 929 of 11 September 1939, Suppl. 2, p. 808) as amended in 1939 (*ibid.* 939 of 19 September 1939) and in 1940 (*ibid.* 979 of 18 January 1940, Suppl. 2, p. 134).

Italy

(a) NAVIGATION CODE OF 30 MARCH 1942 ¹

PRELIMINARY PROVISIONS

. . .

Article 2. Territorial Sea. Any gulf, inlet or bay the coasts of which from part of the territory of the Kingdom shall be subject to the sovereignty of the State if the distance between the outermost points of the opening of the gulf, inlet or bay in question does not exceed twenty nautical miles. If such distance exceeds twenty nautical miles, then the portion of the gulf, inlet or bay enclosed within a straight line drawn between the two points lying furthest to seaward which are separated by a distance of twenty nautical miles shall be subject to the sovereignty of the State.

In addition, a zone of the sea extending six nautical miles from the coasts of the mainland and of the islands of the kingdom, and from the straight lines joining the outermost points referred to in the preceding paragraph, shall be subject to the sovereignty of the State. The said six-mile distance shall be measured from the coastline constituted by the low-water mark.

The foregoing provisions shall not affect any provisions laid down for specific purposes by statute, regulations or international conventions.

Article 3. Air space subject to the sovereignty of the State. The air space over the territory and territorial sea of the Kingdom shall be subject to the sovereignty of the State.

. . .

¹ *Gazzetta Ufficiale del Regno d'Italia*, No. 75, 1942. Translation by the Secretariat of the United Nations.

PART I. MARITIME AND INLAND WATER NAVIGATION

BOOK I. ADMINISTRATIVE RULES CONCERNING NAVIGATION

Title II. State Property Made Available for the Use of Shipping

Chapter 1. State maritime domain

Article 28. Property pertaining to the State maritime domain. The State maritime domain shall comprise:

- (a) The foreshore and beaches, harbours and roadsteads;
- (b) Lagoons, the mouths of rivers flowing into the sea, and basins of salt water or brine that communicate freely with the sea for at least part of the year;
- (c) Canals available for use by the public for shipping purposes.

Article 29. Appurtenances of the State maritime domain. Buildings and other structures belonging to the State and situated within the limits of the State maritime domain or within the territorial sea shall be deemed to be appurtenances of that domain.

Article 30. Use of the State maritime domain. The Mercantile Marine Administration shall lay down regulations governing the use of the State maritime domain and shall supervise the observance of the said regulations.

Title III. Administration and Policing of Ports, and Services in Ports

Chapter 1. Administration and policing of ports

Article 73. Removal of submerged vessels and aircraft. If a vessel or an aircraft is submerged in a harbour, roadstead or canal, or at any place within the limits of the territorial sea where, in the opinion of the maritime authorities, it could endanger or obstruct shipping, then the chief of the district shall, in the manner laid down by the relevant regulations, order the owner to cause the wreck to be removed at his own expense, and shall prescribe a *time-limit* within which such removal must be effected.

If the owner fails to comply with the aforesaid order within the prescribed time limit, the said authorities, acting on their own initiative, shall cause the wreck to be removed and sold for the account of the State. If, in the case of a vessel exceeding 300 gross register tons, the proceeds of the sale are not sufficient to cover the cost, the owner shall be liable to the State for the difference.

If the proceeds of the sale of the wreck exceed the expenses incurred by the State, persons holding liens or mortgages over the vessel shall be entitled to share in the difference.

In urgent cases, the authorities may act on their own initiative and without notice; such action shall be deemed to be carried out on behalf of the owner, who shall be answerable for all expenses. In the case, however, of a vessel not exceeding 300 gross register tons, the owner's liability shall be limited to payment of such removal costs as do not exceed the value of the wreckage recovered.

Article 82. Disturbances in ports and on board vessel. If events capable of disturbing public order take place in a port or elsewhere within the State maritime domain or on board a vessel lying in port or navigating in the territorial sea, the public security authorities which are dealing with the matter shall forthwith notify the maritime authority.

If the public security authorities are unable to intervene in time, and urgent action is called for, the local maritime authority shall take steps to restore order, requesting, if necessary, the assistance of the police forces or, failing them, of the armed forces; it shall forthwith report the occurrence to the public security authority and, in the case of a foreign vessel, to the consular authority of the State whose flag the vessel flies.

Article 83. Prohibited areas. The Minister of Communication may, in the interest of public order, prohibit merchant vessels from passing through or stopping in the territorial sea, or place restriction on their doing so, specifying the areas to which the measure applies.

. . .

Title VI. The Policing of Navigation

. . .

Chapter 3. Regulations applicable to vessels at sea

Article 200. Supervision exercised by warships. Supervision over Italian merchant vessels on the high seas, in the territorial sea, and in foreign ports where there is no consular authority, shall be exercised by Italian warships.

The commanding officer of a warship may, for this purpose, require a merchant vessel to supply information of any kind and may search such vessel and examine its papers; if any serious irregularity is discovered, he may order the vessel in question to be escorted to a port of the State, or to the nearest foreign port where there is a resident consular authority, so that appropriate action may be taken.

At ports where there is a resident consular authority, Italian warships shall exercise supervision as aforesaid at the request of such authority.

Article 201. Investigation of flag. An Italian merchant vessel shall stop if ordered to do so by a warship of a friendly Power, and shall on request produce evidence of its nationality.

Article 202. Vessels suspected of engaging in the slave trade. An Italian warship which, on the high seas or even in the territorial sea of a foreign country, meets an Italian vessel suspected of engaging in the slave trade, may seize such vessel, escort it to a port of the State or to the nearest foreign port where there is a resident consular authority.

. . .

Title VIII. Special Provisions

. . .

Chapter 2. Sea fishing

Article 219. Sea fishing. The term "sea fishing" shall be construed to mean not only fishing carried on at sea but also fishing within the limits of the State maritime domain.

Article 220. Categories of fishing. Fishing shall be classified, in accordance with criteria laid down in the relevant regulations, as coastal fishing, Mediterranean fishing, and fishing beyond the Straits.

Article 221 Fishing reserved for nationals. Except as otherwise specifically provided by international agreement, fishing in the territorial sea shall be reserved for Italian nationals and for Italian fishing vessels.

Nationals and vessels of States with which no such agreement exists may, however, be authorized by Royal Decree to engage in fishing in the territorial sea.

BOOK IV. PROCEDURAL PROVISIONS

Title I. Preliminary Investigation

Article 578. Summary inquiry. If notice is received of a disaster, the maritime or consular authorities shall conduct a summary investigation into its causes and the circumstances in which it occurred, and shall take all appropriate steps to prevent the dispersal of objects and data which can be subsequently useful as evidence.

The authorities of the place where the vessel or the survivors of the disaster first arrive, or, if the vessel is lost and all persons on board have perished, the authorities of the place where notice of the occurrence is first received, shall be competent to conduct this investigation.

In places where there is no maritime authority, the initial investigation shall be conducted, and the necessary steps taken, by the Customs authorities, which shall notify the nearest maritime authority forthwith.

An official record shall be drawn up of the facts ascertained, the steps taken to preserve evidence of what occurred, and the inquiries made; the investigating authorities shall, if not competent to order a formal inquiry, transmit a copy of the said record to the authority having such competence.

Article 579. Formal inquiry. A formal investigation into the causes of the disaster, and into the liability of the several parties, shall be ordered by the competent Maritime Director or consular authority if the persons concerned or the trade associations representing them so request. Even in the absence of any such request, an investigation shall be ordered *ex officio* if, in the light of the official records of the summary inquiry or other reliable information, there is reason to suppose that the disaster is attributable to a wrongful act or to culpable negligence.

If the competent authorities decide that no such *ex officio* inquiry should be ordered, a statement to that effect, setting out the reasons therefore, shall be appended to the official record of the summary inquiry and the authorities in question shall transmit the said record to the Minister of Communications.

A formal inquiry may be ordered even if the disaster involves a vessel sailing under a foreign flag.

Article 580. Competent authority. Competence shall be determined by reference to the place of the disaster if it occurred in the territorial sea and, in all other cases, by reference to the place where the damaged vessel or the majority of the survivors of the disaster arrive.

If the vessel is lost and all persons on board have perished, or if the consular authority transmits the official record of the summary inquiry, with the statement that a commission of inquiry cannot be set up, then the Minister of Communications shall designate the competent commission.

The said Minister may entrust the formal inquiry to a special commission.

He may also order the review of any inquiry conducted in accordance with the normal procedure.

Article 581. Inquiry procedure. Formal inquiries shall be conducted by a commission of inquiry set up in the manner prescribed by the relevant regulations at the seat of the maritime or consular authority having power to order an inquiry, a representative of that authority to act as chairman.

The commission of inquiry shall investigate the causes of the disaster and ascertain the liability of the several parties. For this purpose, it may proceed to the site of the disaster, hear witnesses and in general employ any suitable means of investigation.

The operator and the owner of the vessel, the members of the crew, the insurers, any person alleging personal injury or other damage in consequence of the disaster or his successors in interest, and in general any person having an interest in the vessel or in its cargo may be present or cause himself to be presented at the inquiry proceedings and be heard in the presence of persons summoned to give evidence.

If the vessel involved in the disaster sails under a foreign flag and the disaster occurred in the territorial sea, the commission of inquiry may examine the crew, in which event it shall notify the competent consular authority accordingly.

The commission shall prepare a report of the steps it has taken and of the conclusions which it has reached concerning the causes of the disaster and the liability of the several parties in respect thereof; it shall submit the said report, together with the official records, to the authority which ordered the formal inquiry.

Article 582. Probative value of the report of the inquiry. In judicial proceedings relating to disasters at sea, the facts as set forth in the report of a formal inquiry shall be considered as established; it shall, however, be open to any interested party, to produce evidence in rebuttal.

. . .

Title II. Litigation in Maritime Matters

. . .

Chapter 2. Litigation concerning disasters at sea

Section I. Jurisdiction

Article 589. Jurisdiction as determined by the subject matter of the proceedings and by the amounts involved. Claims in respect of:

- (a) Damage occasioned by a collision between vessels;
- (b) Damage caused by a vessel when anchoring, mooring or performing any other manoeuvre in port or at some other station;
- (c) Damage occasioned by the use of loading and unloading equipment or from the handling of cargo in port;
- (d) Damage caused by a vessel to nets or fishing gear;
- (e) Compensation or remuneration in respect of assistance, salvage or recover; and
- (f) Rewards for finding wreckage or reimbursement of expenses connected herewith;

shall be lodged with the harbour commandant if they relate to an amount not exceeding 10,000 lire; they shall be lodged with the court if they involve an amount in excess of that figure

The provisions of this article shall apply also to Italian warships.

Article 590. Territorial jurisdiction. If the event giving rise to the claims referred to in the preceding article occurred within the territorial sea, the said claims shall be lodged with the harbour commandant competent for the administrative district, or with the court of the judicial district, in which the event took place, or with the chief of the administrative district or court of the judicial district where the damaged vessel or, in its absence, the majority of the survivors of the disaster first arrived, or with the chief of the administrative district or court of the judicial district in which the vessel's port of registry is situated.

If the event occurred outside the territorial sea, claims shall be lodged with the harbour commandant competent for the administrative district, or with the court of the judicial district where the damaged vessel or the majority of the survivors of the disaster first arrived or, in the absence of the vessel and survivors, with the chief of the administrative district or court of the judicial district in which the vessel's port of registry is situated.

PART III. PENAL AND DISCIPLINARY PROVISIONS

BOOK I. PENALTIES

Title IV. Procedural Provisions

Article 1235. Persons vested with the powers of law enforcement officers and personnel. For the purposes of article 221 of the Code of Criminal Procedure, the following persons are empowered to act as law enforcement officers:

(1) Harbour commandants, harbour officers and officials, the director or deputy-director of an airport and the deputy-director in charge of an emergency landing ground, with respect to offences specified in this Code which are committed in port or in an aerodrome or on board a vessel or aircraft during navigation, and, if at the port or airport concerned there is no public security office, with respect also to offences generally which are committed in such places. In a private airport, where there is no resident airport deputy-director and in a State airport which is not the headquarters of an airport director, the powers of law enforcement officer shall be vested in the airport director in whose jurisdiction area the particular airport is situated;

(2) Masters of vessels and captains of aircraft, with respect to offences committed on board during navigation;

(3) Consuls, with respect to offences specified in this Code which are committed abroad, without prejudice to their powers to act in all other cases provided for in the legislation respecting consuls;

(4) Commanding officers of Italian warships, in the performance of acts carried out by them at the request of the consular authority or, in case of emergency, on their own initiative. The commanding officers of Italian warships shall be responsible for supervising the manner in which the law enforcement powers vested in masters of Italian vessels are exercised on the high seas and within the territorial sea of foreign States.

Non-commissioned officers and other military personnel under the authority of the harbour commandant, officials and other agents of the Administration of Inland Navigation and officials and agents of State or

private airports, and members of crew, shall be deemed to be acting as law enforcement personnel when performing any act which a law enforcement officer has requested them to carry out.

Harbour office officials and officials of State or private airports who are on patrol duty shall also be deemed to be acting as law enforcement personnel.

(b) ACT No. 612 OF 16 JUNE 1912 TO ENACT RULES GOVERNING THE PASSAGE AND PRESENCE OF MERCHANT SHIPS THROUGH OR IN ITALIAN COASTAL WATERS¹

Article 1. The passage and presence of Italian and foreign merchant ships through or in any specified area of the territorial sea, situated to landward or to seaward of the straight line referred to in the next paragraph, may be declared prohibited at any time if the prohibition is necessary in the interest of national defence.

For the exclusive purpose of this Act, the expression "territorial sea" means the maritime zone comprised within the limit of ten nautical miles from the coast. In the case of a gulf, inlet or bay, the ten-mile zone shall be measured from a straight line drawn across the gulf, bay or inlet at the point lying furthest to seaward at which the opening is not more than twenty miles wide.

Article 2. The areas through or in which the passage and presence of merchant ships is prohibited shall be designated by Royal Decree, at the recommendation of the Minister of Marine, and in urgent cases by decree of the said Minister, after consultation with the Council of Ministers in either case.

Article 3. Every decree as aforesaid shall be published in full in the *Gazzetta Ufficiale* of the Kingdom, posted at all harbour-masters' and port offices and communicated to the foreign consuls resident in the coastal towns.

Article 4. Semaphore and signal stations and warships on local duty shall, in conformity with international maritime custom, signal to all merchant ships to leave an area affected by the prohibition concerning passage and presence.

Article 5. The Minister of Marine shall have authority, in cases of proved necessity, to grant special permits for the passage and presence of Italian and foreign merchant ships through or in such areas, and he may delegate this authority to the commandant of the naval fortress concerned for use in urgent cases.

Article 6. If a merchant ship is about to enter an area which is covered by a restriction affecting free passage imposed by a decree as referred to in article 2, then the nearest fortress or warship shall order that ship to leave the area. Such order shall be conveyed by a gunshot with a powder charge.

If the order has not been complied with after two minutes, or earlier if the urgency of the situation so requires, it shall be repeated by a gunshot with a shell charge fired across the bows of the ship, but not aimed at the ship.

¹ *Raccolta Ufficiale delle Leggi e dei Decreti del Regno d'Italia*, Vol. III, 1912, p.2095. Translation by the Secretariat of the United Nations.

Article 7. If the merchant ship does not stop after the second order, force may be resorted to, including the use of artillery.

Article 8. The maritime authority shall be empowered to send an officer or other official aboard the merchant ship which has contravened, or attempted to contravene, a prohibition in force, for the purpose of establishing the identity of the ship and of the persons responsible for the contravention.

The official discharging this duty shall, for all purposes of the law, be deemed to have the functions of a law enforcement officer.

Article 9. If special circumstances so require, a ship which commits a contravention as aforesaid may, together with the persons on board, be escorted to a port of the State and there be placed at the disposal of the judicial authority.

Article 10. Any contravention of the provisions of this Act shall be punishable by a fine of 100 to 2,000 lire, payable by the ship's captain.

In any case in which it has been necessary to use force, the fine shall not be less than 1,000 lire, and the additional penalty of detention for a term of one to twelve months, to be served by the captain, shall always be imposed.

In these cases the proceedings shall always be treated with priority.

Article 11. If an Italian or foreign ship has contravened the provisions of this Act, the ship may be held at the disposal of the maritime authorities until the fine imposed has been paid, unless appropriate security has been deposited.

(c) ROYAL DECREE NO. 400 OF 24 FEBRUARY 1938 CONCERNING THE CONTROL OF NAVIGATION IN THE LA MADDALENA ARCHIPELAGO ¹

Article 1. The waters of the La Maddalena Archipelago bounded by the following polygon:

Capo Ferro signal station western Isola dei Monaci; northern point Isola Barrettini; northern point Isola Spargiotto; Secca Corsara buoy; Punta Sardegna light; are closed to all foreign and Italian merchant vessels, irrespective of tonnage and whether propelled by sail, steam or motor, which are not proceeding to a port within the above-mentioned polygon.

Article 2. On entering the estuary, vessels proceeding to ports within the polygon shall:

(a) If provided with the International Code of Signals, proceed to the vicinity of the Capo Ferro or Guardia Vecchia signal stations to identify themselves and to request the permission to anchor from the Naval Officer in Charge, La Maddalena;

(b) If not in possession of the International Code, hoist their national flag and international signal letters, if any, and proceed to the Rada di Palau and there anchor until given permission by the Naval Officer in Charge, La Maddalena, to proceed to the anchorage to which they are bound.

Article 3. After sunset the estuary is closed to all vessels, other than vessels obliged to enter by *force majeure*. Such vessels shall proceed to the

¹ *Codice delle Leggi Penali Speciali*, vol. II, M-Z, 1955, p. 2078. Translation by the Secretariat of the United Nations.

Rada di Palau and comply with the instructions laid down in sub-paragraph (b) of the preceding article.

Article 4. In the case of steamships arriving in normal circumstances and steamships which have signalled their arrival in advance, the Naval Officer in Charge, La Maddalena, may make special arrangements waiving some of the aforesaid provisions.

. . .

(d) ROYAL DECREE NO. 1489 OF 16 SEPTEMBER 1939 REGULATING MARITIME TRAFFIC IN THE WATERS OF AUGUSTA¹

. . .

Article 1. It shall be unlawful for any foreign or Italian merchant ship or pleasure craft, whether a sailing, steam or motor vessel, regardless of its type and tonnage, whether by day or by night, to pass through or anchor in the waters of the Maritime District of Augusta comprised within Lat. 37° 20' N. and Lat. 37° 4' N., and Long. 15° 25' E, and the coast, unless such vessel is proceeding to a landing-place within the said District.

Article 2. Vessels proceeding to such a landing-place, including vessels putting in for supplies, which enter the waters of the Maritime District of Augusta:

(a) Shall, if using the International Signal Book, make their approach to the prohibited zone by heading for the Torre Avolos Signal Station on a 270° course for the purpose of being recognized and of requesting, through the said station, the Augusta Naval Command to grant permission to anchor;

(b) Shall, if not using the International Signal Book, hoist the national flag and the ship's pennants, and shall await the order to enter, which shall be signalled from the Torre Avolos Signal Station (P.Q.C.).

In case of an on-shore wind, vessels awaiting permission to proceed into the zone shall anchor in the port of Xifonio or west-north-west of Punta Tuano on the Magnisi Peninsula.

Article 3. It shall be unlawful for vessels to enter the zone after sunset.

The foregoing prohibition shall not apply in the case of vessels which are compelled to enter by reason of *force majeure*, but such vessels shall comply with the rules laid down in article 2 (b) above.

Article 4. The Augusta Naval Command may authorize special arrangements, not wholly in conformity with the foregoing provisions, applicable to vessels which regularly call at a landing-place within the zone, to local craft, and to vessels which have given prior notice of their arrival.

. . .

(e) ROYAL DECREE NO. 1490 OF 16 SEPTEMBER 1939 REGULATING MARITIME TRAFFIC IN THE WATERS OF PANTELLERIA²

. . .

Article 1. It shall be unlawful for any foreign or Italian merchant ship or pleasure craft, whether a sailing, steam or motor vessel, regardless of its

¹ *Gazzetta Ufficiale del Regno d'Italia*, Sept-Oct. 1939, p. 4818. Translation by the Secretariat of the United Nations.

² *Ibid.*, Translation by the Secretariat of the United Nations.

type and tonnage, to pass through, whether by day or by night, the territorial waters of the Island of Pantelleria, unless such vessel is bound for one of the following landing-places on the Island: Pantelleria Village, Scauri, Tracino or Campobello.

Article 2. Vessels proceeding to one of the said landing-places, including vessels putting in for supplies, which enter territorial waters:

(a) Shall, if using the International Signal Book, pass within sight of the Pantelleria shore signal station for the purpose of being recognized and of requesting permission to anchor;

(b) Shall, if not using the International Signal Book, hoist the national flag, pass within sight of the Pantelleria shore signal station, and proceed to one of the following landing-places: Pantelleria Village, Scauri or Campobello, where they shall anchor while waiting for recognition.

Article 3. It shall be unlawful for vessels to enter the territorial waters of Pantelleria after sunset.

The foregoing prohibition shall not apply in the case of vessels which are compelled to enter by reason of *force majeure*, but such vessels shall make every effort to effect recognition by the Pantelleria shore signal station and shall proceed to one of the landing-places specified in article 2 (b) above, where they shall anchor while waiting for instructions from the local authorities.

Article 4. The Pantelleria Sub-Command may authorize special arrangements, not wholly in conformity with the foregoing provisions, applicable to local craft and to vessels which have given prior notice of their arrival.

(f) CUSTOMS ACT No. 1424 OF 25 SEPTEMBER 1940¹

TITLE I. GENERAL PROVISIONS

Article 1. Customs boundary. The sea coast, the Italian shores of the Lake of Lugano which face foreign shores, and frontiers with other States shall constitute the customs boundary. The waters of sea ports and of roadsteads used as anchorages for vessels shall nevertheless be deemed to be within the customs boundary.

The following areas shall be deemed to be outside the customs boundary: the Italian waters of the Lake of Lugano which are situated between the shore and the political frontier between Ponte Dersa and Porto Ceresio; the two versants between the crest of the Alps and the Nice and Susa frontier, declared to be neutral under the Italo-French Convention of 7 March 1861; the commune of Campione d'Italia; the commune of Livigno; the territory of Zara with Lagosta and Pelagosa island; the free zone of Carnaro; free ports and bonded warehouses.

Subject to the exception referred to in article 78, it may be laid down by Royal Decree which other territories are to be deemed to lie outside the customs boundary, and the customs boundary itself may be otherwise modified.

In the areas specified above which are deemed to be outside the customs boundary, the Minister of Finance may, by decree to be published in the

¹ *Gazzetta Ufficiale* No. 230 of 1 October 1940, p. 3948-3953. Translation by the Secretariat of the United Nations.

Official Gazette of Italy, prohibit the storage in bond of specified foreign goods, subject to frontier duties, or limit the storage of such goods to the needs of the inhabitants.

. . .

TITLE II. ARRIVALS

. . .

Chapter II. Arrivals by Sea

Article 33. Zone of maritime customs supervision. The zone of the sea which is subject to customs supervision for the purposes of this Act extends twelve nautical miles from the coast.

. . .

Article 35. Prohibition of landing and hovering. In places where there are no customs offices, it shall be unlawful for the masters of vessels, except with the permission of the customs or in the case of *force majeure*, to close the shore, to anchor, to lie to, to enter into communication with the shore in a manner permitting the loading or unloading of cargo, and to effect a landing.

Vessels must not anchor except in places set aside for the purpose.

Article 36. Requirements concerning cargo manifest. Supervision. Within the supervision zone, the masters of vessels proceeding to an Italian port must be in possession of a cargo manifest.

Officers of the Royal Customs Guard in the supervision zone may board vessels of not more than 200 tons burden and require the master to produce the manifest and other cargo documents. If the master is not in possession of the manifest or refuses to produce it or if there is reason to suspect a breach of the customs regulations, the vessel shall be escorted to the nearest customs office for investigation as necessary.

In the case of vessels of more than 200 tons burden, supervision shall be exercised over the movements of the vessel within the supervision zone; if, however, an attempt is made to load, unload or transship in a place where there is no customs office, the customs guard shall be empowered to board the vessel, to require the cargo documents to be produced, and to escort the vessel to the nearest customs office for appropriate action.

. . .

Japan

(a) MARITIME SAFETY BOARD LAW No. 8 OF 27 APRIL 1948, AS AMENDED BY LAW No. 10 OF 1 APRIL 1955¹

. . .

Article 2. The Maritime Safety Board shall perform the functions concerning enforcement of laws and orders at sea, rescue of marine disasters, prevention and suppression of crimes at sea, detection and arrest of criminals at sea, services concerning waterways and navigational aids, other services for insuring maritime safety and the business concerning matters incident thereto.

. . .

¹ Text of Law provided by the Ministry for Foreign Affairs of Japan.

Article 16. Whenever necessary for the performance of the duties mentioned in Article 7 item (2),¹ or for the arrest of a criminal or at any emergency a Maritime Safety official may call upon persons nearby for cooperation.

Article 17. A Maritime Safety official may, when necessary for performance of his duties, direct the shipmaster or other person in charge of a vessel to produce the ship's official papers which are to be kept aboard under law and order; visit and inspect the vessel for the purpose of ascertaining her identity, port or place of departure, port or place of destination, nature of her cargo, or whether she is loaded or not and all other particulars about vessels, cargo and navigation deemed important; and question the crew and passengers on matters necessary in the discharge of his duties.

Article 18. A Maritime Safety official may, whenever deemed actually unavoidable from various circumstances for performance of his duties, take any of the following measures, besides those specified in other laws and orders in regard to performance of his duties:

- (1) To make a vessel stop proceeding or to suspend her departure;
- (2) To make a vessel deviate from her pre-determined route or to make her sail to a port which he designates;
- (3) To make the crew, passengers or other person on board disembark the vessel or to restrict or prohibit their disembarkation;
- (4) To cause the cargo to be discharged or to restrict or prohibit its discharge;
- (5) To restrict or prohibit the traffic between vessels or between a vessel and shore, when such vessel or vessels are under quarantine or undergoing investigation or under seizure or constitute a menace to life.

(b) NAVIGATIONAL AIDS LAW No. 99 OF 24 MAY 1949, AS AMENDED BY LAW No. 198 OF 23 MAY 1950²

. . .

Article 7. Any one who discovers trouble of and or accident to the navigational aids shall report it at once to the Maritime Safety Agency or nearby local office of the Board.

Article 8. No one shall be allowed to use indiscriminately a light and or sound, mistakable for those of the navigational aids.

2. The Director of the Maritime Safety Board may give orders to those who commit or intend to do the actions mentioned in the preceding paragraph to put out the light or stop the sound or to take other necessary measure so that it may not be mistaken for navigational aids.

. . .

Article 11. No vessel (including lighter, raft or other similar structure — hereinafter the same) shall sail unnecessarily too close to the navigational aids lest it should cause damage to the navigational aid.

2. No vessel shall be moored to the navigational aid.

¹ *Article 7.* The Coast Guard Division shall perform the following functions:
(a) Salvage of life, cargo and vessels in distress and necessary assistance in case of natural calamity, accident and other event where relief is required.

² Text of Law provided by the Ministry for Foreign Affairs of Japan.

3. No vessel shall lie at anchor or stay at a place which is apt to disturb the sight of or to come in contact with the navigational aid.

Article 12. No one shall commit an act which is apt to cause stain or damage to the navigational aid.

(c) LAW No. 102 OF 17 APRIL 1950 FOR HYDROGRAPHIC ACTIVITIES, AS AMENDED BY LAW No. 10 OF 10 MARCH 1951 ¹

Article 17. Vessels of the Maritime Safety Board or of those persons who have obtained permission in accordance with the provision of article 6 shall, in case they are conducting a hydrographic survey or oceanographic observation, put up such marks as may be specified in a Ministry of Transportation Ordinance.

Article 18. The master shall not sail his vessel too close to a vessel putting up the mark under the preceding paragraph, without any justifiable reason.

Article 20. The master shall, in case he has found any sunken object or objects menacing the safety of navigation, or found any phenomenon remarkably different from the descriptions in charts and publications published by the Maritime Safety Board, report the fact without delay to the Director-General of the Maritime Safety Board.

(d) SHIP'S SAFETY LAW No. 11 OF 15 MARCH 1933, AS AMENDED BY LAW No. 151 OF 1 AUGUST 1953 ²

Article 1. No Japanese vessel shall be employed in navigation unless such measures are taken on board in accordance with this Law as are necessary for maintaining the vessel in a seaworthy state and for the safety of human life.

(e) ENFORCEMENT ORDINANCE OF SHIP'S SAFETY LAW No. 13 OF 1 FEBRUARY 1934, AS AMENDED BY IMPERIAL ORDINANCE No. 307 OF 19 MAY 1945 ³

Article 1. The provisions of articles 1 to 5, article 7, paragraph 1, article 8, article 9, paragraphs 1, 2 and 4, articles 10 to 12, articles 16 to 21, articles 23 to 26 and article 29 of the SHIP'S SAFETY LAW shall apply *mutatis mutandis* to vessels of other than Japanese nationality coming under any of the items mentioned in article 14 of the said law.

¹ Text of Law provided by the Ministry for Foreign Affairs of Japan.

² Text of Law provided by the Ministry for Foreign Affairs of Japan.

³ Text of Ordinance provided by the Ministry for Foreign Affairs of Japan.

(f) PORT REGULATION LAW NO. 174 OF 15 JULY 1948, AS AMENDED BY LAW NO. 7 OF 20 MARCH 1954 ¹

Article 24. No person shall throw or discharge ballast, waste oil, cinder ashes, dirt or other refuse matters without permission into waters of a port or within 10,000 meters from the boundaries of a port.

Note: The provision is not applicable to foreign vessels but only to those of Japanese nationality, beyond the 3 mile limit recognized as the limits of territorial waters.

Korea

(a) LAW GOVERNING THE SAFETY OF SHIPS (LAW NO. 11 OF 15 MARCH 1933, AMENDED BY LAW NO. 79 OF 14 AUGUST 1937) ²

Article 1. No Korean ships shall be available for navigation, except when they are furnished with such installations as may be required for the maintenance of seaworthiness and the safety of human life under the provisions of this Law.

(b) REGULATION CONCERNING THE SAFETY OF ALIEN VESSELS IN KOREA (GENERAL ORDINANCE NO. 21 OF 23 FEBRUARY 1935) ³

Article 1. The provisions of articles 1-5, article 7 paragraph 1, article 8, article 9 paragraphs 1, 2, 4, articles 10-12, articles 16-21, articles 23-26 and article 29 of the Law governing the Safety of Ships applicable to Korea by virtue of article 1 of the Korean Ships Safety Regulation (hereinafter referred to as the Law), shall apply to alien vessels (hereinafter referred to as non-Japanese vessels under the Korean Ships Safety Regulation) falling under each of the Items of Article 14 of the said Law.

(c) MARINE DEFENCE ACT (LAW NO. 104 PROMULGATED 2 MARCH 1950) ⁴

Article 1. The President of the Republic of Korea may, by fixing a boundary, designate some area as the "Sea of Defence" in the case of extraordinary necessity during a time of formal war or a civil war.

The designation of such areas provided for in the preceding paragraph, as well as the cancellation of such areas thereof shall be publicly announced by the Minister of National Defence.

Article 2. If it is necessary to take urgent measures the Commanding Officer of the Naval Yard or the Commanding Officer of the Guard Station may designate and proclaim the "Sea of Defence" as provided for in the preceding article.

¹ Text of Law provided by the Ministry for Foreign Affairs of Japan.

² Text of Law provided by the Permanent Observer of the Republic of Korea to the United Nations.

³ Text of Regulation provided by the Permanent Observer of the Republic of Korea to the United Nations.

⁴ Text of Act provided by the Permanent Observer of Korea to the United Nations.

Such proclamation shall be reported without delay to the President for approval. If confirmation from the President is not obtained, such proclamation shall lose its effect thereafter, and the Minister of National Defence shall announce that fact without delay.

Article 3. Ships other than those of the National Defence Force may not enter into, leave from, or sail in the "Sea of Defence" without the permission of the Commanding Officer of the Naval Yard or of the Guard Station during the hours of darkness (from sunset until sunrise).

Article 4. In case the zone of a Naval Base belongs to the "Sea of Defence", ships other than those of the National Defence Force may not enter into, leave from or sail in the "Sea of Defence" without the permission of the Commanding Officer of the Naval Yard or the Commanding Officer of the Guard Station.

Article 5. Ships entering into, leaving from, sailing or anchoring in the "Sea of Defence" shall observe the directives of the Commanding Officer of the Naval Yard or of the Guard Station concerning all their movements.

Article 6. In case it is deemed necessary, the Commanding Officer of the Naval Yard or of the Guard Station may prohibit or place restraint on fishing, extraction of sea-weeds and other actions which may serve as obstacles to military operations.

. . . .
(d) CUSTOMS LAW (LAW NO. 67 PROMULGATED 23 NOVEMBER 1949) ¹

Article 142. When a foreign trade ship is anchored in an open port, her captain shall present entry report to the Collector of Customs within twenty-four hours, and submit inventory of cargoes and the ships equipments, and the list of passengers and at the same time shall prepare the certificate of the Vessel nationality and the clearance permit of last port of departure or substitute document of the like.

When a ship which had loaded the bonded transport goods entered an open port, the present inventory of (transportation) goods within twenty-four hours.

Article 143. When a foreign trade ship or a ship loaded transport goods are to sail from an open port the captain must report departure to the Collector of Customs and obtain the clearance permit.

When a foreign trade ship or a ship which is loaded with the bonded transport goods are to receive the clearance permit as provided in the foregoing paragraph, the captain shall submit the inventory of the loaded goods in the open port to the Collector of Customs.

Article 144. Unless a foreign trade ship or a ship which was loaded with the bonded transport goods finished the procedures stated in article 142, she shall not disembark or transship the cargoes or goods for the ship's own use in an open port, except in the case with the permission of the Collector of Customs.

Article 145. When a foreign trade ship or a ship which is loaded with the bonded transport goods desires to disembark to communicate the goods with land, except in the case with the permission of the Collector.

¹ Text provided by the Permanent Observer of Korea to the United Nations.

Article 146. In case a foreign trade ship or a ship on which the bonded transport goods were loaded disembark or transship the goods in an open port the approval of the customs officials shall be obtained.

Article 147. When loading disloading or transshipping the foreign goods or inland transport goods are to be carried out outside the port, the captain shall be licenced by the Collector of Customs.

. . .

Article 149. In case a foreign trade ship was compelled to enter a non-open port because of calamity or other act of God, the captain shall make a report of the outline therefor without delay to the customs official but where there is no customs official, to the police officials; the same shall apply when the ship concerned is to clear the port.

If the ship mentioned in the foregoing paragraph is to load the goods for the use of the ship, disload her goods or transship them since she has been driven into the port the captain shall be approved by the official to whom he already reported according to the preceding paragraph.

But, when there is no time to be approved by urgent circumstances, the captain shall report to the competent official the outline without delay.

. . .

Article 155. The open port shall be designated by a Presidential Decree.

Article 156. The anchorage area of the foreign trade ships at an open port shall be designated by the Collector of Customs.

Liban

CODE DES DOUANES, ÉDICTÉ PAR L'ARRÊTÉ N° 422 DU 30 JUIN 1954¹

. . .

Article 69. Les fonctionnaires des douanes sont autorisés à visiter les bâtiments de toutes nationalités au-dessus de 150 tonneaux de jauge étant à l'ancre ou louvoyant dans les vingt kilomètres des côtes libanaises, hors le cas de force majeure justifiée.

. . .

Article 72. Les fonctionnaires des douanes sont autorisés, dans les vingt kilomètres des côtes, à monter à bord des navires de tous pavillons au-dessus de 150 tonneaux, mais se bornent alors à exiger une copie du manifeste et à viser l'original. Ils ne sont autorisés à visiter ces bâtiments que si la présence de marchandises de contrebande leur est spécialement signalée.

. . .

Libya

(a) NOTE OF 29 NOVEMBER 1955 RECEIVED FROM THE MINISTRY FOR FOREIGN AFFAIRS OF THE UNITED KINGDOM OF LIBYA

“Libya's territorial sea is open to innocent passage by vessels of all States without exception, whether traversing the territorial sea in the

¹ Texte fourni par le Ministère des affaires étrangères de la République libanaise.

direction of the coast or making for the high sea or navigating parallel to the coast. Passage is innocent if it does not cause any actual damage to the State.”

(b) CUSTOMS LAW OF 1954¹

PART II. MANIFESTS, DECLARATIONS AND REPORTS

Article 7. (1) The person in charge of any means of conveyance adapted for the carriage of goods entering or leaving Libya or Libyan territorial waters shall carry with him a manifest showing the nature and quantity of all goods carried thereon and shall produce the same, together with an attested copy thereof for retention by the Customs, to the Customs officer at the nearest port, aerodrome or station.

(2) The production of the manifest shall be required whatever be the cause for entering or leaving Libya or Libyan territorial waters and whatever be the duration of stay there.

Article 14. (1) When any ship is lost or wrecked upon the coast of Libya, the master or agent shall, without any unreasonable delay, make report of the ship and cargo by delivering to the Customs officer a manifest, so far as it may be possible for him to do so, at the Customs office nearest to the place where the ship was lost or wrecked.

(2) If any aircraft is forced to land at any place other than a Customs aerodrome, or is lost or wrecked within the Libyan Customs boundary, or where any goods are jettisoned within the same prior to the arrival of the aircraft at a Customs aerodrome, the captain or owner or agent shall without unreasonable delay make report of the aircraft and cargo by delivering to the Customs officer a manifest, so far as it may be possible for him to do so, at the Customs office nearest to the place where the aircraft has landed or was lost or wrecked or the goods were jettisoned.

PART IV. CUSTOMS POWERS AND CONTROL

Article 47. Any Customs officer may:

(a) Board and search any means of conveyance at any port or aerodrome or Customs Station in Libya or within Libyan territorial waters;

(b) Secure any goods on any means of conveyance arriving at any port or aerodrome or Customs station in Libya or within Libyan territorial waters;

(c) Within his competence question all persons on board any means of conveyance and they shall each thereupon answer questions relating to the means of conveyance, its cargo, crew, stores and voyage and produce documents relating to the means of conveyance or its cargo.

Article 48. (1) The person in charge of any means of conveyance shall, when so required, by all reasonable means facilitate the boarding of the said means of conveyance by the Customs officer.

¹ *Official Gazette of the United Kingdom of Libya*, No. 4, 19 June 1954, vol. 4.

(2) The power of a Customs officer to board a ship shall extend to staying on board, and the Director-General may station a Customs officer on board any ship.

(3) The master of the ship on board which any Customs officer is staying or is stationed under the provisions of this article shall, if required, provide such officer with suitable sleeping accommodation under the deck, and food.

. . .

Article 51. Where the Director-General has reason to suspect that any ship is hovering or likely to hover in any area adjacent to Libyan territorial waters for the purpose of smuggling he may, by notice published in the Official Gazette, declare that area to be a Customs enforcement area and thereafter any Customs officer may go on board any ship in such area suspected to be there for the purpose of smuggling, and bring the ship into port.

. . .

Article 60. Goods subject to the control of the Customs shall include:

. . .

(e) Goods on board any ship from or destined for abroad, while such ship is within Libyan territorial waters, and goods on board any coasting ship while such ship is within Libyan territorial waters;

(f) Goods on board any aircraft while the aircraft is upon any aerodrome in Libya or over Libyan territorial limits;

. . .

PART VII. GENERAL

Article 105. In this Law, unless the context otherwise requires:

. . .

“Customs boundary” means the seashore of Libya and the frontiers between Libya and other neighbouring states and includes the air above the line of such seashore and frontiers, provided that any lighter or pontoon or other craft in any port or approved anchorage for the time being in use for the conveyance of goods or persons to or from a vessel berthed or at anchor and any craft in any port or harbour to or from which goods from abroad are transhipped direct from or to any other vessel shall be deemed to be inside the Customs boundary.

. . .

Maroc

DAHIR DU 14 SEPTEMBRE 1932 (12 JOMADA I 1351) CONCERNANT LES MESURES DE POLICE APPLICABLES AUX NAVIRES ÉTRANGERS SÉJOURNANT OU CIRCULANT DANS LES EAUX TERRITORIALES DE LA ZONE FRANÇAISE DE L'EMPIRE CHÉRIFIEN ¹

Article premier. Indépendamment des prescriptions générales qui peuvent être édictées en ce qui concerne la circulation et le séjour des navires dans

¹ *Les Codes marocains*, droit maritime, textes annexes, p. 155.

les eaux territoriales de la zone française de l'Empire chérifien, les bateaux étrangers sont tenus de se conformer aux règles de police suivantes, quand ils circulent ou se trouvent mouillés à l'intérieur des limites de ces eaux.

. . .

Article 5. Il est interdit aux navires étrangers de toute catégorie et, particulièrement, aux bateaux de pêche, de gêner la navigation à l'entrée des ports et des rades, ainsi que les opérations des services publics et les opérations de pêche des navires chérifiens. En conséquence, ils sont tenus de déférer à l'injonction de se retirer qui peut leur être faite par les autorités chérifiennes.

. . .

Monaco

(a) ORDONNANCE DU 16 OCTOBRE 1915 CONCERNANT LA SÉCURITÉ DE LA NAVIGATION MARITIME ET LE TRAVAIL À BORD DES NAVIRES (MODIFIÉE PAR L'ORDONNANCE N° 3747 DU 6 SEPTEMBRE 1948) ¹

TITRE 1^{er}. DE LA SÉCURITÉ DE LA NAVIGATION MARITIME

. . .

Chapitre II. Navires en service

Article 3. Aucun navire étranger ne pourra embarquer des passagers à Monaco s'il n'a fait constater par la commission prévue à l'article 4 ci-après, qu'il satisfait aux conditions imposées aux navires monégasques par l'article 1^{er} de la présente ordonnance.

Toutefois, les navires susvisés seront dispensés de ces constatations sur présentation, par les capitaines, de certificats de leur gouvernement, reconnus par le Ministre d'Etat équivalents au permis de navigation monégasque, et à condition que les mêmes avantages soient assurés aux navires monégasques dans les ports de leur nationalité.

Les permis de navigation régulièrement délivrés par l'autorité française seront valables au même titre que les permis délivrés par l'autorité monégasque.

. . .

Les navires étrangers prenant des passagers à Monaco seront soumis aux visites annuelles et aux visites après avaries graves ou notables changements, prescrites par le présent article.

Toutefois, ils seront dispensés de ces visites sur présentation, par les capitaines, de certificats de leur gouvernement, reconnus par le Ministre d'Etat équivalents aux certificats de visite monégasques, et à condition que les mêmes avantages soient assurés aux navires monégasques dans les ports de leur nationalité.

Les certificats délivrés par l'autorité française seront valables au même titre que ceux délivrés par l'autorité monégasque.

. . .

Article 7. Le directeur du port ou le maître du port, délégué par lui, assisté d'un médecin sanitaire et, s'il est besoin, d'un ingénieur ou d'un

¹ *Lois usuelles de la Principauté de Monaco*, t. II, 1950, p. 36-55. (17) et suiv.

officier mécanicien, visitera tout navire monégasque ou étranger en partance pour un voyage au long cours, au cabotage, ou pour une campagne aux grandes pêches, et s'assurera que ce navire est dans de bonnes conditions de conservation et de navigabilité; que les générateurs de vapeur, l'appareil moteur et tous les appareils à vapeur ou autres appareils mécaniques accessoires sont en bon état; que les instruments nautiques sont en bon état de fonctionnement; que les cartes marines ou tous documents nécessaires peuvent être utilisés pour le voyage projeté; que l'effectif est suffisant pour assurer normalement l'exécution des articles 21 à 30 ci-après, eu égard à la navigation entreprise, et, d'une manière générale, que le navire satisfait aux prescriptions des divers §§ de l'article 1^{er} de la présente ordonnance.

Il examinera les vivres, les boissons, l'eau potable et s'assurera que les prescriptions de l'article 31 ci-après sont observées; il pourra, à cet effet, ordonner tout prélèvement de vivres, de boissons ou d'eau potable, ainsi que toute analyse ou autre moyen de vérification.

Les visites de partance ne seront jamais obligatoires qu'une fois par mois, pour les navires revenant à intervalles plus fréquents.

Toutefois, le directeur du port pourra, quand il le jugera utile, visiter tout navire présent dans le port.

Il visitera tout navire qu'une plainte précise et circonstanciée, envoyée en temps utile pour que le départ du navire ne soit pas retardé, et signée par une personne honorable, lui aura signalé comme se trouvant dans de mauvaises conditions de navigabilité, d'hygiène ou d'approvisionnement en vivres et boissons.

Il interdira ou ajournera jusqu'à l'exécution de ses prescriptions le départ de tout navire, de quelque catégorie et de quelque nationalité qu'il soit, qui, par son état de vétusté, son défaut de stabilité, les conditions de son chargement ou pour toute autre cause prévue par l'article 1^{er} de la présente ordonnance, lui semblera ne pouvoir prendre la mer sans péril pour l'équipage ou les passagers.

Les motifs de l'interdiction seront notifiés immédiatement par écrit au capitaine du navire.

Article 8. Le capitaine du navire à qui l'autorisation de départ aura été refusée, ou qui jugera excessives les prescriptions du directeur du port, pourra faire appel de cette décision devant le Ministre d'Etat. Celui-ci dans le délai de vingt-quatre heures, devra faire procéder à une contre-visite par une commission d'experts nommée d'urgence pour les circonstances, et choisie autant que possible parmi les officiers de marine, capitaines au long cours, officiers mécaniciens de la marine marchande, ou parmi les ingénieurs, suivant le cas.

Cette commission statuera après avoir entendu le directeur du port, et hors de leur présence.

(b) ORDONNANCE DU 22 JANVIER 1891 SUR LA DISCIPLINE MARITIME ¹

TITRE I

Chapitre I^{er}. Police de la navigation

Article 1^{er}. — Aucune embarcation ne peut être mise à la mer dans le port de Monaco ou sur la côte de la Principauté, sans une autorisation de

¹ *Ibid.*, p. 36-55. (3) et suiv.

Notre gouverneur général, accordée sur l'avis du conseil maritime après vérification de la solidité et de la navigabilité du bateau.

Cette autorisation ne peut être accordée qu'aux propriétaires d'embarcations qui résident dans la Principauté.

Article 11. — Tout capitaine, maître ou patron est tenu, à sa rentrée à Monaco, de remettre au capitaine du port ses papiers de bord, en lui signalant les infractions punies ou à punir, conformément aux dispositions de la présente ordonnance.

Toutes les infractions disciplinaires ou pénales doivent être mentionnées sur le rôle d'équipage, ainsi que la suite qui y a été donnée.

Chapitre II. Discipline maritime

Article 15. — Les infractions aux dispositions de la présente ordonnance sont constatées, savoir :

- 1° dans la Principauté, par les capitaines, officiers et maîtres du port;
- 2° à l'étranger, par les officiers des navires affectés à Notre service; par Nos consuls et vice-consuls; enfin par les capitaines, maîtres ou patrons en ce qui touche l'équipage dont ils ont le commandement.

Sauf en ce qui touche les simples punitions disciplinaires, les procès-verbaux constatant lesdites infractions seront envoyés à Notre gouverneur général, qui les transmettra, s'il y a lieu, à Notre avocat général, après les avoir fait enregistrer en débet.

Article 16. — Le droit de connaître des fautes de discipline et de prononcer les peines qu'elles comportent est attribué sans appel :

- 1° dans le port de Monaco, sur le rapport du capitaine, maître ou patron du bateau, ou d'office, au capitaine du port;
- 2° à l'étranger, dans les mêmes conditions, aux commandants des navires à Notre service qui se trouvent sur les lieux;
- 3° en dehors des deux cas précédents, au capitaine, maître ou patron du bateau.

Article 17. — Dès son arrivée dans un port où réside un de Nos consuls ou vice-consuls, le capitaine, maître ou patron de toute embarcation monégasque est tenu de lui signaler les crimes ou délits commis à son bord.

Il est tenu, de même, de se mettre en communication avec le commandant de tout navire affecté à Notre service qu'il vient à rencontrer hors des eaux monégasques.

Article 18. — En cas de crime ou de délit de droit commun commis dans un port envers un étranger, Notre consul en saisira l'autorité locale et rendra compte à Notre Ministre d'Etat.

Si le crime ou le délit n'intéresse pas un habitant du pays dans lequel il est accredité, le consul se borne à recueillir officiellement la plainte et les dépositions des témoins, puis adresse son procès-verbal à Notre gouverneur général.

En l'absence d'agence consulaire, ou dans les eaux neutres, le capitaine fera lui-même toutes les constatations et prendra les mesures nécessaires pour arriver, au retour du bâtiment, à la répression du crime ou du délit.

TITRE III. DISPOSITIONS GÉNÉRALES

Article 47. — Les délits et les crimes, en matière de police maritime, seront jugés par Notre tribunal supérieur constitué conformément à l'ordonnance sur l'organisation judiciaire. Le recours en révision contre les jugements et arrêts sera formé et instruit conformément aux articles 446 et suivants du Code d'instruction criminelle.

Article 48. — En exécution de l'article 3 du traité avec la France, en date du 9 novembre 1865, les dispositions pénales de la loi française du 3 mars 1822 seront appliquées en matière de police sanitaire.

Netherlands

(a) SHIPS ACT OF 1 JULY 1909, AS AMENDED BY
ACT OF 31 DECEMBER 1952¹

Chapter I. Introductory Provisions

Article 1. 1. For the purposes of this Act, the expression: *to put out to sea* means, where it relates to leaving the Netherlands and the German and Belgian territory enclosed by the line hereinafter specified, to move the ship to seaward of a line running from den Hoek Van de Knock in East Friesland along the easterly buoys of the East Frisian straits and the Doekegat to the southernmost point of the island of Borkum (the jetty there shall be deemed to lie within the line), thence along the south-western coast of the said island to the westernmost point thereof, thence through the northernmost points of the islands of Rottum, Schiermonnikoog and Ameland along the northern and north-western coast of Terschelling, thence along the north-western coast of the islands of Vlieland and Texel to the westernmost point of the latter island, thence to the coast of North Holland opposite the Falga lighthouse and along the coastline of North and South Holland, which shall be deemed to include the piers of the ports, and along the westernmost points of the islands of Voorne, Goeree, Schouwen and Walcheren to the point of frontier demarcation at sea between the Netherlands and Belgium; and, where it relates to leaving the Netherlands Antilles, leaving one of the ports of the Netherlands Antilles;

Chapter VII. Concluding Provisions

Article 67. 1. All provisions enacted by or pursuant to this Act concerning freeboard, radiotelegraphy and radiotelephony, passenger ships and the transport of livestock; the relevant provisions of article 16, paragraph 2, and article 17, paragraphs 1, 2 and 4; all such other provisions enacted by or pursuant to this Act as We may specify for the purpose by general administrative regulation; and the relevant penal provisions shall likewise apply to a ship of foreign nationality to which the provisions of this Act do not apply in virtue of article 2 or 2 *bis*, and which is to begin a voyage from a Netherlands port without taking on emigrants, if:

¹ *Nederlandsche Staatswetten*, ed. Schuurman & Jordens No. 16, 1954, pp. 18, 100 *et seq.* Translation by the Secretariat of the United Nations.

(a) There are in force in the country of the said ship's nationality no provisions concerning this matter which We judge to be as satisfactory in substance and scope as the statutory provisions in force in the Netherlands;

(b) There are in force in the country of the said ship's nationality provisions satisfying the terms of sub-paragraph (a), and the said provisions are likewise applied to Netherlands ships in the said country.

2. The provisions of the preceding paragraph shall not, however, apply to a ship of foreign nationality as mentioned in paragraph 1 if, in the country of the said ship's nationality, there are in force provisions satisfying the terms of sub-paragraph (a) of that paragraph but the said country's legislation provides that Netherlands ships which comply with the Netherlands provisions shall not be subject to the provisions in force in the said country provided that the said foreign ship is found to comply with the provisions in force in its country of nationality.

3. Any general administrative regulation as mentioned in paragraph 1 which is not confirmed by statute within one year after the issue of the said regulation shall lapse. If a motion for the enactment of such a statute is laid before the States General within the said period of one year, We may grant one extension of six months to this time-limit.

[Paragraph 1 was amended by the Acts of 23 September 1912, (*Staatsblad* No. 305) and 31 December 1931, (*ibid.* No. 587); paragraph 2 by the Act of 23 September 1912, (*ibid.* No. 305); and paragraph 3 by the Act of 31 December 1931, (*ibid.* No. 587); paragraphs 1 and 2 were further amended by the Act of 31 December 1936, (*ibid.* No. 526).

[Before international regulations for control of the seaworthiness of shipping were laid down by the London Conventions of 1929 (International Convention for the Safety of Life at Sea, later replaced by the 1948 International Convention for the Safety of Life at Sea) and 1930 International Load Line Convention, the provisions concerning minimum freeboard were recognized as applicable to several countries or notes were exchanged concerning the reciprocal application of shipping legislation. The countries in question were:

[Germany (Order of 2 October 1909, *Staatsblad* No. 330);

[Great Britain (Order of 3 February 1910, *ibid.* No. 41);

[France (Orders of 7 March 1911, *ibid.* No. 87, and 11 February 1913, *ibid.* No. 51);

[Japan (Order of 5 December 1921, *ibid.* No. 1342);

[Belgium (Order of 11 August 1923, *ibid.* No. 398);

[Italy (Order of 1 September 1927, *ibid.* No. 301).

[The amendment made to this article in 1931, like that made to article 68, related to the provisions of article 54 of the London Convention.

[The Act of 31 December 1952, (*ibid.* No. 678) inserted the amendment to the provisions concerning radiotelephony and the transport of livestock in the opening words of paragraph 1. The commentary on this Act contains the following note on the subject:

“ Article 67 of the Ships Act governs the application of a number of provisions to ships under a foreign flag which in most other respects are not covered by the Ships Act; these provisions had to be extended to include radiotelephony and the transport of livestock. ”]

Article 67 bis. All provisions enacted by or pursuant to this Act concerning freeboard, radiotelegraphy and passenger ships; the provisions of

article 4 (*b*), (*h*) and (1) (4), article 5, paragraph 1 (*b*) (*e*) and (*f*), articles 12 and 15, article 16, paragraph 2, article 17, paragraphs 1, 2 and 4, and articles 18, 19, 20, 21, 22 and 72; the provisions of any general administrative regulations issued thereunder; and the relevant penal provisions shall likewise apply to a ship of foreign nationality taking on emigrants at a Netherlands port unless the exception referred to in article 67, paragraph 2, applies to the said ship, and the master thereof, before the ship sails, produces at the request of an officer of the Shipping Inspectorate documentary proof to the said officer's satisfaction that the ship complies with the provisions in force in the country of its nationality.

[This article was inserted by the Act of 31 December 1936, (*Staatsblad* No. 526). This article extends to ships of foreign nationality taking on emigrants at a Netherlands port the application of more provisions of the Ships Act than are prescribed for application to foreign ships in general under article 67 of that Act. This was done because the provisions with which foreign ships had to comply under the Emigrants Act then in force were omitted from the draft of the new Emigrants Act and hence had to be transferred to the Ships Act; also, in order to maintain the system prevailing under the Emigrants Act—unlike the Ships Act—whereby ships not of Netherlands nationality are accorded approximately the same treatment as Netherlands ships. At the same time, however, the article preserves the principle of reciprocity laid down in the Ships Act with regard to foreign ships leaving the Netherlands which belong to countries where the provisions of Netherlands law are given equal validity with the provisions locally in force, provided that the latter provisions are given equal validity with the provisions of Netherlands law in the Netherlands and documentary proof is produced that the foreign ships in question comply with the provisions in force in the country of their nationality.]

Article 68. If a ship is detained under the provisions of the preceding article, notice of such detention and the termination thereof shall be communicated as soon as possible to the nearest resident consular official of the country of the said ship's nationality.

[This article was given its present form by the Act of 31 December 1931, (*Staatsblad* No. 587). See the last note on article 67.]

Article 69. 1. Notwithstanding the provisions of article 67, an officer of the Shipping Inspectorate shall be empowered to detain a ship of foreign nationality to which the provisions of this Act do not apply in virtue of article 2 or 2 *bis* if the safety of the passengers and crew is endangered by the unseaworthy condition of the hull, engines or apparel or by improper loading.

2. The said officer shall as soon as possible report such detention to his immediate superior, who shall forthwith communicate the same to the head of the Shipping Inspectorate, the owner's representative or agent, the master of the ship and the nearest resident consular official of the country of the ship's nationality. He shall give them full particulars concerning the grounds for the detention. The head of the Shipping Inspectorate shall, if necessary, communicate directly with the owner.

3. The said consular official may appoint a person to investigate the case with the said officer.

4. If the said person shares the officer's unfavourable opinion, the detention of the ship shall not be terminated until the fault has been corrected.

5. If the said person does not share the officer's unfavourable opinion, an appeal shall lie against the detention and the provisions of chapter II, section 3, and the provisions of article 17 concerning the reimbursement of expenses in the event of unjustified detention shall apply.

[Paragraph 1 of this article was thus amended by the Act of 23 September 1912, (*Staatsblad* No. 305). Paragraph 2 was amended by the Act of 31 December 1931, (*ibid.* No. 587).

The amendment made to article 69, paragraph 2, lays down the procedure for the notification of detention to all concerned. In accordance with the international agreement it is desired, in order to obviate difficulties, that this matter should be scrupulously attended to and that the head of the Shipping Inspectorate should immediately ascertain all the particulars of the case. Since it is most improbable that the owner will be present, he need be notified only in exceptional circumstances, in which case this can best be done by the head of the Inspectorate. (Commentary.)]

Article 70. 1. If a ship of Netherlands nationality which is exempt from the application of this Act under article 2 meets with a shipping disaster, an inquiry shall be held into the causes thereof. This provision shall likewise apply to means of transport, other than seagoing ships, in the public service of the State and to ships of foreign nationality if the shipping disaster occurred on or near the Netherlands coast, in the channels and ports of the Netherlands and their approaches to the sea, or near the coast or in a port of the Netherlands Antilles.

2. In the conduct of an inquiry under paragraph 1 due regard shall be paid to the provisions of chapter IV with the exception of those contained in articles 34 to 41 inclusive.

[This article was thus amended by the Acts of 23 September 1912, (*Staatsblad* No. 305) and 31 December 1931, (*ibid.* No. 587). Paragraph 1 covers all cases in which an inquiry by the Shipping Council is required and to which article 27 does not apply. Paragraph 2 lays down the procedure to be followed. Articles 34 to 41 inclusive do not, of course, apply to the crews of the ships concerned. (Commentary to the Act of 31 December 1931, *ibid.* No. 587.) See article 30 of the Seagoing Ships Accidents Act and article 23 of the Inland Navigation Disasters Act.

Since an inquiry into the cause of shipping disasters is also required in the case of ships under a foreign flag which meet with a shipping disaster near the Netherlands coast, a similar provision with reference to the Netherlands Antilles was added at the end of paragraph 1 by the Act of 31 December 1952, (*ibid.* No. 678). (Commentary.)]

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(b) PILOTS ACT No. 93 OF 20 AUGUST 1859 TO REGULATE THE PILOT
SERVICE FOR SEA-GOING VESSELS ^{1 2}
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Article 9. The following vessels shall be exempt from the obligation to take pilots:

¹ *Wetten en Besluiten betreffende Loodsdienst enz.* Nederlandsche Staatswetten, Ed. Schuurman and Jordens, No. 35, 1950, p. 7 *et seq.* Translation by the Secretariat of the United Nations.

² As amended by Acts Nos. 62 of 6 April 1875, 64 of 15 April 1886, 255 of 16 May 1934 and 601 of 10 October 1935.

(a) Warships, whether Netherlands or foreign, provided that they carry the required distinguishing marks;

(b) Vessels of duly recognized Netherlands and foreign sailing and rowing clubs and yacht clubs;

(c) Foreign pilot vessels, provided that they are lawfully admitted and carry marks distinguishing them as such;

. . .

(c) ACT No. 91 OF 15 APRIL 1891 TO ENACT PROVISIONS FOR THE PREVENTION OF COLLISIONS AND STRANDINGS IN THE PUBLIC WATERWAYS OF THE KINGDOM WHICH ARE OPEN TO SHIPPING ¹

. . .

Article 1. The Crown shall, by general administrative regulations, enact provisions to be observed by masters and members of ship's companies for the prevention of collisions and strandings in the public waterways of the Kingdom which are open to shipping.

Article 2. The administrations of provinces and communes are empowered to make regulations for the prevention of collisions and strandings in any waterway open to shipping or in any part of a waterway which is under their authority, provided that such regulations do not conflict with the regulations enacted by the Crown under article 1 of this Act.

Subject to the same proviso, such rules may also be laid down by catchment, drainage and land reclamation boards which are empowered to issue police regulations.

. . .

(d) REGULATIONS TO PREVENT COLLISIONS AND STRANDINGS IN THE PUBLIC WATERWAYS OF THE KINGDOM WHICH ARE OPEN TO SHIPPING (INLAND WATERS COLLISION REGULATIONS, ENACTED BY DECREE No. 317 OF 28 AUGUST 1926, AS AMENDED) ²

Chapter I. General provisions

Applicability of the regulations

Article 1. (1) Except as may be provided in special regulations made or to be made by the Crown with due regard for the provisions hereof, these regulations shall be applicable to all vessels on the waterways of the Kingdom which are open to shipping.

(2) These regulations shall not apply to vessels navigating on the Rhine, including the Waal and the Lek, which are governed by the Rhine Navigation Police Regulations, or on the Upper and Lower Merwede as far as the Wolwevershaven at Dordrecht, or on the Northern and Netherlands parts of the Ems and its mouths.

(3) In the territorial waters of the Kingdom they shall apply only to vessels navigating in a buoyed channel.

. . .

Article 4. As regards vessels navigating within the territorial waters otherwise than in a buoyed channel or vessels navigating on the Nether-

¹ *Ibid.*, p. 118.

² *Ibid.*, p. 126.

lands parts of the Ems and its mouths, the regulations for the prevention of collisions at sea, in so far as not already applicable, are hereby declared applicable.

- (e) ACT No. 84 OF 15 APRIL 1891,¹ TO CARRY INTO EFFECT THE INTERNATIONAL CONVENTION CONCLUDED AT THE HAGUE ON 16 NOVEMBER 1887 FOR THE PURPOSE OF CURBING ABUSES ARISING OUT OF THE LIQUOR TRAFFIC AMONG FISHERMEN IN THE NORTH SEA OUTSIDE THE TERRITORIAL WATERS (RATIFIED BY ACT No. 123 OF 7 AUGUST 1888), AND TO CURB LIKE ABUSES WITHIN THE TERRITORIAL WATERS OF THE KINGDOM²

Article 2. The provisions of the said Convention shall also apply to all ships and vessels within the territorial waters of the Kingdom, except as otherwise provided in this Act.

Article 3. The limits of the North Sea and of the territorial waters referred to in Articles 1 and 2 hereof shall be those fixed in Articles II, III and IV of the Convention of 6 May 1882,³ ratified by the Act of 15 June 1883 (*Staatsblad* No. 73).

Article 4. If in the North Sea or within the territorial waters of the Kingdom any person on board or belonging to a ship or vessel registered in the Netherlands sells spirituous liquor to, or exchanges spirituous liquor for any article with, any person on board another ship or vessel (being a fishing vessel) or belonging to such vessel, he shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding 200 guilders.

If in the North Sea or within the territorial waters of the Kingdom any person on board or belonging to a fishing vessel registered in the Netherlands purchases spirituous liquor from, or exchanges any article for spirituous liquor with, any person on board another ship or vessel or belonging to such vessel he shall be liable to imprisonment for a term not exceeding two months or to a fine not exceeding 100 guilders.

If the articles exchanged as described in the two foregoing paragraphs are fish, ship's stores or fishing gear, the offender shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding 300 guilders.

If the master of a ship or vessel registered in the Netherlands, or his deputy, fails to prevent an offence under one of the three foregoing paragraphs, although it is in his power to do so, he shall be liable to imprisonment for a term not exceeding two months or to a fine not exceeding 100 guilders.

The provisions of the four foregoing paragraphs shall also apply within the territorial waters of the Kingdom in respect of ships and vessels other than ships and vessels registered in the Netherlands.

¹ *Nederlandsche Staatswetten*, ed. Schuurman and Jordens, No. 45, p. 265. Translation by the Secretariat of the United Nations.

² As amended by Acts Nos. 262 of 30 December 1893 and 308 of 29 June 1925.

³ See *infra*, Second Part, Chapter II, Treaty No. 1.

The expression "spirituous liquor" shall include every liquid obtained by distillation and containing more than five litres of alcohol per hectolitre at a temperature of fifteen degrees Centigrade.

. . .

Article 6. (1) If in the North Sea or within the territorial waters of the Kingdom any person on board or belonging to a ship or vessel registered in the Netherlands carries on the traffic which is conditionally permitted under article III of the Convention but fails to produce when first summoned to do so, the licence referred to in the first paragraph of the foregoing article to an official responsible for detecting offences under this Act; or

(2) If within the territorial waters of the Kingdom any person on board or belonging to a ship or vessel registered in any other State which has adhered to the Convention carries on the traffic which is conditionally permitted under article III of the Convention but fails to produce, when first summoned to do so, a licence issued under that article by the State in which the ship or vessel is registered to an official responsible for detecting offences under this Act; or

(3) If within the territorial waters of the Kingdom any person on board or belonging to a ship or vessel registered in a State which has not adhered to the Convention carries on the traffic which is conditionally permitted under article III of the Convention, but fails to produce, when first summoned to do so, the licence prescribed in the final paragraph of the foregoing article to an official responsible for the detection of offences under this Act,

Then that person shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding 200 guilders.

. . .

Article 17. If within the territorial waters of the Kingdom any person on board or belonging to a ship or vessel not registered in the Netherlands is discovered in the act of committing an offence under this Act, the said ship or vessel shall be brought, if possible by a Netherlands warship, to the nearest or most convenient Netherlands harbour, unless the sum of 500 guilders, or an equivalent amount in foreign currency or banknotes, is deposited with the commander of the said warship as security for any fines and costs which may become payable upon conviction of the offender.

If such deposit is made, the commander of the last-named vessel shall issue an acknowledgement of receipt of the same and shall, if necessary require the master of the foreign vessel or his deputy to remove himself and the vessel outside the territorial waters without delay, or, if he refuses to comply, shall forcibly oblige him to do so.

If the procedure laid down in the first paragraph of this article is adopted, the second, third, fourth, fifth and sixth paragraphs of article 23 of the Penal Code shall not be applicable.

. . .

Surinam

- (a) RESOLUTION No. 6144A OF 14 DECEMBER 1951 PROVIDING FOR THE INSERTION IN THE *Gouvernementsblad* OF THE TEXT NOW IN FORCE OF THE DECREE OF 30 JUNE 1897 (G.B. No. 22), CONTAINING AMENDED PROVISIONS FOR THE PREVENTION OF COLLISIONS OR SIMILAR ACCIDENTS AT SEA AND IN THE RIVERS, STREAMS, CANALS, ANCHORAGES, HARBOUR MOUTHS AND SEA CHANNELS OF SURINAM, AND PRESCRIBING SIGNALS FOR VESSELS IN DISTRESS OR IN DANGER AND FOR VESSELS DESIRING A PILOT ¹

Article 1. ² With a view to the prevention of collisions or similar accidents, steam and sailing vessels of Surinam register which are at sea and all steam, sailing and other vessels in rivers, streams, canals, anchorages, harbour mouths and sea channels of Surinam shall comply with the following provisions.

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Reservation concerning regulations applying to harbours and inland waterways

Article 40. The terms of these provisions shall not affect the validity of any special provisions applicable to specified harbours, rivers or inland waterways.

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Enforcement of the provisions ³

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Article 46. In addition to the officials who are responsible, under general regulations, for the detection of punishable acts, the following shall also be responsible for ensuring observance of this Decree and for detecting the punishable acts mentioned therein: the Chief of the Pilot Service, the officers of the Royal Netherlands Navy, the harbour-masters, Government pilots and officials of the Harbour and Pilot Service; these shall transmit their official reports to the *Procureur-General*, the reports being made by virtue of the oath (undertaking) given on their entry on duty.

- (b) REGULATIONS OF 18 MARCH 1916 CONCERNING THE OPERATION OF PORTS IN SURINAM, ⁴ AS AMENDED AND AMPLIFIED ⁵

.

Article 10 bis. (1) The master of a vessel arriving in Surinamese waters from abroad shall, after berthing the vessel, without prejudice to any dues which are now or hereafter become payable by shipping under other general regulations, be liable to pay in each case, over and above the fees referred to in article 9 and subject to the succeeding provisions of these Regulations, the following dues:

¹ *Gouvernementsblad van Suriname*, 1951, No. 165. Translation by the Secretariat of the United Nations.

² Amended by G.B. 1951, No. 36.

³ Amended by G.B. 1951, No. 36.

⁴ *Ibid.*, 1948, No. 155. Translation by the Secretariat of the United Nations.

⁵ By the (territorial) regulations of 23 December 1916 (*Gouvernementsblad* No. 88); 10 May 1922 (*ibid.*, No. 56); 28 June 1940 (*ibid.*, No. 102); 26 November 1940 (*ibid.*, No. 161); 26 May 1945 (*ibid.*, No. 62); and 26 March 1946 (*ibid.*, No. 35).

(a) A beaconage of 0.10 guilders (ten cents) per net register ton or part thereof;

(b) Dock dues of 0.35 guilders (thirty-five cents) per ton or part of a ton of cargo imported and unloaded;

(c) Dock dues of 0.35 guilders (thirty-five cents) per ton or part of a ton of cargo loaded for export.

(2) The dock dues referred to in sub-paragraphs (b) and (c) of the preceding paragraph shall be calculated per ton of 1,000 kilograms by weight or per ton of one cubic metre by volume according to whether the freight per ton may be deemed to be calculated by weight or by volume.

(3) A vessel remaining in Surinamese waters for a continuous period of more than fourteen days shall be liable for the payments referred to in paragraph (1), sub-paragraphs (a), (b) and (c), for the first fourteen-day period or part thereof, and shall thereafter be liable only for demurrage of 0.10 guilders (ten cents) per net register ton of the vessel per period of fourteen days or part thereof.

(4) Any vessel arriving in Surinam for the first time which does not carry a Netherlands or foreign certificate of tonnage, and all vessels registered in Surinam, shall be subject to measurement in Surinam.

Article 10 ter. (1) The following shall be exempt from dock dues:

(a) Vessels carrying immigrants to Surinam or arriving in Surinam in order to take on immigrants, provided that they unload or load no goods or merchandise other than those required for consumption by the immigrants carried to Surinam or to be transported and by others on board, and goods intended for the Surinamese Government. If they unload or load goods other than or additional to the said goods they shall be subject to the provisions of article 10 *bis*, paragraph (1), sub-paragraphs (b) and (c);

(b) Vessels belonging to and in the service of the Government of the Netherlands, the Netherlands Indies, Surinam or Curaçao, unless, in the opinion of the Governor, their voyage has not been undertaken solely for official purposes;

(c) War vessels;

(d) Vessels which neither unload nor load cargo;

(e) Vessels entering by reason of an emergency which unload all or part of their cargo in order to carry out repairs, provided that the goods are re-loaded and, pending such re-loading, are kept under official guard and lock or seal, and provided also that no further cargo is loaded other than such coal or fuel oil and lubricating oil as the vessel may require for its own use if it is a steamship or motor ship.

(2) The vessels referred to in sub-paragraphs (a), (d) and (e) shall not qualify for the exemption referred to in paragraph (1) of this article unless they leave Surinam within thirty days after arrival.

(3) The ships referred to in paragraph (1), sub-paragraphs (a), (b) and (c), shall likewise be exempt from beaconage.

In the case of the ships referred to in sub-paragraph (a), such exemption shall be subject to the limitation provided by paragraph (2) of this article.

Article 16. The master of a vessel entering port or lying in the roads shall be under a duty to give all such information as the harbourmaster may require, to produce any ship's papers, issued by any public authority and carried on board, which the harbourmaster may ask to inspect, and to

answer truthfully all questions put by the latter. No information shall be requested and no questions shall be asked concerning any matter other than the ship, the cargo, the crew, the passengers, the length, purpose and nature of the voyage, and such events as may have occurred during the voyage or the previous voyage.

Article 17. (1) If the master of a vessel leaves or attempts to leave without having obtained the necessary permission, the harbourmaster shall prevent him, or direct that he shall be prevented, from so doing, if necessary by force. The cost of such operation and the cost of guarding the vessel until the master has discharged his obligation shall be paid by the master before he leaves; notice of the said costs, accompanied by a specification, shall be served upon the person concerned by a servant of the public authorities on the harbourmaster's behalf, and shall be recoverable by summary execution. The said costs shall be calculated as prescribed by the Regulations of 5 December 1908 concerning the payment of costs relating to the import and export of goods (*Gouvernementsblad* 1909, No. 17), with the proviso that, if the services of officers or officials are not employed, the sums due in respect of the services of such persons as may be appointed for this purpose shall be double those prescribed by the said Regulations for the services of officers.

(2) The provisions of this article shall not apply to the masters of warships, public vessels and vessels intended to be used as fishing vessels.

Article 27. If the master of a vessel fails to pay the sum referred to in article 9, paragraph (1), the sum referred to in article 10, or the sums referred to in article 10 *bis* and, where applicable, any sum due under article 10 *ter*, upon receipt of the first warning from or on behalf of the harbourmaster or District Commissioner, he shall be liable to a fine of not more than 100 guilders.

Article 31. (1) In addition to the officers responsible for the detection of offences under article 8 of the Surinamese Code of Civil Procedure, harbourmasters, officers of the Royal Navy serving on a warship in Surinamese waters, ships' masters and officers in the Surinamese service, licensed pilots and revenue officials shall be authorized to detect any contravention of these Regulations and of any Orders issued pursuant hereto.

(2) The servants of the public authorities shall be under a duty to accede forthwith to any request for assistance made by any of the persons referred to in paragraph (1).

(c) SHIPPING ORDER OF 1908, AS AMENDED ^{1 2}

Article 3. Revenue officials, if provided with authorization to do so, and after presentation of such authorization upon request, may at all times and anywhere within the territory of Surinam inspect all vessels and their cargoes.

¹ *Gouvernementsblad van Suriname*, 1939, No. 30. Translation by the Secretariat of the United Nations.

² *Ibid.*, 1940, No. 174.

In any case of suspected fiscal evasion, they are authorized to detain and search any vessel and to inspect all goods transported, including goods which, though not actually being conveyed at the time of inspection, are in fact being transported.

If, owing to the absence of keys, parcels can only be opened by breaking their locks, the officials shall open or have them opened in such a way that the least possible damage is done to the packing.

They are authorized to make a bodily search of persons who are on board, or going to or from, all vessels in rivers or waterways within the territory of Surinam, as well as of persons leaving the warehouses or places of temporary storage, in order to determine whether a violation of the import regulations has taken place.

They are similarly authorized, on suspicion of fiscal evasion, to search persons on gangways and landing-stages.

Outward Clearance

Article 38. Ships and vessels bound for a foreign port must obtain outward clearance in the manner prescribed in the following articles before their departure.

Clearance is not required for warships of any nation, provided that they are carrying no cargo obviously intended for purposes of trade, or for such other ships carrying no commercial cargo as the Governor may in special cases specify.

Note. See also: Convention on the International Régime of Maritime Ports, signed at Geneva, 9 December 1923 (Text to be found in Royal Decree of 21 March 1928, *Staatsblad*, 1928, No. 78) (*infra*, Second Part, Chapter I, Treaty No. 11).

Netherlands Antilles

Note. The Ships Act of 1 July 1909 (see above, Netherlands (a)) was extended to the Netherlands Antilles by the Act of 19 July 1950 (*Staatsblad*, 1950, No. K 300). See also: Decree of the Governor of the Netherlands Antilles of 6 October 1930 concerning the control of the movements of ships in the ports and bays and in the territorial waters of Curaçao (*Publicatieblad*, 1930, No. 72), and the Convention on the International Régime of Maritime Ports, signed at Geneva on 9 December 1923 (*infra*, Second Part, Chapter I, Treaty No. 11) which is applicable in the Netherlands Antilles (Text to be found in *Publicatieblad*, 1928, No. 35).

Netherlands New Guinea

- (a) TERRITORIAL SEA AND MARITIME DISTRICTS ORDINANCE 1939 (PROVISIONS CONCERNING THE MAINTENANCE OF ORDER AND SECURITY IN THE TERRITORIAL WATERS OF THE NETHERLANDS INDIES)¹

Article 1. (1) In these provisions and in the provisions to be enacted pursuant thereto, the following expressions shall have the meanings respectively assigned to them:

¹ *Staatsblad van Nederlandsch-Indië*, 1939, No. 442. Translation by the Secretariat of the United Nations.

1. "*Netherlands Indies territorial sea*" means:

I. The sea area extending to seaward to a distance of three nautical miles from the low-water mark of the islands, or parts of islands, which belong to Netherlands Indies territory (islands shall be taken to include the rocks, reefs and banks which emerge at the lowest tide and which are situated not more than three nautical miles from the low-water mark of the islands, or parts of islands, which belong to Netherlands Indies territory); subject to the following proviso:

A. In the locality of a bay, arm of the sea, river or canal mouth of which the Netherlands Indies is the sole coastal State, this distance of three nautical miles shall be measured from a straight line drawn across the opening of the bay, arm of the sea, river or canal mouth. If the width of the said opening exceeds ten nautical miles, this line shall be drawn across the bay, arm of the sea, river or canal mouth as close as possible to the entrance at the first point at which the width of the opening is not more than ten nautical miles;

B. In the locality of a group of two or more islands, this distance of three nautical miles shall be measured from the straight lines connecting the outermost points of the low-water marks of the islands on the outer edge of the group, at the point where the distance between these points is not more than six miles;

C. In the locality of straits which connect two areas of the high seas and of which the Netherlands Indies is the sole coastal State, the part of the straits enclosed by two lines drawn between the two shores at either end of the straits, as close as possible to the high seas at the first point where the breadth of the straits does not exceed six nautical miles, shall be deemed to be territorial sea, even if at other points within the two lines the breadth of the straits should be greater;

D. In the locality of straits not more than six nautical miles in breadth which connect two areas of the high seas and of which the Netherlands Indies is not the sole coastal State, the dividing line between the territorial sea of the Netherlands Indies and that of the foreign State shall be drawn through the middle of the straits;

II. The sea area situated to seaward of the sea area defined in section I above but lying within specified anchorage limits;

2. "*Netherlands Indies sea territory (territorial waters)*" means the Netherlands Indies territorial sea and, in addition, those parts of:

a. The coastal waters

b. The water area of bays, arms of the sea, river and canal mouths which are situated to landward of the territorial sea;

3. "*Netherlands Indies internal waters*" means all waters situated to landward of the Netherlands Indies territorial sea, including all rivers, canals, lakes and pools in the Netherlands Indies;

4. "*Netherlands Indies waters*" means the Netherlands Indies territorial sea including Netherlands Indies internal waters;

5. "*Maritime districts*" means the parts of Netherlands Indies waters designated, or to be designated, as such by the Governor-General.

(2) A nautical mile within the meaning of the foregoing section is equivalent to one sixtieth of one degree of latitude.

Article 2. (1) For the purposes of these provisions and of the provisions to be enacted pursuant thereto, the term "fishing" or "to engage in fishing" means:

a. In general, any operation the direct or indirect purpose of which is to collect, catch or kill marine products;

b. The taking on board by a vessel, in a maritime district, of fish or other marine products from another vessel (other than marine products intended for the personal use of the members of the company of the first vessel), and any operation, carried out by a vessel in a maritime district, the object of which is to make it possible to engage in fishing, or to facilitate fishing, with the assistance of another vessel;

c. Any of the operations referred to in paragraph (1) *a* and *b* of this article carried out by or on behalf of or for the account of individuals, bodies corporate, partnerships or limited partnerships, companies, or shipowners.

(2) Notwithstanding the provisions of paragraph (3) of this article, the operations mentioned in paragraph (1) *b* shall not be deemed to constitute fishing if:

a. In the case of ships and vessels flying the flag of a State with which the Kingdom of the Netherlands enjoys friendly relations, the operations in question are carried out within the anchorage limits of a seaport and within the anchorage limits of a place on the coast which is open to the ship in question under the Indies Shipping Act 1936 (*Staatsblad* No. 700), or, if these limits are not fixed, in the usual anchorages of these seaports and places;

b. In the case of vessels flying the Netherlands flag, the operations in question are carried out in the anchorages referred to in *a* and within the anchorage limits, or, if these limits are not fixed, in the usual anchorage, of a place on the coast where there is a permanent customs house or auxiliary customs house, or (outside the customs area) where an official of the Netherlands Indies Civil Service or a harbour-master or acting harbour-master is stationed.

(3) In a maritime district, certain seaports and places on the coast may be designated by, or on behalf of, the Naval Commander, at which the operations referred to in paragraph (1) *b* of this article will only then be deemed not to constitute fishing, under the benefit of paragraph (2), if they are carried out at a mooring place in the anchorage to be designated by the competent harbour-master.

Article 3. Except as provided in articles 4 and 5, fishing in maritime districts shall be unlawful.

Article 4. (1) Indigenous inhabitants may engage in fishing in maritime districts.

(2) In so far as vessels are used for the purpose of such fishing, only vessels flying the Netherlands flag whose entire company consists of indigenous inhabitants may be used for these fishing operations.

(3) In special cases, exceptions to all or part of the provisions of paragraph (2) may be authorized by, or on behalf of, the Naval Commander, subject to such conditions as he considers desirable.

Article 5. (1) A licence to fish in maritime districts may be granted by, or on behalf of, the Naval Commander to Netherlands subjects, provided that maritime interests are not prejudiced.

Subject to the same proviso, a licence to fish in maritime districts may be granted by, or on behalf of, the Naval Commander to individuals who are not Netherlands subjects, or to bodies corporate, partnerships or limited partnerships, companies or shipowners governed by the provisions applying to Europeans, in the following cases only:

1. If the person or body covered by the prohibition laid down in article 3 is engaged in fishing, on the entry into force of this Ordinance, in the maritime districts in respect of which the licence to fish is applied for, as a legitimate business (occupation);

2. If there is a sufficient assurance that the fishing serves exclusively scientific purposes or is in the nature of a recreation or sport;

3. If the interests of the indigenous population are to benefit to a considerable extent by the grant of the said licence.

(2) The licence referred to in paragraph (1) shall be granted to the person on whose behalf or for whose account the fishing is to be carried on; the licence is not transferable and shall become void by operation of law on the death of the licensee, except as provided in the following paragraph.

(3) In the event of the death of the licensee, his heirs or successors may continue to fish, under the licence granted to the deceased, for not more than three months from the date of his death.

(4) The licence shall be granted for not more than five years but may be revoked at any time during this period by, or by authority of, the Naval Commander who shall be under no obligation to state his reasons.

(5) If a ship (or ships) or vessel(s) is (are) used for fishing, the licence shall be valid solely for the ship(s) or vessel(s) specified in the licence.

(6) Specific conditions may be attached to the licence.

Article 6. (1) As evidence of the grant of a licence under article 5, paragraph (1), a certificate shall be issued in conformity with a model to be prescribed by the Naval Commander.

(2) The said certificate shall state the following particulars:

a. The name of the authority granting the licence;

b. If the licence is subject to conditions, the precise conditions;

c. If a ship (or ships) or vessel(s) is (are) used for fishing, the particular ship(s) or vessel(s) to which the licence relates;

d. If a ship(s) or vessel(s) is (are) not used for fishing, the method of fishing used.

Article 7. (1) Subject to the provisions of paragraph (2) of this article, the master of a ship or vessel, or the person acting as such, shall be obliged:

a. To ensure that a valid certificate, as specified in article 6, paragraph (1), relating to his ship or vessel, is at all times carried on board;

b. To produce this certificate on the demand of the persons who are authorized by the general law, or by or pursuant to this Ordinance, to inquire into punishable acts.

(2) The provisions of paragraph (1) of this article do not apply to the master of a ship or vessel which is used for fishing for the account or on behalf of a person or body designated by the Naval Commander and holding a licence granted by virtue of article 5, paragraph (1).

Article 8. (1) The Naval Commander shall be empowered to prohibit or restrict fishing by persons authorized to fish in maritime districts or parts thereof pursuant to articles 4 and 5, and to prohibit or restrict shipping in maritime districts or parts thereof.

(2) Any measures of the kind referred to in the preceding paragraph shall be published in the *Javasche Courant*.

Article 9. (1) Except as permitted or authorized by, or on behalf of, the Naval Commander, it shall be unlawful:

a. To carry out land surveys or hydrographic operations in Netherlands Indies waters;

b. To make drawings or take photographs inside maritime districts or to make drawings or take photographs which show a maritime district or part thereof;

c. To collect data or information which relate to a maritime district and which may be of importance for defence;

d. In maritime districts, to land or take off by aircraft (other than aircraft belonging to the Royal Navy or to the Netherlands Indies or used in the service of the Royal Navy or of the Netherlands Indies), except in the landing areas reserved or to be reserved to air traffic under article 4 of the Air Navigation Decree of 1932 (*Staatsblad* 1933 No. 118).

(2) It shall be unlawful for members of foreign military forces to enter or to remain in maritime districts unless so authorized by, or on behalf of, the Naval Commander.

(3) Conditions may be attached to the authorizations mentioned in the preceding paragraphs of this article.

(4) These authorizations may be revoked at any time by, or by authority of, the Naval Commander who shall be under no obligation to state his reasons.

Article 10. (1) Except as provided in article 11, it shall be unlawful for the master of a ship or vessel, or the person deputizing for him, to anchor in, or to sail within, maritime districts, except so far as is necessary for the purposes of safe navigation.

(2) It shall also be an unlawful act if the master, or the person acting as master, of a ship or vessel which is used for fishing but has no right to engage in fishing in the particular locality, anchors or navigates his ship or vessel in Netherlands Indies territorial waters outside maritime districts; this provision shall not, however, apply in any case in which an operation as aforesaid is necessary for the purposes of safe navigation.

(3) In special cases and subject to whatever conditions are considered desirable, the provisions of the preceding two paragraphs may be waived by, or by authority of, the Naval Commander.

(4) All waivers granted by virtue of the foregoing paragraph shall lapse automatically, if and in so far as they conflict with a measure ordered under article 8, paragraph (1), on the day following that on which the measure in question is published in the *Javasche Courant*, unless some other date is specified.

(5) Thereafter, fresh waivers derogating from the provisions of paragraphs (1) and (2) may, however, be granted as provided in paragraph (3) of this article.

Article 11. (1) Except as provided in the subsequent paragraphs of this article, the provisions of article 10, paragraphs (1) and (2), shall not be applicable to:

a. Ships and vessels which belong to the Royal Navy or to the Netherlands Indies or which are used in the service of the Royal Navy or of the Netherlands Indies;

b. Ships and vessels flying the flag of a State with which the Kingdom of the Netherlands enjoys friendly relations, within the anchorage limits of a seaport and within the anchorage limits of a place on the coast which is open to the ship in question under the Indies Shipping Act 1936 (*Staatsblad* No. 700) or, if these limits are not fixed, in the usual anchorages of these seaports and places;

c. Ships and vessels flying the Netherlands flag, in places where the ships and vessels referred to in sub-paragraph *b* of this paragraph may anchor as well as within the anchorage limits or, if these limits are not fixed, in the usual anchorage, of a place on the coast where there is a permanent customs house or auxiliary customs house, or (outside the customs area) where an official of the Netherlands Indies Civil Service or a harbour-master or acting harbour-master is stationed;

d. Ships and vessels used exclusively for fishing, though this provision shall apply only in the maritime district in which they are authorized to fish under articles 4 and 5 of this Ordinance;

e. Sailing vessels flying the Netherlands flag which are owned by one or more indigenous inhabitants, whose entire company consists of indigenous inhabitants and which are registered in a seaport or place on the coast situated within the maritime district, though this provision shall apply only in the maritime district in question.

(2) Seaports and places on the coast within maritime districts may be designated by, or by authority of, the Naval Commander, in which, in derogation from the provisions of preceding paragraph, ships and vessels may not anchor or navigate elsewhere than in places designated by the local harbour-master.

(3) The provisions of paragraph (1), sub-paragraphs *b* to *e* inclusive, of this article shall not be applicable if, and in so far as, they conflict with any measure ordered pursuant to article 8; nevertheless, this provision shall be without prejudice to any fresh waiver granted under article 10, paragraph (5).

Article 12. (1) The following persons shall be liable to imprisonment for a term of not more than three months or to a fine of not more than 500 guilders:

a. Any person who engages in fishing in a maritime district without having the right to do so under article 4 or by virtue of a valid licence granted pursuant to article 5;

b. Any person who, without being thereunto authorized by virtue of article 4, paragraph (3), contravenes the provisions of paragraph (2) of the said article;

c. Any person who alienates a certificate of the type referred to in article 6, paragraph (1) or who surrenders such a certificate, whether for valuable consideration or not, to another person for the latter's use or for some other purpose;

d. Any person who does not comply with any of the conditions attached to a licence granted to him pursuant to article 5;

e. Any person who does not fulfil his obligations under article 7, paragraph (1);

f. Any person who, not being entitled to the benefit of a waiver granted to him, contravenes a measure ordered and published by virtue of the provisions of article 8;

g. Any person who contravenes any of the prohibitive provisions of article 9 or who fails to comply with any of the conditions attached to an authorization granted to him pursuant to that article;

h. Any person who, without being entitled to do so under articles 10 and 11, anchors or sails his ship or vessel in a maritime district or in Netherlands Indies territorial waters.

(2) If in the course of the commission of the punishable acts specified in sub-paragraphs *a*, *b*, *d* and *f* of the preceding paragraph fishing operations are carried out with the assistance of a vessel, the following persons shall be liable to imprisonment for a term of not more than three months or to a fine of not more than 500 guilders:

a. The company of the vessel, unless there are reasonable grounds to believe that they did not participate in the fishing or did not directly or indirectly assist in the fishing;

b. The person in charge of the fishery enterprise in whose service the vessel is employed, unless he was not aboard the vessel at the time when the punishable acts were committed and provided that he took every reasonable step to prevent the fishing;

c. The person who deputizes for the person in charge of the fishing enterprise aboard the vessel for the purpose of the fishing operations.

(3) If, in the cases referred to in the preceding paragraph, the person in charge of the fishing enterprise, or the person deputizing for him, is aboard the vessel, the other members of the company shall only then be liable to punishment if they wilfully participated, or rendered direct or indirect assistance, in the fishing operations.

(4) The punishable acts referred to in this article shall be deemed to be offences (*overtredingen*).

(5) The objects, including the ships or vessels, with which or with the assistance of which the punishable act is committed and the objects which are obtained by means of the act may be confiscated.

(6) The maximum penalties mentioned in this article shall be doubled if the offence is committed within less than two years from the date on which an earlier sentence for an offence specified in this article became final.

(7) If the punishable acts referred to in this article are committed by or on behalf of a body corporate, then the penal proceedings shall be instituted against, and the punishment shall be imposed on, the managers and directors in the Netherlands Indies, or, in the absence or default of such persons, the representatives of the body corporate in the Netherlands Indies.

(8) The provisions of the preceding paragraph shall be applicable *mutatis mutandis* to bodies corporate acting in the capacity of managers or representatives for another body corporate.

Article 13. (1) The Naval Commander at Soerabaja, commanders of Her Majesty's warships and of naval air force stations, commanders of ships of the Navy of the Netherlands Indies Government and masters of ships of the Beacons and Coast Lighting Service, persons placed under the command of, and duly commissioned by, these commanders and masters, officers of the Navy of the Netherlands Indies Government in command of a local vessel, harbour-masters and officials acting as harbour-masters, pilots, *djuragans* of local vessels and such other persons as are designated by the Naval Commander shall be responsible for implementing and enforcing the provisions of this Ordinance.

(2) In so far as necessary for the purpose of safeguarding the rights of the Netherlands Indies, the officials of the import and export and excise services shall, in addition to the persons enumerated above, be responsible for implementing and enforcing the provisions of this Ordinance.

Article 14. In addition to the persons generally responsible for inquiring into punishable acts, the persons specified in the preceding article shall be authorized to inquire into acts declared punishable by, or in provisions enacted pursuant to, this Ordinance and into offences against the prohibitive provisions relating to the import, export and transport of goods by sea and into the punishable acts specified in articles 167 and 168 (in so far as they refer to the illegal entry of pilot station ships, lightships and lighthouse installations), 196 to 199 inclusive, 324 to 326 inclusive, 438 to 443 inclusive, 447 to 451 inclusive, 473, 474 and 564 to 566 inclusive of the Penal Code.

Article 15. (1) The persons responsible for inquiring into the punishable acts referred to in the previous article shall be authorized, subject to the terms of article 17, to stop and search ships and vessels whose companies are suspected of committing, or of preparing to commit, acts which are contrary to the provisions enacted by or pursuant to this Ordinance, or the contraventions and offences (*misdrifven*) referred to in the preceding article. So far as the *djuragans* of local vessels are concerned, this authority shall extend only to fishing vessels and other vessels with a gross capacity of less than 100 cubic metres.

(2) The said persons may demand to see the ship's papers in order to verify the nationality of the ship, the shipowner, the port of registry and any other particulars capable of assisting the inquiry.

(3) They shall be authorized to confiscate any objects, including ships or vessels, which, it is presumed, were used or instrumental in the commission of the punishable act and any objects which, it is presumed, were obtained by means of the punishable act.

Article 16. Powers similar to those specified in the preceding article may be exercised in any case in which a ship or vessel in Netherlands Indies waters conducts itself in a manner prejudicial to the security, public order or other legitimate interests of the Netherlands Indies regulations, or in which there are reasonable grounds for supposing that such conduct is contemplated. If a ship of foreign nationality, present in territorial waters, is concerned, that ship may be required to leave these waters by the shortest route, or by a route specified for the purpose; if necessary, force may be used for the purpose of obliging it to leave.

Article 17. (1) The stopping or search of ships and vessels which are not Netherlands or Netherlands Indies ships or vessels must be effected (if at all) in Netherlands Indies waters, except as otherwise provided in paragraph (2).

(2) The pursuit of a vessel of foreign nationality by reason of the commission of a punishable act within the Netherlands Indies may, provided that the pursuit had begun while the vessel in question was in Netherlands Indies waters, be continued outside these waters, so long as the pursuit is not interrupted. The pursuit shall in any event be broken off as soon as the ship pursued enters the territorial sea of a foreign State.

(3) Before the commencement of the pursuit referred to in paragraph (2), the following provisions must be fulfilled:

1. Irrespective of the position of the investigating official, it must be proved, by the taking of bearing, or otherwise, that the offending ship, or one of its boats, by means or with the assistance of which the punishable act was committed, is within Netherlands Indies territorial waters;

2. A visual or auditory signal to stop must be given at such a distance that the foreign ship can distinguish the signal.

Article 18. The ship or vessel together with its company may be brought into a Netherlands Indies port in the vicinity in the following cases:

a. On the discovery *in flagrante delicto* of an offence or contravention within the meaning of article 14, and also in any case in which it is proved that conduct of the nature described in article 16 has occurred;

b. If there is reason to suppose that a punishable act within the meaning of article 14 has been committed or that conduct of the nature described in article 16 has occurred, and there is a danger that, by withdrawing from Netherlands Indies waters, by seeking to escape or otherwise, the ship may evade closer investigation;

c. If the ship is encountered in Netherlands Indies territorial waters and cannot produce a valid certificate of nationality or equivalent document;

d. If the ship is encountered in Netherlands Indies territorial waters without being authorized to pass through these waters and is carrying cargo which is liable to duty in the Netherlands Indies;

e. If the ship, being intended to be used for fishing and not having the right to engage in fishing in Netherlands Indies territorial waters, is encountered in the said waters without being authorized to pass through these waters; this provision shall not, however, be applied if the ship's presence is occasioned by *force majeure* or distress.

Article 19. By or pursuant to Government order provisions may be enacted which must be taken into account in the exercise of the powers specified in articles 13 to 18 inclusive.

Article 20. By or pursuant to Government order provisions may be enacted concerning the registration of sea-fishing vessels of foreign nationality which are authorized to engage in fishing in Netherlands Indies territorial waters or in maritime district and concerning the marks and distinguishing signs which the said vessels must display.

Article 21. By or pursuant to Government order provisions may be enacted for the protection of telephone, telegraph, and other submarine cables, for the prevention of the pollution of the sea by ships and for the purpose of ensuring orderliness and the safety of traffic in Netherlands Indies territorial waters.

(b) ROYAL DECREE OF 29 DECEMBER 1949 TO ENACT PROVISIONS CONCERNING A SPECIAL ADMINISTRATION IN NEW GUINEA ¹

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CHAPTER ONE

New Guinea and its inhabitants

Article 1. New Guinea comprises the territory of the former Residency of New Guinea.

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¹ *Staatsblad van het Koninkrijk der Nederlanden*, No. J599. Translated by the Secretariat of the United Nations.

Article 176. 1. The places in New Guinea designated by ordinance as seaports shall be open to foreign trade, and the ships of all nations with which the Kingdom of the Netherlands maintains friendly relations shall have access to the said places, subject to reciprocity and to the observance of the general and local regulations.

2. In other respects, the admission of ships to New Guinea for the purposes of trade shall be regulated by or pursuant to statute.

(c) ACT OF 17 JULY 1936 TO MODIFY THE SEAPORT AND SHIPPING RÉGIME IN THE NETHERLANDS INDIES (INDIES SHIPPING ACT, 1936)¹

Article 2. (1) The ports shall be open for foreign trade to seagoing ships flying the Netherlands flag or the flag of States with which the Kingdom of the Netherlands enjoys friendly relations, subject to reciprocity and to compliance with general and local regulations.

(2) Places on the coast may, by or pursuant to a Government Order be declared open for foreign trade to seagoing ships, as referred to in the preceding paragraph, of such type or tonnage as shall be specified by the said Order.

(3) Places on the coast may, by or on behalf of the Governor-General subject, where necessary, to such conditions as he may specify, be declared open for foreign trade to the seagoing ships referred to in paragraph (1) in special cases or with respect to specified goods.

Article 3. (1) Seagoing ships flying the Netherlands flag shall be entitled, subject to the provisions of the succeeding paragraph and to compliance with general and local regulations, to engage in coastal traffic.

(2) The cases in which a licence shall be required by the Governor-General for the exercise of coastal traffic may be determined by Government Order. The issue of such licence may be made subject to conditions.

(3) The condition concerning the flag prescribed by paragraph (1) may be waived by or on behalf of the Governor-General subject, where necessary, to such conditions as he may specify, in special cases or for specified routes or with respect to the carriage of specified goods.

Article 4. (1) Seagoing ships flying the Netherlands flag shall be entitled, at the seaports and places on the coast, to carry on operations other than those authorized by or pursuant to the provisions of articles 2 and 3, subject to the observance of general and local regulations.

(2) Seagoing ships flying the flag of States with which the Kingdom of the Netherlands enjoys friendly relations shall, subject to reciprocity and to compliance with general and local regulations, be entitled to carry on the operations referred to in paragraph (1):

(a) At the seaports;

(b) At places on the coast which are open for foreign trade to the seagoing ship concerned under the provisions of article 2, paragraph (2) or (3);

¹ *Staatsblad van Nederlandsch-Indië* (1936) No. 700. Translation by the Secretariat of the United Nations.

(c) At places on the coast which are open for coastal traffic to the seagoing ship concerned under the provisions of article 3, paragraph (3).

(3) Places on the coast may by Government order be declared open for the operations referred to in this article to the seagoing ships referred to in paragraph (2) or to such groups of the said seagoing ships as may be specified by the said Government Order.

(4) Permission may in special cases be given by or on behalf of the Governor-General, subject, where necessary, to such conditions as he may specify, for the seagoing ships referred to in paragraph (2) to carry on the operations referred to in this article at a place on the coast.

Article 5.

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(3) The seagoing ship by which, and the goods in respect of which, the contravention was committed may be seized.

(4) Execution may be levied upon the seagoing ships and goods referred to in the preceding paragraph for the payment of the fine imposed and the costs of the legal proceedings.

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Article 7. This Act shall not apply:

(a) To warships and seagoing ships flying the Netherlands flag which are employed in the public service;

(b) In case of shipping disaster or emergency.

New Zealand

(a) SHIPPING AND SEAMEN ACT, 1952 ¹

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PART VII. SAFETY

Prevention of Collisions

286. (1) Without limiting the general power to make regulations conferred by section five hundred and four of this Act, regulations may be made under that section with respect to ships and to seaplanes on the surface of the water for the prevention of collisions; and those regulations (in this Act referred to as the collision regulations) shall contain such requirements as appear to the Governor-General to be necessary to implement the provisions of such international treaties, agreements, and regulations for the prevention of collisions at sea as are for the time being in force.

(2) The collision regulations, together with the provisions of this Part of this Act relating thereto, or otherwise relating to collisions, shall apply —

(a) To all ships and seaplanes which are locally within the jurisdiction of New Zealand, whether or not they are Commonwealth ships or seaplanes registered in or belonging to any Commonwealth country:

(b) To all Commonwealth ships and to all seaplanes which are registered in or belong to any Commonwealth country, whether or not they are locally within the jurisdiction of New Zealand or of any other Commonwealth country:

¹ Text of Act provided by the Ministry for External Affairs of New Zealand.

Provided that, for the purposes of this section and of section two hundred and ninety-one of this Act, in so far as they apply to seaplanes, this section and sections two hundred and eighty-seven and two hundred and ninety-one of this Act shall be deemed to be the only provisions of this Part of this Act relating to the collision regulations or otherwise relating to collisions.

(3) In any case arising in any Court concerning matters arising locally within the jurisdiction of New Zealand or of any other Commonwealth country, all ships and seaplanes to which the last preceding subsection applies shall, so far as concerns the collision regulations and the said provisions of this Part of this Act, be treated as if they were New Zealand ships, or, as the case may be, seaplanes registered in or belonging to New Zealand.

(4) Any rules or regulations or by-laws made, whether before or after the passing of this Act, under the authority of any other Act shall, notwithstanding anything in this section or in the collision regulations, have full effect.

(5) For the purposes of this section seaplanes taking off from, or alighting on, the water shall be deemed to be on the surface of the water when they are in contact therewith.

(6) This section shall apply in the case of Her Majesty's ships and of Her Majesty's seaplanes as it applies in the case of other ships and seaplanes.

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291. Whenever it is made to appear to the Governor-General that the Government of any foreign country is willing that the collision regulations, or the provisions of this Part of this Act relating thereto or otherwise relating to collisions, or any of those regulations or provisions, should apply to ships or seaplanes registered in or belonging to that country when not locally within the jurisdiction of New Zealand or any other Commonwealth country, the Governor-General may, by Order in Council, direct that those regulations and provisions shall, subject to any limitation of time and to any conditions and qualifications contained in the Order, apply to the ships and seaplanes of that country, whether or not they are locally within the jurisdiction of New Zealand or of any other Commonwealth country, and that those ships and seaplanes shall for the purpose of those regulations and provisions be treated as if they were New Zealand ships or, as the case may be, seaplanes registered in or belonging to New Zealand.

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PART VIII. SHIPPING INQUIRIES AND COURTS

Inquiries as to Shipping Casualties

323. For the purposes of inquiries and investigations under this Part of this Act a shipping casualty shall be deemed to occur —

(a) When on or near the coasts of New Zealand any ship is lost, abandoned, stranded, or materially damaged or has been in collision with any other ship:

(b) When any loss of life ensues by reason of any casualty occurring to any ship in or near the coasts of New Zealand:

(c) When in any place any such loss, abandonment, stranding, material damage, or casualty as above mentioned occurs, and any witness is found in New Zealand:

(d) When in any place any such loss, abandonment, stranding, material damage, or casualty as above mentioned occurs or is supposed to have occurred to any New Zealand ship:

(e) When any Commonwealth ship is lost or is supposed to have been lost, and any evidence is obtainable in New Zealand as to the circumstances under which she proceeded to sea or was last heard of.

324. (1) Where a shipping casualty has occurred, a preliminary inquiry may be held respecting the casualty by any Superintendent or by any other person appointed for the purpose by the Minister.

(2) For the purpose of any such inquiry the person holding the same shall have the powers of a Marine Inspector under this Act.

(3) Where any such inquiry is held, the person holding the same shall report his findings to the Minister.

(4) A person authorized as aforesaid to make a preliminary inquiry shall, in any case where it appears to him requisite or expedient (whether upon a preliminary inquiry or without holding such an inquiry) that a formal investigation under section three hundred and twenty-five of this Act or a formal inquiry under section three hundred and twenty-eight of this Act should be held, report to the Minister accordingly.

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PART IX. WRECK AND SALVAGE OF SHIPS AND AIRCRAFT
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Ships and Aircraft in Distress

343. (1) Where any ship or aircraft is wrecked, stranded, or in distress at any place on or over or near the coasts of New Zealand or any tidal water within the limits of New Zealand, a Receiver having authority in the district in which that place is situate shall, upon being informed of the circumstance, forthwith proceed there, and upon his arrival shall take the command of all persons present, and shall assign such duties and give such directions to each person as he thinks fit for the preservation of the ship or aircraft and the lives of the persons belonging thereto (in this Part of this Act referred to as shipwrecked persons) and of the cargo and equipments of the ship or aircraft:

Provided that the Receiver shall not interfere between the master and the crew of the ship, or, as the case may be, between the person in command and the crew of the aircraft; nor shall the Receiver (otherwise than in compliance with a direction of the Minister given in pursuance of section three hundred and fifty-three of this Act) take into his possession any ship or aircraft, or any cargo or equipments belonging thereto, while that ship or aircraft remains in the possession of the master or person in command thereof, except with the consent of that master or person in command.

(2) The Receiver may, with a view to the preservation of the lives of the shipwrecked persons or of the ship or aircraft or of its cargo or equipments, —

(a) Require such persons as he thinks necessary to assist him:

(b) Require the master or other person having the charge of any ship or other vessel or boat near at hand to give such aid with his men or ship or other vessel or boat as may be in his power:

(c) Demand the use of any vehicle or horses that may be near at hand.

(3) Every person commits an offence against this Act who —

(a) Wilfully disobeys the lawful direction of a Receiver; or

(b) Refuses without reasonable cause to comply with any lawful requisition or demand made by a Receiver under this section.

347. (1) Where any ship or aircraft is or has been in distress on or over or near the coasts of New Zealand or any tidal water within the limits of New Zealand, a Receiver or any person lawfully acting as such shall, as soon as conveniently may be, examine on oath or affirmation any person belonging to the ship or aircraft, or any other person who may be able to give an account thereof or of the cargo or stores thereof, as to the following matters, that is to say:

- (a) The name and description of the ship or aircraft;
- (b) The names of the owners and the master of the ship, or, as the case may be, the names of the owners and the person in command of the aircraft;
- (c) The names of the owners of the cargo;
- (d) The ports from and to which the ship or aircraft was bound;
- (e) In the case of a ship, the occasion of its distress;
- (f) The services rendered; and
- (g) Such other matters or circumstances relating to the ship or aircraft, or to the cargo or stores thereof, as the person holding the examination thinks necessary.

(2) The person holding the examination shall take the same down in writing, and shall send it to the Minister.

(3) The person holding the examination shall, for the purposes thereof, have all the powers of a Marine Inspector under this Act.

Dealing with Wreck

349. (1) Where a ship or aircraft is wrecked, stranded, or in distress at any place on or over or near the coasts of New Zealand or any tidal water within the limits of New Zealand, any cargo or equipments or other articles belonging to or separated from the ship or aircraft which may be washed on shore, or otherwise lost or taken from the ship or aircraft, shall be delivered to the Receiver.

(2) Every person, whether the owner or not, who secretes or keeps possession of any such cargo or equipments or article, or refuses to deliver the same to the Receiver or any person authorized by him to demand the same, commits an offence against this Act.

(3) The Receiver or any person authorized as aforesaid may take any such cargo or equipments or article by force from the person so refusing to deliver the same.

350. (1) Where a Receiver takes possession of any wreck, he shall within forty-eight hours cause to be posted in the Customhouse nearest to the place where the wreck was found or was seized by him a description thereof and of any marks by which it is distinguished.

(2) The owner of any wreck in the possession of the Receiver, upon establishing his claim to the same to the satisfaction of the Receiver within one year from the time at which the wreck came into the possession of the Receiver, shall, upon paying the salvage, fees, and expenses due, be entitled to have the wreck or the proceeds delivered to him.

(3) Where any ship other than a New Zealand ship, or any aircraft which is not registered in and does not belong to New Zealand, is wrecked, stranded, or abandoned on or near the coasts of New Zealand or any tidal water within the limits of New Zealand, a trade or other representative in New Zealand of the Commonwealth country, or, as the case may be, a consular representative of the foreign country, in which that ship or aircraft may have been registered or to which that ship or aircraft may have belonged shall, if the Minister so directs, be deemed, in the absence of the owner and of the master of the ship or other agent of the owner or, as the case may be, in the absence of the owner and the person in command of the aircraft or other agent of the owner, to be the agent of the owner, as far as relates to the custody and disposal of that ship or aircraft.

(4) Where any wreck, whether or not belonging to or separated from any ship or aircraft to which the last preceding subsection applies, is found within the limits of New Zealand or is brought within those limits, and it does not appear that that wreck belongs to persons resident in New Zealand, a trade or other representative in New Zealand of the Commonwealth country, or, as in the case may be, a consular representative of the foreign country, to which the owners of the wreck may belong shall, if the Minister so directs, be deemed, in the absence of the owners and of any other agent of the owners, to be the agent of the owners, as far as relates to the custody and disposal of the wreck.

. . .

Removal of Wrecked Ships and Aircraft

353. (1) If any ship or aircraft is sunk, stranded, or abandoned on or near the coasts of New Zealand or any tidal water within the limits of New Zealand, and there is no Harbour Board or person having jurisdiction under section two hundred and eight of the Harbour Act 1950 to remove or destroy that ship or aircraft, the Minister may, and shall, if in his opinion the ship or aircraft is, or is likely to become, an obstruction to navigation, direct a Receiver having authority in the district in which the ship or aircraft is situate to cause that ship or aircraft to be removed.

. . .

Offences in Respect of Wreck

354. (1) Every person who takes into any port out of New Zealand any ship or aircraft, stranded, derelict, or otherwise in distress, found on or near the coasts of New Zealand or any tidal water within the limits of New Zealand, or any part of the cargo or equipments thereof, or anything belonging thereto, or any wreck found within those limits, and there sells the same, commits an offence against this Act, and shall be liable on conviction on indictment to imprisonment for a term not exceeding five years or to a fine not exceeding one thousand pounds or on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds.

(2) Every person, not being a Receiver or a person lawfully acting as such or a person acting by the command of any such person as aforesaid, commits an offence against this Act who boards or endeavours to board any ship or aircraft which is wrecked, stranded, or otherwise in distress on or near the coasts of New Zealand or any tidal water within the limits of New Zealand, unless he acts with the leave of the master of the ship or, as the

case may be, the person in command of the aircraft, and every such master or person in command may repel him by force.

(3) Every person commits an offence against this Act who —

(a) Impedes or hinders, or endeavours in any way to impede or hinder, the saving of any ship or aircraft stranded or in danger of being stranded or otherwise in distress on or over or near the coasts of New Zealand or any tidal water within the limits of New Zealand, or of any part of the cargo or equipments of any such ship or aircraft, or of any wreck; or

(b) Secretes any wreck, or defaces or obliterates any marks thereon; or

(c) Wrongfully carries away or removes any part of a ship or aircraft stranded or in danger of being stranded or otherwise in distress on or near the coasts of New Zealand or any tidal water within the limits of New Zealand, or any part of the cargo or equipments of any such ship or aircraft, or any wreck, —

and every such person shall be liable for each offence to a fine not exceeding fifty pounds; and that penalty may be inflicted in addition to any other penalty to which that person may be liable by law under this Act or otherwise.

Salvage

356. (1) Where services are rendered —

(a) Wholly or in part within New Zealand waters in saving life from any ship or aircraft, whether or not a New Zealand ship or an aircraft registered in or belonging to New Zealand; or

(b) Elsewhere in saving life from any Commonwealth ship or any unregistered ship which is owned wholly by persons qualified to own a registered New Zealand ship, or any aircraft which is registered in or belongs to any Commonwealth country, —

there shall be payable to the salvor by the owner of the ship or aircraft or cargo or equipments saved a reasonable amount of salvage, to be determined in case of dispute in manner hereinafter mentioned.

(2) Salvage in respect of the preservation of life, when payable by the owners of the ship or aircraft, shall be payable in priority to all other claims for salvage.

(3) Where the ship or aircraft and its cargo and equipments are destroyed, or the value thereof is insufficient, after payment of the actual expenses incurred, to pay the amount of salvage payable in respect of the preservation of life, the Minister may in his discretion award to the salvor, out of any moneys appropriated by Parliament for the purpose, such sum as he thinks fit in whole or part satisfaction of any amount of salvage so left unpaid.

357. Where —

(a) Any ship or aircraft is wrecked, stranded, or in distress on or over or near the coasts of New Zealand or any tidal water within the limits of New Zealand, and services are rendered by any person in assisting that ship or aircraft, or in saving the cargo or equipments thereof or any part thereof; or

(b) Services are rendered by any person other than a Receiver in saving any wreck, —

there shall be payable to the salvor by the owners of the ship or aircraft or cargo or wreck a reasonable amount of salvage, to be determined in case of dispute in manner hereinafter mentioned.

PART XV. SEAMEN OF FOREIGN SHIPS

474. (1) Where under this Part of this Act complaint is made that a seaman or apprentice (not being a seaman or apprentice engaged in New Zealand and not being a slave) has deserted or absented himself without leave from any foreign ship at a port in New Zealand or elsewhere within the limits or territorial waters of New Zealand, a Magistrate or any two Justices, on proof of that desertion or absence without leave, may, and shall in any case where the terms of an Order in Council made under section four hundred and seventy-two of this Act or any notice referred to in subsection two of this Act or any notice referred to in subsection three of that section so require, direct that that seaman or apprentice be placed at any available opportunity on board the ship to which he belongs.

(2) Every seaman or apprentice so directed to be placed on board ship shall be detained in any convenient prison or place of security, and shall at any available opportunity be placed by any constable on board the ship to which he belongs; but no such seaman or apprentice shall, by virtue only of any such direction, be detained in custody for a longer period than one month or after the departure of the ship to which he belongs for any port beyond the limits of New Zealand.

(3) Every master of a foreign ship, and every other officer for the time being on duty in charge of any foreign ship, commits an offence against this Act who —

(a) Fails to receive on board any seaman or apprentice directed to be placed on board that ship pursuant to this section; or

(b) Connives at or is privy to any seaman or apprentice so placed on board leaving or escaping from the ship.

. . .

476. (1) Every seaman or apprentice belonging to a foreign ship commits an offence against this Act who, while that ship is at a port in New Zealand or elsewhere within the limits or territorial waters of New Zealand, —

(a) Wilfully disobeys any lawful command of the master or of any other officer of that ship; or

(b) Continues wilfully to disobey, or combines with any other of the crew of that ship wilfully to disobey, any such lawful commands; or

(c) Combines with any other of the crew of that ship to neglect duty, or to impede the navigation, discharge, or loading of the ship or the progress of the voyage.

(2) Every seaman or apprentice who commits an offence under this section shall for each such offence be liable on summary conviction to imprisonment for a term not exceeding —

(a) One month in the case of an offence under paragraph (a) of the last preceding subsection:

(b) Three months in any other case.

(3) Nothing in this section shall affect any powers which the master of a foreign ship may lawfully exercise for the maintenance of discipline on board that ship:

Provided that no person shall be punished twice for the same offence.

(4) Where any seaman or apprentice belonging to a foreign ship (not

being a seaman or apprentice engaged in New Zealand) has, under this section or otherwise, been sentenced to imprisonment for a term not exceeding three months, a Magistrate or any two Justices may, on the application of the master of the ship or of any constable, notwithstanding that the period of imprisonment is not at an end, cause the seaman or apprentice to be placed on board his ship for the purpose of proceeding on the voyage.

(5) Every master of a foreign ship, and every other officer for the time being on duty in charge of a foreign ship, commits an offence against this Act who —

(a) Fails to receive on board any seaman or apprentice directed to be placed on board the ship pursuant to this section; or

(b) Connives at or is privy to any seaman or apprentice so placed on board leaving or escaping from the ship.

477. (1) Every person commits an offence against this Act who —

(a) Persuades or attempts to persuade any seaman or apprentice belonging to a foreign ship to desert or absent himself without leave from that ship at any port in New Zealand or elsewhere within the limits or territorial waters of New Zealand; or

(b) Wilfully harbours or secretes any seaman or apprentice who has deserted or absented himself without leave from any foreign ship at any port in New Zealand or elsewhere within the limits or territorial waters of New Zealand, knowing or having reason to believe that seaman or apprentice so to have done, —

and shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding one hundred pounds.

(2) Every person commits an offence against this Act, and shall be liable in respect of each offence to imprisonment for a term not exceeding one month or a fine not exceeding twenty pounds, who secretes himself on any foreign ship at a port in New Zealand for the purpose of going to sea on that ship without the consent either of the owner or other person for the time being responsible for the navigation and management of the ship, or of the master or any other officer of the ship, or of any other person entitled to give that consent; and any person who so secretes himself for the purpose of going to sea may be arrested without warrant.

PART XVI. LEGAL PROCEEDINGS AND DETENTION OF SHIPS

Prosecution of Offences

484. (1) Where the Governor-General is satisfied that the Government of any Commonwealth country other than New Zealand desires that the provisions of this Act which prescribe offences or which prescribe the circumstances in which any ship shall become liable to forfeiture, or any of those provisions, should, in accordance with their terms or subject to any limitation, apply in respect of foreign going ships registered in or belonging to that country when those ships are not locally within the jurisdiction of New Zealand, the Governor-General may by Order in Council declare that those provisions of this Act, or such of those provisions as are specified in the Order, shall (subject to any limitation set out in the Order) so apply.

(2) Notwithstanding anything in this Act, no Court shall, by virtue only of any provision of this Act, have jurisdiction —

(a) To try for any offence committed beyond the limits and territorial waters of New Zealand any master, seaman, or apprentice belonging to or connected with any foreign going ship registered in or belonging to any Commonwealth country other than New Zealand; or

(b) To try any owner or any other person for any offence committed beyond the limits and territorial waters of New Zealand on board or in relation to any such ship as aforesaid; or

(c) To adjudge the forfeiture of any such ship as aforesaid or any share therein, if that liability to forfeiture was incurred beyond the limits and territorial waters of New Zealand, —

unless it has been declared by Order in Council under this section that the provisions of this Act which prescribe that offence or, as the case may be, that liability to forfeiture apply in respect of foreign going ships registered in or belonging to the Commonwealth country in which that ship is registered or to which she belongs, or otherwise than in conformity with the provisions of any such Order.

(3) For the purposes of subsection two of section two hundred and eighty-seven of this Act, this section shall apply in the case of seaplanes registered in or belonging to any Commonwealth country, and in the case of the owners and pilots or other persons on duty in charge of those seaplanes, as it applies in the case of ships registered in or belonging to that country, and in the case of the owners and masters of those ships, respectively:

Provided that no Order in Council under this section shall be deemed to refer to seaplanes unless that Order expressly so provides.

(4) Nothing in this Act shall be construed to be in derogation of any rightful jurisdiction of Her Majesty under the law of nations; and, subject to the foregoing provisions of this section and to section five hundred and thirteen of this Act, nothing in this Act shall be construed to affect or prejudice any jurisdiction conferred by any Act of the Parliament of Great Britain or of the United Kingdom which has effect as part of the law of New Zealand, or by any Act of the New Zealand Parliament, or now by law existing, in relation to matters arising within the limits or territorial waters of New Zealand or elsewhere.

. . .

(b) HARBOURS ACT, 1950¹

. . .

2. In this Act, unless the context otherwise requires, —

. . .

“ Harbour ” or “ port ” includes any harbour properly so called, whether natural or artificial, and any haven, estuary, navigable lake or river, dock, pier, jetty, and work in or at which ships do or can obtain shelter, or ship or unship goods or passengers, and any harbour defined under this Act; and, when used in any provision relating to the jurisdiction or powers of a Harbour Board, extends to and includes the limits within which that jurisdiction or those powers may be exercised:

. . .

¹ Text of Act provided by the Ministry for External Affairs of New Zealand.

“Harbour dues” and “dues” include any due, rate, fee, toll, tax, pilotage rate, port charge, or payment in the nature thereof payable or leviable under this Act or a special Act:

“Tidal lands” or “foreshore” means such parts of the bed, shore, or banks of a tidal water as are covered and uncovered by the flow and ebb of the tide at ordinary spring tides:

PART III. HARBOUR DUES AND HARBOUR RATES

Harbour Dues

94. (1) Harbour dues shall be made by by-laws in the manner provided by this Act, and shall be chargeable equally to all persons in respect of the same description of ships, the same description of voyage, and the same description of goods.

(2) Except as provided by sections two hundred and four and two hundred and five of the Customs Law Act, 1908, and by the Protection of British Shipping Act, 1936, no foreign ship employed in the coasting trade of New Zealand, nor any goods carried in any such ship, shall, during the time the ship is so employed, be subject to any higher or other rate of harbour dues, or other charges whatsoever, or to any other rules as to the employment of pilots, or any other rules or restrictions whatsoever, than ships registered in New Zealand employed in like manner, or goods carried in those ships.

Exemptions from Dues

117. (1) Nothing in this Act shall charge with any dues —

(a) Any ship of or in the service of the naval, military, or air forces of any Commonwealth country, or any stores or goods required for the use of the naval, military, or air forces of any Commonwealth country or of any allied force:

(b) Any ship in the naval, military, or air force service of any foreign Power:

(h) Any of the naval, military, or air forces of any Commonwealth country and any allied force and any constables, while travelling on duty, or their baggage with which they are travelling:

(i) Any ship employed solely for scientific, marine surveying, or exploration purposes.

(4) In this section, —

“Allied force” means a naval, military, or air force of any foreign country which is co-operating with any of His Majesty’s New Zealand Forces:

“Dues” does not include charges for the use of a Board’s tugs, or for labour or material supplied by a Board, and, notwithstanding anything to

the contrary in this or any other Act or in any rule of law, no exemption shall be allowed in respect of any such charge to any person or authority referred to in this section.

. . .

118. (1) Missionary ships not trading to or from any ports in New Zealand and not conveying goods for hire shall be exempt from all harbour dues except for services rendered by the officers or servants of the Board, and from pilotage rates, except where the services of a pilot are actually made use of.

(2) Pleasure yachts (being ships however propelled used exclusively for pleasure and not carrying goods or passengers for hire) shall be exempt from all harbour dues except for —

(a) Berthage not exceeding one penny per ton per day or one pound a year, whichever is the less; and

(b) Services rendered by the officers and servants of the Board; and

(c) Pilotage rates where the services of a pilot are actually made use of.

(3) Vessels employed exclusively in one or more of the industries of fishing, sealing, and oyster dredging, and not conveying goods for hire, vessels putting into any port in distress or through stress of weather or for water or provisions or to refit or for the purpose of docking only, and vessels calling at any port for orders, shall be exempt from all harbour dues, except for berthage, storage, dock, slip, or other accommodation actually provided and for services rendered by the officers and servants of the Board, and from pilotage rates, except where the services of a pilot are actually made use of:

Provided that if, after any vessel has put into port under circumstances conferring on it exemption from harbour dues and pilotage rates, any of its cargo is discharged for purposes of sale or any fresh cargo is taken on board in that port, the vessel shall thereupon become liable for those dues and rates as from the date of its entry into the port:

Provided further that the maximum rate of dues for berthage payable by vessels employed exclusively in one or more of the industries of fishing, sealing, and oyster dredging, and not conveying goods for hire, shall not exceed one penny per ton per day.

119. If any other vessel (whether laden with cargo or in ballast) for which harbour dues have been paid is obliged, from stress of weather or other sufficient cause, after leaving the harbour to return thereto with the same cargo or ballast, no further dues shall be payable, except for services rendered by the officers or servants of the Board.

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PART V. PILOTAGE

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Payment of Pilotage Rates

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224. No pilot shall in any case conduct a ship to sea from any harbour unless the ship has been cleared outwards at the Customs, if subject to clearance, nor until the full amount of pilotage according to the rates for the time being fixed and established for the harbour has been paid.

General Exemption

225. All ships of not more than one hundred tons registered tonnage shall be exempted from compulsory pilotage.

Offences

226. Every person commits an offence against this Act who, being a pilot, demands or receives, or, being a master, offers or pays to any pilot, any other rate in respect of pilotage services, whether greater or less, than the rate which may for the time being be demandable by law.

. . . .
 (c) OIL IN TERRITORIAL WATERS ACT, 1926 ¹

2. *Interpretation.* In this Act, unless the context otherwise requires, —

. . . .
 “Territorial waters” means any bay, gulf, harbour, river, lake, or other water included within the territorial limits of New Zealand.

3. *Penalty for discharge of oil into territorial waters.* (1) If any oil is discharged or allowed to escape, whether directly or indirectly, into any territorial waters—

(a) From any ship; or

(b) From any place on land; or

(c) From any apparatus used for the purpose of transferring oil from or to any ship to or from any other ship or to or from any place—

the owner or master of the ship from which the oil is discharged or allowed to escape, the occupier of the land, or the person having charge of the apparatus, as the case may be, shall be guilty of an offence, and shall in respect of each such offence be liable on summary conviction to a fine of five hundred pounds, and in the case of a continuing offence to a further fine of the same amount for every day or part of a day during which such offence continues, and shall also be liable to pay such amount as the Magistrate may assess in respect of the cost of removing such oil from such waters or from any foreshore or any harbour-works.

(2) All moneys payable in respect of the cost of removing oil as aforesaid shall, where the same are payable in respect of any harbour, or any harbour-works, or any part of the foreshore vested in the Harbour Board, be paid to the Harbour Board, and in any other case shall be paid into the Public Account to the credit of the Consolidated Fund.

(3) It shall be a good defence to proceedings against the owner or master of a ship for an offence under subsection one hereof if such owner or master proves that the escape or discharge of the oil was due to or made necessary because of a collision, and that subsequent to such collision all reasonable means were taken to prevent such escape or render such discharge unnecessary.

. . . .
 9. *Power to inspect premises and ships.* (1) The Minister may, if he thinks fit, either at his own instance or at the instance of any Harbour

¹ Text of Act provided by the Ministry for External Affairs of New Zealand.

Board, appoint any officer of the Marine Department or other competent person to inspect any ship being in any territorial waters; and any person so appointed, or the Harbourmaster of the harbour in which the ship is, may at all reasonable times enter upon the ship and examine the measures adopted to prevent the escape of oil.

(2) If the Minister has reason to suspect that oil is escaping or has escaped, whether directly or indirectly, into any territorial waters from premises adjacent to or in the neighbourhood of those waters, the Minister may, if he thinks fit, appoint any officer of the Marine Department or other competent person to inspect the premises; and any officer or person so appointed may at all reasonable times enter upon and inspect the premises.

(3) The power conferred on the Minister by the last preceding subsection may be exercised by a Harbour Board in respect of premises adjacent to or in the neighbourhood of the harbour under its control.

(4) If any person obstructs or interferes with any person authorized to enter on any premises or ships under this section, he shall, on summary conviction, be liable in respect of each offence to a fine of ten pounds.

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 . . .

(d) CUSTOMS LAW ACT, 1908 ¹

204. *Coastwise trade by ships of certain foreign countries.* (1) If it appears to the Governor-General that British ships are subject in any foreign country to any prohibition or restriction as to the carrying of passengers or goods coastwise in that country, he may, by Order in Council, so far as treaty obligations entered into by His Majesty permit, impose such prohibitions or restrictions upon the ships of that country as to carrying passengers or goods coastwise in New Zealand, or as to carrying goods from any port in New Zealand to any port in any other British possession where a law similar to this section exists, as appear to him justly to countervail the disadvantages to which British ships are subject as aforesaid.

(2) On the arrival at any port in New Zealand of any ship of the country to which the Order relates, a copy of any such Order, together with a copy of this section, shall be delivered by the Collector of Customs to the master.

(3) If the master does any act in contravention of such Order the ship shall be forfeited, and shall be disposed of as directed by the Minister of Marine, and the proceeds of such forfeiture shall be paid into the Public Account and shall form part of the Consolidated Fund.

205. *Power of Governor-General to restrict privileges of foreign ships and impose additional duties.* If it appears to the Governor-General —

(a) That British ships are subject in any foreign country, either directly or indirectly, —

(i) To any prohibitions or restrictions as to the voyages in which they may engage, or as to the articles they may import into or export from such country: or

(ii) To any duties or charges of any sort from which the national ships of such country are exempt: or

(b) That any duties are imposed upon articles imported or exported in British ships that are not equally imposed upon the like articles imported or exported in national ships: or

¹ *The Public Acts of New Zealand, 1908-1931, vol. 8, pp. 466 et seq.*

(c) That any preference is shown, either directly or indirectly, to national ships over British ships, or to articles imported or exported in national ships over the like articles imported or exported in British ships: or

(d) That British trade and navigation is not placed by such country upon as advantageous a footing as the trade and navigation of the most favoured nation, —

he may in any such case, subject to the provisions of the Imperial Act intituled "The Merchant Shipping Act, 1894," by Order in Council, impose such prohibitions or restrictions, or such duties of tonnage, upon the ships of that country entering into or departing from the ports of New Zealand, or such duties on all goods or on any specified classes of goods imported or exported in the ships of that country, as appear to him justly to countervail the disadvantages to which British trade or navigation is so subjected as aforesaid.

206. *Order in Council to specify ships to which it applies.* In every such Order the Governor-General may specify what ships are to be considered as ships of the country to which such Order applies; and all ships answering the descriptions contained in such Order shall, for the purposes of such Order, be considered to be ships of such country.

(e) CUSTOMS ACT, 1913, AS AMENDED ¹

2. *Interpretation.* In this Act, except where a contrary intention appears, the following terms have the meanings hereinafter assigned to them, that is to say:

"Territorial waters of New Zealand" means any bay, gulf, harbour, river, or other water included within the territorial limits of New Zealand:

PART II. PORTS AND WHARVES

18. *Ports of entry.* (1) The Governor-General may from time to time by Order in Council, declare any port, harbour, or other place to be a port of entry for the purposes of this Act, and define the limits and determine the name of that port.

(2) The limits of any port of entry so declared may comprise any portion of the marginal or other waters of New Zealand though not included within the territorial limits of New Zealand.

PART VIII. ASSESSMENT AND RECOVERY OF DUTY

146. *Liability of shipowners for duty on missing goods.* (1) If any cargo or ship's stores are smuggled into or unlawfully landed in New Zealand

¹ *Customs and Excise*, The Customs Act, 1913, and other Acts and Portions of Acts relating to Customs and Excise, incorporating Amendments as at 30th June, 1951, together with Addenda to 31st December 1952, Wellington. Printed under authority of the New Zealand Government, by R. E. Owen, Government Printer, 1953.

from any ship being within the territorial waters of New Zealand or elsewhere, the owner and master of that ship shall (in addition to the liability of any other person) be jointly and severally liable for the payment of the duty on such cargo or stores, as if imported by them and entered for home consumption.

(2) The Collector at any port may demand from the owner or master of any ship at that port payment of any sum which he believes or suspects to be owing under the foregoing provisions of this section.

(3) If and so long as any sum so demanded by the Collector remains unpaid, the ship shall not be entitled to a certificate of clearance at any port.

(4) In all proceedings for the recovery of duty under this section, or for a refund of duty paid under this section, the sum so demanded by the Collector shall be presumed to be due and payable until the contrary is proved.

PART XI. POWERS OF OFFICERS OF CUSTOMS

165. *Boarding of ships.* (1) Any officer may board any ship . . . within . . . the territorial waters of New Zealand.

(2) The Collector may station an officer on board any ship in port, and the master shall provide suitable sleeping-accommodation in the cabin and suitable and sufficient food for that officer.

(3) If the master fails to provide accommodation or food in conformity with this section, he and the owner of the ship shall be severally liable to a penalty of five pounds for every day during which such default continues.

166. *Searching of ships.* (1) Any officer may search any ship . . . within the territorial waters of New Zealand . . .

(2) In the exercise of this power of search an officer may, by force if need be, enter every part of the ship, and open any package, locker, or other place and examine all goods found on board.

168. *Firing on ships.* The commander or officer in charge of any ship in His Majesty's service (whether in respect of the Government of New Zealand or otherwise) having hoisted and carrying the proper ensign and pendant or the Customs flag may (whether in the territorial waters of New Zealand or elsewhere) chase any ship which, being within one league of the coast of New Zealand, does not immediately bring-to when signalled or required so to do, and may, after having fired a gun as a signal, fire at or into such ship to compel her to bring-to.

169. *Securing goods on ships.* (1) While any ship remains in any port or in the territorial waters of New Zealand an officer may secure any goods on board that ship and subject to the control of the Customs by fastening down hatchways and other openings into the hold and by locking up, sealing, or marking the goods, or otherwise as may be thought necessary, or by the removal of the goods to a King's warehouse or other place of security.

(2) If any fastening, lock, mark, or seal so placed by an officer upon any goods or upon any door, hatchway, opening, or place upon any ship is, at any time while the ship is in any port, or in the territorial waters of New Zealand, or in the course of any voyage between two ports of entry in New

Zealand, opened, altered, broken, or erased by any person except with the authority of an officer of Customs, the owner and master of the ship and the person so acting shall be severally liable to a penalty of one hundred pounds.

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PART XIV. OFFENCES

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216. *Ships adapted for smuggling.* If any ship comes or is found within one league of the coast of New Zealand or within the territorial waters of New Zealand having false bulkheads, bows, sides, or bottoms, or any secret or disguised place adapted for the purpose of concealing goods, or having any hole, pipe, or other device adapted for the purpose of smuggling or unlawfully importing or exporting goods, the master and owner of that ship shall be severally liable to a penalty of five hundred pounds.

. . .

PART XVI. FORFEITURES

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250 *Boats and vehicles forfeited.* Every boat, vehicle, or animal used in smuggling goods, or in unlawfully conveying goods with intent to defraud the revenue of Customs, or in the importation or conveyance of prohibited imports or forfeited goods, shall be forfeited.

. . .

253. *Where goods may be seized.* Goods may be seized as forfeited wherever found, whether on land in New Zealand or in the territorial waters of New Zealand . . .

. . .

PART XVII. DETENTION OF SHIPS

266. *Ships liable to detention.* When any offence has been committed for which the owner or master of a ship is liable as such to a penalty under this Act, or when the owner or master of a ship has used the ship or suffered it to be used for the purpose of smuggling, or unlawfully importing, exporting, or conveying any goods, the ship shall be liable to detention in accordance with the provisions of this Part of this Act.

267. *Seizure of ships.* (1) Any officer of Customs may seize any ship which is liable to detention under this Act or which he has reasonable and probable cause for believing or suspecting to be so liable.

(2) Any such seizure may be made in the same manner as a seizure of forfeited goods.

(3) No ship shall be so seized at any time except within one year after the act or event which rendered it liable to detention.

268. *Where ships may be seized.* . . . No ship shall be so seized elsewhere than in a port of entry or the territorial waters of New Zealand . . .

. . .

Nicaragua

GENERAL REGULATIONS RESPECTING CUSTOMS AND PORTS, 15 NOVEMBER 1886 ¹

. . .

Article 6. The entry of a vessel shall be deemed to take place at the moment at which it crosses into the territorial waters of the Republic.

The master shall, by the fact of entering, become subject to these Regulations in so far as they are applicable. If, because there is no wind, the vessel is unable to enter the anchorage, the harbour pilot shall inform the master of the vessel that he must produce the certificate of registry at the custom-house, and the harbour-master and the director of customs shall place a guard on board the vessel to ensure that no ballast is jettisoned and that nothing is unloaded.

Article 7. Save as otherwise provided, a foreign merchant-vessel shall pay harbour dues, tonnage dues, pilotage, light dues and any other charges payable in respect of the entry.

Article 8. A warship, irrespective of its nationality, shall be exempt from the payment of any kind of charge.

Article 9. Commercial traffic in areas in which such traffic is not authorized by the Government shall be strictly prohibited, and any person who contravenes this provision shall be liable to the prescribed penalties.

Article 10. Commercial traffic between a free port and a non-recognized port shall likewise be prohibited.

If any ship or vessel carries goods in contravention of the foregoing provisions, the master or skipper thereof and any accomplice, assistant or receiver shall be liable to the prescribed penalties, which shall be imposed by the proper authorities.

Article 11. Commercial traffic carried from a free port to any recognized port at which there is a custom-house shall be deemed to be foreign commercial traffic.

. . .

Article 89. Every vessel which enters a port of the Republic shall be inspected forthwith by the harbour-master, who may, if the director of customs so orders, be accompanied by an official of the Ministry of Finance. The harbour-master shall deliver personally to the master of the vessel a copy, printed in the Spanish, English and French languages, of the obligations and penalties to which the master of the vessel shall be subject during his presence in the port, and shall obtain a receipt therefor.

. . .

Article 94. No person on board a vessel shall be permitted to communicate with a person in the port until the harbour-master's inspection has been completed.

. . .

¹ Text of Regulations provided by the Ministry for Foreign Affairs of the Republic of Nicaragua. Translation by the Secretariat of the United Nations.

Article 99. If, under an agreement between the Republic and another country, cargo taken on at the ports of that other country must be accompanied by a custom-house permit, any vessel coming from that country shall, in respect of cargo taken on at any such ports, be required to produce the custom-house permit together with the manifest.

Article 100. In the case of foreign mail-ships and of ships to which the Government of the Republic has granted privileges, the provisions of the relevant agreements, and of any regulations made or to be made pursuant to the agreements, shall be applied.

Article 102. Warships and military transports of friendly nations shall not be subject to any formalities whatsoever, but if carrying private cargo, they shall comply with the regulations prescribed for merchant vessels.

Article 114. If it is proposed to discharge gunpowder, dynamite, military stores, explosive or inflammable objects, cartridges, rockets, friction matches, nitro-glycerine, petroleum or goods of like nature, the ship's representative shall first apply to the director of customs and the harbour-master for permission so that all necessary precautionary measures may be taken by them.

The master of a vessel which is engaged in the carriage of such goods shall ensure that the vessel does not come into contact with other vessels while in transit and shall impose a ban on smoking in the vessel.

Article 115. Where a warship, military transport or merchant vessel is discharging supplies for an establishment maintained by a foreign power, the director of customs shall appoint an officer who shall, if necessary, accompany the supplies to the warehouse or other place in which they are to be deposited.

Article 235. No small vessel of any kind may navigate in an estuary or inlet on the Pacific coast of the Republic without prior permission of the director of customs of the nearest recognized port approved by the Government.

An offence against this provision shall be punished by the seizure of the vessel and of any goods carried by it and by a fine of 25 pesos. These penalties shall be imposed, by the authorities responsible for the prevention of smuggling, upon the owner or master of the vessel and may be commuted to an equivalent number of days of work for the account of the State.

Norway

(a) ACT No. 2 OF 21 AUGUST 1914 RESPECTING MEASURES FOR
THE SAFETY OF NAVIGATION¹

Article 1. The King may:

(a) Make rules on the manner in which vessels shall be navigated and on the signs and signals which vessels shall carry to prevent collision with other vessels;

¹ Text provided by the Permanent Mission of Norway to the United Nations. Translation by the Secretariat of the United Nations.

(b) Specify the signals which vessels shall exhibit to indicate that they are in distress;

(c) Prescribe the procedure to be followed on board ship when a potential danger to navigation is discovered or notified or a request for help is received from a vessel in distress.

Article 2. The King may prescribe that the specified distress signals shall be used only to signal distress, and he may prohibit the use of private signals which are apt to be confused with the specified distress signals.

Article 3. The King may prescribe that the owners of steamships following regular routes shall publicly announce the routes to be taken by their ships at sea.

(b) ROYAL DECREE OF 21 MARCH 1952¹

(1) Pursuant to article 1 of the Act of 21 August 1914 respecting measures for the safety of navigation rules, as embodied in a draft which has been submitted, are hereby made for the prevention of collisions between vessels and the use of distress signals.

PART A. INTRODUCTION AND DEFINITIONS

Rule 1

(a) Save as otherwise provided in rule 30, these rules shall be observed by all vessels and seaplanes on the open sea and in all adjacent waters that can be navigated by seagoing vessels. If it is impossible for a seaplane, because of its special type of construction, to comply fully with the provisions of the rules governing the showing of lights and signals, it shall comply with those provisions as closely as circumstances permit.

(b) The rules governing the showing of lights shall be observed in all kinds of weather from sunset until sunrise. During this period no other lights may be shown except lights which cannot be confused with, or cannot reduce the visibility or obscure the distinguishing characteristics of, the required lights. The lights other than required lights shall likewise not impede the keeping of an effective watch.

(c) Save as the context may otherwise require, the following words and expressions shall in these rules be assigned the following meanings:

(1) The word "vessel" includes any craft, with the exception of a seaplane on the water, which is or can be used for water transport;

(2) The word "seaplane" includes any flying boat and any type of aircraft built for manoeuvring on the water;

Rule 30. Reservation to rules concerning navigation in harbours or inland waters

Nothing in these rules shall bar the application of special rules, made in due form by a local authority, concerning navigation in harbours, rivers, lakes or inland waters, including areas reserved for seaplanes.

¹ Text provided by the Permanent Mission of Norway to the United Nations. Translation by the Secretariat of the United Nations.

(c) CUSTOMS ACT OF 22 JUNE 1928, AS AMENDED BY ACT
OF 7 JUNE 1929 ¹

CHAPTER 1

The Customs Service and customs supervision in general

Article 1. For the purposes of this Act:

. . . .

The term "vessel" means any ship, boat, barge or the like capable of being used for water transport;

The term "aircraft" means any flying machine, dirigible airship or the like capable of being used for air transport;

. . . .

Article 3. The provisions of this Act with regard to customs supervision and the transport of goods shall, in respect of traffic by sea, apply to traffic on all waters within the general territorial sea frontier.

The King may also establish an outer customs frontier within which the provisions of the Act with regard to customs supervision over vessels, the unloading and loading of goods coming from or going to other countries and the dispatch of goods within the country shall likewise apply.

Article 4. All vessels within the customs frontier shall be subject to supervision by the customs inspection authority and may be closely searched, be locked or sealed or be placed under guard by the said authority as it sees fit.

The customs inspection authority may, if it sees fit, prohibit unauthorized access to a vessel until the search has been partly or entirely completed.

Article 5. When the customs inspection authority signifies that it wishes to effect contact with a vessel under way, the master of the vessel shall reduce speed or bring the vessel to in order that the contact may be effected.

If the customs inspection authority wishes to board a vessel, the master shall provide the necessary assistance for that purpose and for leaving the vessel.

. . . .

CHAPTER 9

Dispatch of goods within the country and coasting trade

. . . .

Article 125. third paragraph, now reads as follows:

The King, or the person authorized by him for the purpose, shall determine whether, and to what extent, the provisions of this Act in respect of traffic to and from other countries shall apply to traffic to and from Svalbard, Jan Mayen and fishing grounds on the high seas.

. . . .

¹ Text provided by the Permanent Mission of Norway to the United Nations. Translation by the Secretariat of the United Nations.

CHAPTER 12

Air traffic to and from other countries

Article 151 now reads as follows:

The King shall determine whether and to what extent military, customs and police aircraft shall be exempted from the provisions of this Act.

PakistanMERCHANT SHIPPING ACT, 1923 (XXI OF 1923)¹

PART VI

Special Shipping Inquiries and Courts

246. (1) For the purpose of inquiries and investigations under this Part a shipping casualty shall be deemed to occur when —

(a) On or near the coasts of [the Provinces and the Capital of the Federation], any ship is lost, abandoned, stranded or materially damaged;

(b) Any loss of life ensues by reason of any casualty happening to, or on board of, any ship on or near those coasts;

(c) On or near those coasts, any ship causes loss or material damage to any other ship;

(d) In any place any such loss, abandonment, stranding, damage or casualty occurs to, or on board of, any British ship, and any competent witness thereof is found at any place in [the Provinces and the Capital of the Federation]; or

(e) Any British ship is supposed to have been lost, and any evidence can be obtained in [the Provinces and the Capital of the Federation] as to the circumstances under which she proceeded to sea or was last heard of.

(2) In sub-section (1), the word “coasts” includes the coasts of creeks and tidal rivers.

(3) In the cases mentioned in clauses (a), (b) and (c) of sub-section (1), the master, pilot, harbour-master or other person in charge of the ship, or (where two ships are concerned) in charge of each ship, at the time of the shipping casualty, and

in cases under clause (d) of sub-section (1), where the master of the ship concerned or (except in the case of a loss) where the ship concerned proceeds to any place in [the Provinces and the Capital of the Federation] from the place where the shipping casualty has occurred, the master of the ship

shall, on arriving in [the Provinces and the Capital of the Federation], give immediate notice of the shipping casualty to the nearest Magistrate [and also to the officer appointed in this behalf by the [Central Government.]].

(4) Any person bound to give notice under this section and wilfully failing to give the same shall be liable to a fine which may extend to five hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to three months.

¹ Text of Act provided by the Permanent Mission of Pakistan to the United Nations.

247. (1) Whenever any [such officer] receives credible information that a shipping casualty has occurred, he shall forthwith report in writing the information to the [Central Government], and also to the [Provincial Government] on or near whose coasts the casualty occurred, or within whose territories any witness resides, or evidence can be obtained as the case may be; and may proceed to make a preliminary inquiry into the casualty.

(2) Any such officer —

(i) May go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments or articles on board thereof, to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage;

(ii) May enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make;

(iii) May, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make;

(iv) May require and enforce the production of all books, papers or documents which he considers important for such purpose; and

(v) May administer oaths, or may, in lieu of requiring or administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

(3) An officer making a preliminary inquiry under this section shall send a report thereof to the [Central Government] and shall send a copy thereof to the [Provincial Government].

255. (1) If any Court making an investigation under this Part thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorise any officer (subject, nevertheless, to any general or special instructions from [the Central Government]) to enter any vessel.

(2) Any officer so authorised may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest.

(3) No person shall be detained by virtue of this section for more than forty-eight hours.

Peru

PORT AUTHORITIES AND NATIONAL MERCANTILE MARINE REGULATIONS,
APPROVED BY PRESIDENTIAL DECREE No. 21 OF 1 JANUARY 1952¹
FIRST PART. PORT AUTHORITIES

Title I. Organization, jurisdiction and powers of Port Authorities

Chapter II. The jurisdiction of Port Authorities

Article 6. For the purposes of these regulations, the jurisdiction of the Port Authorities (*Capitanías de Puerto*) shall extend to:

¹ Text of Regulations provided by the Ministry for Foreign Affairs of Peru. Translation by the Secretariat of the United Nations.

(a) The territorial sea and inland waters (rivers and lakes) of Peru, as defined by the laws in force;

(b) The property and staff of the national mercantile marine, as defined in Titles VII and VIII of these Regulations, and foreign merchant vessels for the time being within Peruvian territorial waters.

Title III. The police powers of the Maritime Authority

Chapter I. The policing of the territorial sea and inland waters

Article 31. A harbourmaster (*capitán de puerto*) shall have power, in his capacity as Chief of the Maritime Police, to order the detention for a period not exceeding twenty-four hours of any person who commits a minor offence (*falta*) within the area under his jurisdiction; if, however, the offence is serious or a criminal offence (*delito*) the harbourmaster shall order the accused to be arrested, report the offence to the competent court, place the detained person, within twenty-four hours, at the disposal of the court, submitting at the same time a statement setting forth the circumstances, and notify the local political authority.

The penalty of detention referred to in the foregoing paragraph may be replaced by a fine of 100 soles.

Article 36. Any person who is aggrieved by a penalty imposed by the Maritime Authority may appeal against such penalty. The appeal shall be made within twenty-four hours through the harbourmaster who made the order in question; the harbourmaster is under a duty to receive the appeal and to transmit it without delay to the Directorate of Port Authorities together with his report. If the appeal is against a fine, the application shall be accompanied by the document certifying that the fine has been paid.

Article 38. (a) In the exercise of his police function a harbourmaster shall have power to request, or if necessary to compel, the appearance in his office of any person whatsoever, whether a Peruvian national or an alien, and whether living or employed aboard ship or ashore. Where necessary, the harbourmaster may request the assistance of the local political authority or police.

Article 48. It shall be unlawful for the captains and masters of ships of any flag and for the owners of vessels to harbour or conceal on board criminals of Peruvian or other nationality or deserters from the Navy or from any other of the armed services.

Chapter II. Anchorages—Moorings or mooring buoys—Ballast—Refuse and Garbage

Article 58. In the event of international hostilities, the harbourmaster shall direct merchant vessels to the safest anchorage, giving preference to

Peruvian vessels, and shall, if necessary, make representations to the commanding officers of foreign warships with a view to impressing upon them the need to clear the anchorage.

Article 75. (a) The harbourmaster shall ensure the maintenance of order and shall supervise the policing of Peruvian and foreign merchant vessels in accordance with these Regulations. The police power of the maritime authorities shall prevail over all others; accordingly, the captains of vessels must submit to such inspections and searches as the said authorities consider necessary, in particular if the object of the search is the discovery and arrest of criminals or deserters who may have taken refuge on board.

(b) A harbourmaster shall not, however, intervene in any brawls or disturbances occurring on board a foreign merchant vessel among members of its crew unless the consul of the country concerned requests such intervention in writing or such disorders disturb the public peace. If there is no consul at the port, the request referred to must be made by the captain of the vessel, its owner, consignee or agent, in the order named.

Article 76. Any vessel which enters the anchorages of the guano islands without express permission shall be seized in pursuance of article 18 of the Code of Customs Procedure.

Title V. Merchant vessels and small craft

Chapter I. Arrival in port of merchant vessels; conditions governing admission

Article 168. (a) The owner or agent of any Peruvian or foreign vessel is required in every case to give the Port Authority advance notice of the time of arrival.

(b) The agent or consignee of a vessel carrying explosives is required, in addition, to give eight days' advance notice of the date of arrival.

Article 185. (a) Each vessel shall be inspected first by the Maritime Health Service. If the inspection carried out by that Service does not disclose any reason for placing the vessel in quarantine, it shall be granted pratique; but if it must be isolated on the grounds of infection or suspicion of infection, the Port Authority shall be informed accordingly and a suitable anchorage shall be arranged by mutual agreement, where the vessel shall remain under the supervision of the Port health authorities and of any other port authorities concerned.

(b) The Port Authority's inspection shall take place after that of the Health Service and not before the Health Service has granted pratique.

Chapter II. Departure of merchant vessels

Article 214. (a) Every vessel proceeding abroad must be in possession of the appropriate bill of health (*patente de sanidad*); if it is to call at Peruvian ports, it must also carry a health certificate (*pasaporte sanitario*).

(b) Vessels which do not leave territorial waters shall be required to produce only the health certificate. There shall be two types of certificate, one for large vessels and the other for small craft of less than 100 tons.

(c) Bills of health and health certificates shall be issued free of charge by the health authorities and must be endorsed by the harbourmaster.

(d) Where there is no health authority, the bills and certificates of health shall be issued in the same manner by the harbourmaster, who shall specify that he is acting in lieu of a health authority.

*Chapter VI. Warships—Admission to, presence in and departure from
Peruvian ports*

Article 307. Notice of the arrival of any foreign warship at a Peruvian port, other than a call occasioned by necessity, shall be given in good time to the harbourmaster by the Naval High Command.

Article 308. The number of foreign warships that may visit Peru in time of peace is not subject to any restriction.

Article 309. (a) The inspections of the Maritime Health Service and of the Port Authority must take place before any visits are permitted, including visits by diplomatic and consular officials.

(b) In the case of a warship the health inspection may be waived, provided that it has not arrived from a port which is infected or suspected of infection.

(c) Certificates attesting to health conditions on board signed by the ship's medical officers may be accepted as sufficient for the purposes of the waiver of inspection.

(d) Warships shall be exempt from customs formalities, but the restrictive provisions of articles 55 and 56 of the Code of Customs Procedure shall apply.

(e) When conducting the inspection prior to the admission of warships the harbourmaster shall wear the uniform prescribed in the relevant regulations, except that, in heavy weather, he may wear his daily uniform with sword. Pilots, and officers and chief officers of the Maritime Patrol, acting for the harbourmaster shall on these occasions wear the uniform which is in keeping with their rank.

Article 314. (a) In time of peace, the duration of the presence of foreign warships in Peruvian ports and territorial waters shall not be subject to any limit; nevertheless, the Port Authority, acting on the instructions of a higher authority, may give any such warship eight hours' notice directing it to leave.

(b) In time of war, the duration of the presence of belligerent vessels must not exceed twenty-four hours, except in so far as international law provides otherwise. The terms of this regulation shall be notified to a vessel immediately upon its arrival at a port or in territorial waters, or, if it is already in territorial waters when war is declared, immediately upon receipt of official notification of such declaration.

Article 315. While present in Peruvian ports or territorial waters, foreign warships shall be required to observe the provisions of international law and the Naval Police Regulations. Any breach of the said provisions

or Regulations shall be brought to its attention by the harbourmaster. The harbourmaster shall immediately report to the Directorate of Port Authorities and request instructions, in the event of this action not being effective.

Article 316. It is hereby declared absolutely unlawful to carry out a death sentence on board any foreign warship present in a Peruvian port and in territorial waters of Peru.

Article 317. In time of war, no belligerent ship shall use Peruvian waters as a base of operations or for the purpose of replenishing or supplementing its munitions, armament or crew, or for the purpose of setting up wireless stations or any other means of communication with its armed forces, or of carrying out, in the case of damaged vessels, more repairs than those necessary for the continuation of the voyage.

Article 318. Except where special authorization has been granted through the diplomatic channel, in which case the maritime authority shall be duly advised, it is likewise unlawful for foreign warships:

- (a) To carry out hydrographic and topographical surveys;
- (b) To hold gunnery practices, or exercises with torpedos, mines, searchlights and vessels armed for battle;
- (c) To land armed personnel;
- (d) To allow any aircraft carried by them to make flights;
- (e) In the case of submarines, to enter ports and territorial waters submerged or to submerge while in port or in territorial waters.

Article 319. A harbourmaster, in agreement with the competent Maritime Authority, shall designate the areas within his jurisdiction in which foreign warships specially authorized as aforesaid may carry out gunnery practices or submerge.

Article 320. So long as no order has been made suspending or restricting their use, means of communication by wireless telegraphy or radiotelephony may be employed by foreign warships in Peruvian ports and territorial waters, provided that they observe the regulations of international conventions and subject to prior approval of time tables and frequencies by the maritime authority of the port.

Article 321. It shall be permissible for foreign warships:

- (a) To land their crews unarmed. The number of persons allowed ashore may be limited at the discretion of the maritime authority;
- (b) To land their police, unarmed, subject to the prior authorization of the maritime authority. Officers may land wearing swords.
- (c) To land detachments, armed or unarmed, to render military honours, subject to no prior authorization of the Ministry of Marine issued through the harbourmaster.

Article 322. A warship of a belligerent power shall be permitted in time of war to take on board at a Peruvian port as much fuel and food supply (but not more) as will enable it to reach the nearest refuelling port in a neighbouring country. It may not refuel at a Peruvian port within the three months following its previous refuelling at a Peruvian port.

Article 323. The harbourmaster shall be required to furnish any information and any assistance that may be requested of him by the commanding officers of Peruvian warships.

Chapter IX. The apportionment of liability in cases of disasters at sea

Article 345. The law applicable to collisions affecting vessels is solely and exclusively the law of the country in whose territorial waters the collisions occur, and the vessels themselves are subject to the jurisdiction of that country's courts.

Article 346. If a collision occurs outside territorial waters, the law applicable is the law of the country in which the vessels affected are registered.

Article 347. (a) In the special case of a collision affecting vessels registered in different countries, the law of the State which is more favourable to the owner shall apply.

(b) In the circumstances described in the foregoing paragraph, the courts of the country where the vessels first put in shall have jurisdiction.

(c) If the vessels affected put in at ports of different countries, the jurisdiction of the authorities which first deal with the case shall prevail.

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SECOND PART. THE NATIONAL MERCANTILE MARINE

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Title VII. The material equipment of the Mercantile Marine

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Chapter VIII. Classification of merchant shipping

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Article 484. (a) Peruvian or foreign merchant vessels arriving from abroad may put in directly at any port equipped with full customs facilities, provided that they observe the health and other regulations of the port.

(b) Vessels arriving from abroad may, after putting in at a major port, be directed to proceed to other Peruvian ports.

(c) Foreign vessels may enter major ports to discharge and take on board cargo originating from or destined for foreign ports, and passengers travelling to any port whether in Peru or abroad.

(d) Foreign vessels may not call at minor ports except to take on board cargo for abroad. The special permission of the customs authorities at the nearest major port is required for the discharge of cargo brought from abroad (at minor ports).

Article 485. It shall not be permissible for Peruvian or foreign vessel arriving from abroad:

(a) To put in directly at minor ports, or at islands or other places where there are guano deposits, except with the special permission of the Directorate of Port Authorities;

(b) To put in directly at harbours or points on the Pacific seaboard of Peru other than those referred to in the foregoing paragraph, except with the special permission of the Directorate of Port Authorities;

(c) To touch at intermediate ports not mentioned in the sailing permit, in cases in which the vessel is proceeding directly from abroad to a specified major port of Peru, except with the special permission of the Director of Port Authorities;

(d) To make unnecessary use of sound and light signals in the neighbourhood of islands and other places on the Pacific seaboard where there are guano deposits;

(e) In the case of foreign vessels, to engage in coastwise shipping, except in so far as authorized by the Government.

Title VIII. The personnel of the National Mercantile Marine

Chapter VII. The functions and duties of ship's captains

Article 581. (a) It is the duty of the captain to detain on board any stowaway and to surrender him to the Peruvian or foreign maritime authority having jurisdiction over the waters in which the vessel is present at the time.

(b) If the vessel is sailing in Peruvian coastal waters, the captain shall proceed in conformity with article 708.

(c) In foreign territorial waters, he shall proceed similarly, subject to observance of the relevant laws in force in the foreign country in question.

Article 590. It shall be unlawful for the captain of a Peruvian or foreign vessel to harbour or conceal on board criminals of Peruvian or other nationality or deserters from any of the armed services.

Article 614. A Peruvian vessel shall not submit voluntarily to boarding or search by a foreign warship, except in the following cases:

(a) If the vessel is present in the territorial waters of a belligerent State and the boarding is carried out by a belligerent warship;

(b) If a treaty is in effect between Peru and the Government to which the warship belongs authorizing the warship to carry out the boarding.

Title X. Hunting and fishing

Chapter I. Hunting and fishing

Article 731. It shall be unlawful for any person to engage in hunting or fishing in Peruvian territorial waters who is not a Peruvian national or an alien resident in Peru. A Peruvian national or resident alien may also freely engage in hunting or fishing in rivers and lakes open to the public, except as otherwise provided in the relevant regulations.

Article 733. It shall be unlawful for foreign vessels to engage in fishing in Peruvian territorial waters.

The penalty for infringements of this article shall include the arrest of the vessel and the seizure of its fishing gear and cargo as contraband, in addition to the penalties prescribed by the relevant provisions of law.

Article 734. For the purposes of these Regulations, the term "fishing" means the taking of any animal living in the sea except birds and mammals.

Article 735. Fishing is classified as:

(a) Fishing on the high seas if carried on outside Peruvian territorial waters;

(b) Coastal fishing if carried on in territorial waters; and

(c) Inland fishing if carried on in lakes, lagoons and rivers in Peruvian territory.

Article 736. Every harbourmaster shall be responsible, within the area under his jurisdiction, for ensuring the strict observance of the law relating to fishing and to the protection of guano-producing birds.

Article 737. (a) The hunting of *guanay*, *piquero*, pelican (*alcatraz*) and other guano-producing birds inhabiting the islands, rocks and headlands of the coast is prohibited. The penalty for infringement of this provision shall include the seizure of the vessel and the permanent cancellation of the registration of its crew.

(b) It is lawful, subject to license, to hunt and pursue gulls, vultures and kites.

Article 738. No vessel of any kind whatsoever may approach the guano islands and other guano deposits. Any vessel which has to put in at the said inlands under the specific instructions of the maritime authority (including any vessel bringing water supplies and provisions for the guards and workers) shall do so at the official landing place and shall carry the relevant permit.

. . .

Article 740. Whaling and sealing and the preparation and marketing of the products thereof are occupations which may be carried on by any Peruvian national and by any alien resident in Peru, subject to the provisions of statute law and of the regulations which are in force.

. . .

Chapter II. Fishermen

Article 744. (a) The term "fisherman" means any person engaged in the taking of aquatic animals for profit.

(b) Fishing as a gainful occupation is reserved to Peruvian nationals over the age of sixteen years who are registered with the Port Authorities.

(c) Fishing as a pastime or sport, either from the shore or from boats, is lawful for Peruvian nationals and aliens resident in Peru, on condition that the permission of the maritime authority has first been obtained.

(d) In either case, the harbourmaster shall ensure the observance of these Regulations and any other provisions declared to be applicable by the Government.

Article 745. (a) Every fisherman may freely carry on his occupation in the coastal waters, rivers and lakes of Peru without having to satisfy any formality other than that of registration and without being subject to any restrictions other than those imposed by statute law and regulations.

(b) Every fisherman must be in possession of a fisherman's registration book (*Carnet de pescador*) and a book of sailing permits for fishing boats (*Libreta de Licencia para la salida de embarcaciones de pesca*).

. . .

Article 760. No person who is not a Peruvian national by birth or by naturalization shall be capable of acquiring the ownership of or any proprietary interest in a fishing vessel.

. . .

Chapter III. Fishing and allied occupations

Article 764. Any individual or any undertaking desiring to engage in maritime fishing or hunting as an occupation or industry, either in territorial waters or on the high seas, shall apply to the Government for a permit.

The application must state the following particulars:

- (a) The nationality and place of permanent residence of the applicant;
- (b) The type of hunting and fishing in which the applicant proposes to engage;
- (c) The vessels at the disposal of the applicant;
- (d) The type, name, tonnage, registration number and crew list;
- (e) The type of nets and fishing gear;
- (f) The fishing method;
- (g) The proposed home port of the vessel.

Philippines

NOTE OF 12 DECEMBER 1955 RECEIVED FROM THE MINISTRY OF FOREIGN
AFFAIRS OF THE PHILIPPINES

In the absence of legislations on the foregoing subjects [Control of shipping and security, Fiscal matters, Criminal jurisdiction, Civil or commercial jurisdiction], the Philippines Government will be guided by the generally accepted principles of international law . . .

Poland

- (a) ACT CONCERNING POLISH MERCHANT MARINE SHIPS,
28 MAY 1920 ¹

Article 5. Besides the rights specified in other statutes, ships of the Polish merchant marine shall enjoy:

1. The exclusive right to engage in coastwise navigation (cabotage) in Polish territorial waters.

- (b) ORDER OF THE PRESIDENT OF THE REPUBLIC CONCERNING THE SAFETY
OF SEAGOING SHIPS, 24 NOVEMBER 1930 ²

CHAPTER I

General Provisions

Article 1. The provisions of this Order shall apply to every Polish ship used in maritime navigation and, subject to article 53, to any foreign ship which puts into a Polish port.

¹ *Dziennik Ustaw*, 1920, No. 47, Item 285. Text of Act provided by the Permanent Mission of the Polish People's Republic to the United Nations. Translation by the Secretariat of the United Nations.

² *Dziennik Ustaw*, 1938, No. 46, Item 376. Text provided by the Permanent Mission of the Polish People's Republic of the United Nations. Translation by the Secretariat of the United Nations.

Article 4. The Minister of Industry and Commerce may declare this Order inapplicable wholly or in part to ships which are not covered by international regulations concerning the safety of life at sea.

Safety regulations in respect of ships which have been exempted from the provisions of this Order shall be made by the Minister of Industry and Commerce, who may delegate his authority wholly or in part to the Director of the Maritime Office.

CHAPTER IV

Inspection authorities and inspection procedure

Article 14. The inspection of a ship shall be carried out by the competent inspection authority.

The inspection authority for ships in Polish ports and in Polish territorial waters shall be the Maritime Office in Gdynia, and the inspection authority for Polish ships in the port of Danzig shall be the Merchant Marine Office in Danzig. The inspection authority for Polish ships abroad shall be the Consul having jurisdiction for the port where the ship is staying.

CHAPTER V

Safety Certificates

Article 41. A safety certificate issued to a Polish ship by the inspection authority of a foreign State shall be regarded as equivalent to a Polish certificate provided that the inspection of the ship was carried out with the consent of the Polish inspection authority.

CHAPTER VII

Final provisions

Article 52. The provisions of this Order and of any instrument issued pursuant to article 7 shall apply to warships and other floating naval installations only where they relate to the rules governing the use of alarm signals and the prevention of collisions, and in so far as the Minister of War, after consultation with the Minister of Industry and Commerce, may specify by Order.

Article 53. The provisions of this Order shall apply also to foreign ships in Polish ports and Polish territorial waters, except where an international Convention provides otherwise.

(c) ORDER OF THE PRESIDENT OF THE REPUBLIC CONCERNING THE PROTECTION OF SUBMARINE CABLES, 20 MARCH 1935¹

Article 1. (1) A person who damages a submarine cable and thereby impairs the efficiency of telegraph or telephone communications shall be punishable by imprisonment for a term not exceeding five years or by detention.

¹ *Dziennik Ustaw*, 1935, No. 29, Item 222. Text of Order provided by the Permanent Mission of the Polish People's Republic to the United Nations. Translation by the Secretariat of the United Nations.

(2) If the offender acted without guilty knowledge he shall be punishable by detention for a term not exceeding one year or by a fine.

Article 2. A person who fails to comply with the provision requiring him:

(a) To display signals when laying or repairing submarine cables;

(b) To maintain a safe distance from cable ships displaying signals and engaged in the laying or repair of cables; or

(c) To maintain, when laying or repairing cables, a safe distance from buoys marking the location of any cable;

shall be punishable by detention for a term not exceeding three months or by a fine not exceeding three thousand zlotys.

Articles 3. Proceedings in respect of the offences specified in articles 1 and 2 shall be instituted in the District Court at Gdynia.

(d) ORDER OF THE MINISTER OF HEALTH CONCERNING HEALTH
REGULATIONS IN COMMERCIAL SEAPORTS AND ANCHORAGES,
15 SEPTEMBER 1948 ¹

CHAPTER I

General Provisions

Article 1. 1. Every seagoing merchant ship arriving in a Polish commercial port shall be subject to sanitary control, *viz.* (a) sanitary clearance and (b) sanitary inspection.

2. Sanitary clearance shall take place on the entry or, where necessary, the departure of the ship and shall include a check of the ship's papers, a medical inspection of the passengers and crew, especially of all sick persons on board, and a general inspection of the ship's quarters.

3. The sanitary inspection of a ship may be carried out at any time, with a view to determining whether and to what extent the ship's sanitary condition creates any threat to the safety of the port.

Article 5. Every ship other than a ship specified in article 3 may enter a port without special authorization from the port health services and berth at a station indicated by the port authority, where it shall be required to undergo sanitary clearance unless exempted from such clearance by the port health service.

Article 17. The port health authorities may at their discretion grant any ship total or partial exemption from sanitary clearance. This provision shall apply in particular to ships which ply regularly and at short intervals between a port situated in the temperate zone and a given Polish port.

Article 18. A ship which fails to comply with any instruction given pursuant to this Order by a port health authority shall be required to put back to sea without delay.

¹ *Dziennik Ustaw*, 1948, No. 45, Item 335. Text provided by the Permanent Mission of the Polish People's Republic to the United Nations. Translation by the Secretariat of the United Nations.

Article 23. A ship which in consequence of an accident at sea runs aground on the Polish coast or is stranded on a shoal in Polish territorial waters shall be subject to all provisions of this Order that may be necessary and practicable in the circumstances. Sanitary control in respect of such ship shall be exercised by the nearest port health service.

(e) DECREE OF 14 AUGUST 1954 CONCERNING THE STATE
HEALTH INSPECTION SERVICE ¹

Article 4. The functions of the State Health Inspection Service in the field of day-to-day health control shall include:

(1) The supervision of the sanitary conditions in cities, settlements, ports, anchorages, inland waters, internal sea areas and territorial waters, and on ships;

(5) The exercise of sanitary supervision over sea fishing and the processing of fish at sea.

Article 8. (1) The local functions of the State Health Inspection Service shall be exercised by State health inspectors, who shall be divided into the following categories:

(6) Port inspectors, with jurisdiction in respect of seaports and anchorages, internal and territorial waters and water-borne craft in such areas.

(f) DECREE OF 2 FEBRUARY 1955 CONCERNING THE ORGANS
OF LOCAL MARITIME ADMINISTRATION ²

Article 1. (1) The organs responsible for local maritime administration in seaports, anchorages, internal sea areas, the territorial waters and the coastal zone shall be the local shipping offices.

(2) Shipping offices shall be under the jurisdiction of the Minister of Shipping.

Article 2. (1) The functions of the shipping offices shall include:

(1) The exercise of supervision over the safety of shipping in and around seaports, anchorages, sea routes and bays;

(2) The installation of navigational signals in and around seaports, anchorages, sea routes and bays and on the coast;

(12) The exercise of supervision over sea fishing, with a view to the conservation of fish resources and the maintenance of order at the fisheries;

¹ *Dziennik Ustaw* 1954, No. 37, Item 160. Text of Decree provided by the Permanent Mission of the Polish People's Republic to the United Nations. Translation by the Secretariat of the United Nations.

² *Dziennik Ustaw* 1955, No. 6, Item 35. Text provided by the Permanent Mission of the Polish People's Republic to the United Nations. Translation by the Secretariat of the United Nations.

(g) DECREE OF 23 MARCH 1956 CONCERNING THE PROTECTION
OF THE STATE BOUNDARIES ¹

CHAPTER I

State Boundaries

Article 1. (1) The State boundary of the Polish People's Republic is the line separating the territory of the Polish People's Republic from the territory of other States and from the open sea.

(2) The boundary line also demarcates the air space, the water and the interior of the earth in the vertical plane.

Article 2. The boundary of the territorial waters and of the contiguous zone runs parallel to the coastline and to the boundary of the internal maritime waters, and extends from the land boundary between the Polish People's Republic and Germany to the land boundary between the Polish People's Republic and the Union of Soviet Socialist Republics.

Article 3. The coastline is the line of contact between the sea and the land at low water.

CHAPTER IV

Frontier Protection Authorities

Article 18. (1) The inviolability and security of the State boundary shall be safeguarded by the Frontier Protection Force.

(2) The functions of the frontier protection authorities shall include:

2. The protection of the maritime boundary by means of ships and aircraft;

3. The exercise of supervision, with a view to ensuring the protection of the boundaries, over shipping and installations in internal maritime waters, territorial waters, the contiguous zone and frontier waters, as well as over the exploitation of such waters and of the seabed.

Article 22. (1) In exercising sovereign rights in internal maritime waters, in territorial waters and in the contiguous zone, the frontier protection authorities may, where consideration of State security so require, —

1. Order any ship to reduce speed, to stop for purposes of verification, or to adhere to a specified course;

2. Check all documents pertaining to a detained ship or her cargo and the identity papers of the crew and of all passengers on board; inspect the cargo and search the ship;

3. Arrest a ship and escort it to a specified port if the master fails to comply with any order specified in paragraph 1 or resists any of the measures specified in paragraph 2.

(2) The detention of a ship shall be recorded in a memorandum signed by both parties and prepared in duplicate in the Polish language, one copy

¹ *Dziennik Ustaw*, 1956, No. 9, Item 51. Text provided by the Permanent Mission of the Polish People's Republic to the United Nations. Translation by the Secretariat of the United Nations.

being delivered to the master of the ship. The master may enter in the memorandum or in a separate document any objections or comments, using the language of his choice.

(3) If circumstances prevent the immediate delivery to the master of a copy of the memorandum, such copy shall be transmitted to the address indicated by the master.

Article 23. (1) In internal maritime waters, in territorial waters and in the contiguous zone, the frontier protection authorities may arrest and escort to a specified port any ship which:

1. Takes on or discharges any merchandise outside a place designated for that purpose;
2. Embarks or disembarks persons in breach of any statutory provision;
3. Establishes contact with the shore with a view to the commission of an offence;
4. Engages in fishing or otherwise exploits the sea in breach of any statutory provision;
5. Engages in smuggling;
6. Commits a breach of any customs or currency regulations;
7. Commits a breach of any health regulations;
8. Enters any sea area closed to navigation;
9. Casts anchor outside an area designated for that purpose; or
10. In any other manner endangers public order or security.

(2) The provisions of Article 22, paragraphs 2 and 3, shall apply as appropriate.

Article 24. If any ship leaves port without the authorization of the customs or port authorities, or attempts, after stopping or being called upon to stop, to escape to the high seas, the frontier protection authorities may, with a view to arresting the fugitive ship and escorting it back to port, continue the pursuit on the high seas as far as the territorial waters of a foreign State.

Article 25. (1) The provisions of Articles 22 to 24 shall not apply to warships.

(2) The Minister of National Defence shall specify by Order the conditions governing the stay of foreign warships in internal maritime areas, in territorial waters, and in the contiguous zone.

Article 26. (1) The sovereign rights of the State over the waters of the contiguous zone shall also be exercised as appropriate in the superjacent air space and beneath the surface of such waters.

(2) The Minister of National Defence, in consultation with the Minister of Land and Air Transport, shall specify by Order the conditions governing the passage of foreign aircraft through the air space over the territorial waters and the contiguous zone.

CHAPTER V

Use of Armed Force by the Frontier Protection Authorities

Article 28. If any ship in internal maritime waters, territorial waters, or the contiguous zone fails to comply with an order to stop or to cease

taking on or discharging merchandise or embarking or disembarking persons, the frontier protection authorities shall first fire a warning shot into the air and then fire further shots across the bows and stern of the ship; if the ship persists in disregarding the order, the frontier protection authorities shall thereupon open fire on the ship. By night, the frontier protection authorities, before resorting to armed force, shall also discharge two green rockets. The same procedure shall apply during the pursuit of a ship on the high seas.

Article 29. (1) An aircraft which without authorization or in breach of the conditions of an authorization penetrates the air space over the land territory of the State or over the internal maritime waters, or territorial waters or contiguous zone thereof, shall, if called upon to do so by the competent authority, change course or altitude or land at a specified place.

(2) An aircraft which fails to comply with an order may be compelled to land. If the aircraft should act in a hostile manner, armed force may be used in order to compel it to land.

Note. See also: Order of the President of the Republic concerning Customs Law, 27 October 1933, article 5 (*supra*, Chapter I, under Poland (b)).

Roumanie

- (a) DÉCRET n° 39 DU 28 JANVIER 1956 CONCERNANT LA RÉGLEMENTATION DU RÉGIME DES EAUX TERRITORIALES DE LA RÉPUBLIQUE POPULAIRE ROUMAINE ¹

Le Présidium de la Grande Assemblée Nationale de la République Populaire Roumaine décrète:

Article 1^{er}. Les eaux territoriales de la République Populaire Roumaine s'étendent sur une largeur de 12 milles marins (22.224 m) à partir du littoral et elles sont séparées des eaux territoriales des pays voisins, au sud, par le parallèle géographique passant par le point de frontière terrestre touchant au littoral, et au nord, par une ligne conventionnelle fixée de commun accord entre la République Populaire Roumaine et l'Union des Républiques Soviétiques Socialistes.

Article 2. Les eaux territoriales de la République Populaire Roumaine, le sol et le sous-sol qu'elles recouvrent ainsi que l'espace aérien situé au-dessus d'elles, font partie du territoire de la République Populaire Roumaine.

Article 3. La République Populaire Roumaine exerce sa souveraineté sur ses eaux territoriales conformément aux lois en vigueur, aux principes du droit international, aux accords et aux conventions conclus avec les pays étrangers.

Article 4. Les navires étrangers ont le droit de passer, de s'arrêter ou de jeter l'ancre dans les eaux territoriales de la République Populaire Roumaine lorsque ces actions sont provoquées par la route habituelle des navires ou lorsqu'elles leur sont imposées par des avaries ou par la nécessité de s'abriter contre la tempête.

¹ Le texte français de ce décret a été fourni par la Mission permanente de la République populaire roumaine auprès de l'Organisation des Nations Unies.

Les navires qui passent, s'arrêtent ou jettent l'ancre dans les eaux territoriales dans d'autres buts que ceux qui sont désignés au paragraphe précédent seront avisés par des signaux établis conformément aux usages internationaux d'avoir à quitter les eaux territoriales de la République Populaire Roumaine.

L'entrée dans les ports de la République Populaire Roumaine s'effectue par les passes et les chenaux imposés et qui sont annoncés par des avis aux navigateurs.

Article 5. Le port de Mangalia ainsi que la zone comprise entre la côte, les parallèles 43°45' et 43°53' et le méridien 28°45', sont interdits aux navires étrangers.

Seule une décision du Conseil des ministres peut interdire aux navires étrangers d'autres ports ou d'autres zones de la République Populaire Roumaine.

Article 6. Dans les eaux territoriales de la République Populaire Roumaine il est interdit d'embarquer ou de débarquer des passagers ou des marchandises en dehors des ports ou des lieux où de telles opérations sont autorisées.

Font exception les cas d'embarquement ou de débarquement de passagers, de marchandises ou de matériaux ayant lieu au cours d'opérations de sauvetage.

La pêche, la chasse, les sondages de toute sorte en vue de mesurer la profondeur, la température ou le degré de salinité des eaux, la prise de photographies, les travaux de recherches de toute nature, à l'exception des opérations de mesurage nécessaires à la navigation ne sont autorisés que sur approbation préalable des organes compétents de la République Populaire Roumaine.

Article 7. Les navires qui ne se conforment pas aux dispositions de l'article 4, par. 2 et 3, ainsi que ceux qui contreviennent aux dispositions de l'article 6, par. 1 et 3, seront conduits aux fins d'enquête dans le port le plus proche de la République Populaire Roumaine.

Le refus de quitter les eaux territoriales à la suite des signaux exécutés conformément aux prévisions de l'article 4, par. 2, ainsi que le non respect des dispositions du par. 3 du même article ou de celles de l'article 6, par. 1, sont sanctionnés conformément à l'article 267 du Code pénal.

Le non respect des dispositions de l'article 6, par. 3 concernant la pêche et la chasse est sanctionné conformément à l'article 268¹⁵ a-c inclusivement du Code pénal ou conformément au décret n° 76 du 23 février 1953, selon le cas. Le non respect des dispositions prévues au même paragraphe en ce qui concerne la prise de photographies et les travaux de recherches de toute nature est sanctionné conformément aux dispositions du décret n° 204 du 8 octobre 1954.

Article 8. Les navires militaires étrangers ne peuvent traverser, s'arrêter ou jeter l'ancre dans les eaux territoriales de la République Populaire Roumaine de même qu'ils ne peuvent entrer dans les ports de la République Populaire Roumaine qu'après en avoir reçu au préalable l'autorisation du gouvernement de la République Populaire Roumaine, sauf en cas d'avaries ou lorsqu'ils cherchent un refuge contre la tempête.

Il est interdit aux sous-marins étrangers en plongée de naviguer, de s'arrêter ou de jeter l'ancre dans les eaux territoriales de la République Populaire Roumaine.

Les sous-marins étrangers naviguant en plongée dans les eaux territoriales de la République Populaire Roumaine seront pourchassés et détruits sans avertissement.

- (b) DÉCRET N° 41 DU 14 FÉVRIER 1950 CONCERNANT LA SURVEILLANCE, LE CONTRÔLE ET LE RÉGIME DE LA NAVIGATION MARITIME ET FLUVIALE ¹

TITRE 1^{er}. LE RÉGIME DE LA NAVIGATION DANS LES EAUX NATIONALES

*Chapitre II. Surveillance et contrôle des navires dans les ports
et dans les eaux nationales*

Article 6. Les navires maritimes ou fluviaux sous pavillon roumain ou sous pavillon étranger avec port d'inscription roumain, sont obligés d'avoir à bord, à leur entrée dans les eaux et les ports roumains, les documents suivants:

Navires maritimes:

- a) le certificat de nationalité;
- b) le rôle d'équipage;
- c) le certificat de tonnage;
- d) les actes de visite (certificat de sûreté, certificat de franco-bord, certificat de sûreté radiotélégraphique);
- e) le manifeste douanier (pour les navires chargés);
- f) la patente de santé;
- g) le registre des machines (le journal des machines);
- h) le registre radiotélégraphique;
- i) le registre de navigation (le journal de bord);
- j) les plans du navire.

Ces navires sont obligés d'avoir également à bord tous autres documents ainsi que les certificats exigés par les lois commerciales et les conventions internationales, auxquelles l'Etat roumain a adhéré.

Article 7. Les navires sous pavillon étranger, à leur entrée dans les eaux roumaines, devront avoir à bord les documents exigés par les lois nationales respectives et par les conventions internationales en vigueur.

Les organismes maritimes et fluviaux de la R.P.R. reconnaîtront comme valables les certificats et les permis de navigation ainsi que les brevets du personnel délivrés par les organismes étrangers compétents aux navires navigant sous pavillon étranger et à leurs équipages.

Le registre de navigation, le registre de machines et le registre radiotélégraphique devront recevoir le visa, être numérotés et paraphés par le Commandement du port ou par le Service de port.

En ce qui concerne les navires navigant sous pavillon étranger qui ont un port d'attache roumain, les certificats ou les permis de navigation ne seront délivrés que par les organismes maritimes et fluviaux roumains.

¹ Le texte français de ce décret a été fourni par la Mission permanente de la République populaire roumaine auprès de l'Organisation des Nations Unies.

Article 8. Tout navire maritime donnant dans les eaux ou dans les ports roumains doit avoir à son bord un certificat de tonnage calculé selon les normes du certificat de tonnage international.

Au cas où un navire maritime ne possède pas ce certificat, les organismes maritimes doivent procéder à une expertise officielle et lui délivrer un certificat de tonnage.

Article 9. Tout navire maritime, quel que soit son pavillon lorsqu'il donne dans les eaux ou dans les ports roumains doit avoir à son bord un certificat international de franco-bord, un certificat de sûreté de navigation et un certificat de sûreté radiotélégraphique dont la valabilité n'ait pas encore expiré.

En ce qui concerne les navires maritimes qui ne possèdent pas ces certificats ou dont les certificats ne sont plus valables, on procédera conformément aux Conventions Internationales concernant les lignes de flottaison en charge et de la « Sauvegarde de la vie humaine en mer ».

Article 11. En vu d'assurer la sûreté de la navigation et la protection des vies humaines, les navires sous pavillon étranger ayant un port d'attache roumain doivent avoir à leur bord le même équipement sanitaire et de sauvetage que les navires navigant sous pavillon roumain.

Article 24. Les commandants, les capitaines ou les pilotes des navires sont tenus de faire connaître au Commandement du port ou au Service de port tout événement survenu sur le navire pendant que le navire se trouve dans le port ou en cours de navigation: abordage, avarie, vol, mort, noyade, etc.

Article 25. Au cas où des rixes, des désordres troubleraient l'ordre à bord de leur navire, les commandants, les capitaines ou les pilotes sont tenus de rétablir l'ordre et de signaler le cas au Commandement du port ou au Service de port afin que soient prises les mesures qu'imposent les circonstances.

Article 31. Les organismes maritimes et fluviaux ont droit de visite à bord de tout navire, quel que soit son pavillon, qui se trouve dans les eaux nationales ou dans les ports roumains, ainsi que dans tout hangar, magasin ou établissement situé dans les ports, à toute heure du jour ou de la nuit, afin d'effectuer des recherches et des inspections avec l'aide d'autres organismes portuaires.

Article 33. Il est interdit aux navires d'employer la télégraphie sans fil dans le port ou dans la rade.

Les navires se trouvant en rade ne peuvent faire usage de la télégraphie sans fil que lorsque la sécurité du navire ou de l'équipage se trouve en péril.

Chapitre VII. Surveillance du littoral et des côtes en dehors des ports

Article 66. Aucun navire ne peut jeter l'ancre ou accoster sur le littoral en dehors des limites du port sans une permission spéciale des organismes

maritimes et fluviaux et sur l'avis des autres organismes compétents à l'exception des cas de force majeure ou lorsqu'il lui est impossible de continuer sa route pendant la nuit.

La constatation des cas de force majeure invoqués par le commandant, le capitaine ou le pilote du navire sera effectuée par les organismes maritimes et fluviaux, lesquels devront dresser un procès-verbal.

Chapitre VIII. L'ordre et la surveillance de la navigation

Article 71. Tout navire, toute embarcation, ainsi que les radeaux stationnant ou circulant dans les ports et dans les eaux nationales sont soumis aux dispositions des lois et des règlements de navigation quel que soit leur pavillon.

Article 72. Les commandants, les capitaines ou les pilotes des navires, des embarcations et des radeaux sont tenus de se soumettre aux ordres et de répondre à toute sommation des organismes maritimes et fluviaux en ce qui concerne l'application des dispositions des lois et des règlements de navigation.

Article 73. Les commandants, les capitaines ou les pilotes des navires ainsi que leurs équipages sont tenus de prouver leur identité et de présenter tous les documents officiels qui peuvent leur être demandés afin de vérifier l'exactitude de leurs déclarations.

Article 74. Les commandants, les capitaines ou les pilotes ne peuvent refuser d'être soumis à un interrogatoire ou de servir de témoins, ni s'opposer à ce que les membres de leurs équipages soient soumis à ces formalités.

Chapitre IX. Dispositions concernant les opérations de douane, fiscales et sanitaires

Article 78. Toute enquête, visite ou inspection effectuée par la douane à bord des navires de commerce étrangers se fera en présence du consul du pays sous le pavillon duquel navigue le dit navire ou bien en présence de son délégué ou encore du commandant du navire ou de son second.

Article 79. Les Commandements de port et les Services de port prêteront leur concours à la perception des droits fiscaux de l'Etat.

Au cas où les dits droits ne seraient pas acquittés, le Commandement du port ou le Service de port pourra interdire aux personnes qui travaillent dans le port d'exercer leur métier ou leur fonction et, aux navires, aux embarcations ou aux radeaux, il pourra interdire de naviguer ou de fonctionner.

TITRE IV. LITIGES MARITIMES ET FLUVIAUX

Chapitre I^{er}. Dispositions générales

Article 135. Sont litiges maritimes et fluviaux:

- 1) Les dommages provoqués par les avaries des navires et en général de toutes installations flottantes.
- 2) Les dommages provoqués par les détériorations de l'outillage du port ou des installations qui servent à la navigation.

3) Les dommages provoqués par l'emploi des installations de chargement ou de déchargement et par la manipulation des marchandises dans le port.

4) Les dommages provoqués aux navires par les détériorations causés par les instruments de pêche ou inversement.

5) Les indemnités, les paiements ou les rétributions dûs pour l'assistance ou le sauvetage des navires, flotteurs et aéronefs en péril ou naufragés, ou pour l'enlèvement de leurs épaves ou des marchandises inondées ou avariées.

6) Sommes dues:

a) pour l'arrimage, le déchargement et le chargement des navires;

b) pour la fourniture de l'eau nécessaire;

c) pour la réparation ou l'entretien des navires;

d) pour les opérations d'embarquement, de débarquement, de transbordement ou de magasinage;

e) pour l'approvisionnement des navires en aliments, combustible et matériel, pour le remorquage, le transport des voyageurs et des marchandises, pour l'exécution des contrats ou des engagements concernant les transports et les opérations sur l'eau.

. . .

Article 137. Les rapports concernant l'abordage des navires et tous autres sinistres maritimes seront présentés:

a) aux organes maritimes et fluviaux du lieu où le sinistre est arrivé, si celui-ci a eu lieu dans les eaux nationales;

b) aux organes maritimes et fluviaux du premier port d'arrivée, si le sinistre a eu lieu en dehors des eaux nationales;

c) à n'importe quel organe maritime et fluvial dans le cas où le navire est naufragé ou est disparu.

Les réclamations concernant les litiges indiqués à l'article 135 seront présentées aux organes maritimes et fluviaux du lieu où le sinistre est arrivé ou au premier port où le navire s'est arrêté.

. . .

Chapitre II. La compétence judiciaire pénale des organismes maritimes et fluviaux

Article 140. Le commandant du port et le chef du Service de port constatent les infractions au présent décret ainsi qu'aux règlements de navigation et de port commises dans leur circonscription.

Les infractions exposant leur auteur à des peines d'emprisonnement tombent sous la compétence du Tribunal maritime qui les jugera suivant les normes prévues dans le décret concernant la Marine commerciale.

. . .

Article 142. Le commandant du port et le chef du Service de port appliquent les sanctions prévues pour les infractions tombant sous le coup du présent décret et peuvent infliger des amendes allant jusqu'à 4000¹ lei. Dans le procès-verbal constatant les infractions, outre l'amende appliquée au délinquant, ils sont tenus d'indiquer les infractions constituant le chef d'accusation et de mentionner le texte de loi qu'ils ont appliqué.

. . .

¹ Cette somme est aujourd'hui de 200 lei à la suite d'un nouveau calcul sur la base de la loi pour la réforme monétaire du 26 janvier 1952.

Article 144. Le commandant du port se prononcera également sur les droits éventuels à des dommages et intérêts découlant de ces infractions, lorsque l'Etat est partie civile.

Article 145. Les Commandements et les Services de port reçoivent les réclamations et les plaintes concernant toute infraction aux règles de la navigation ou bien qui a eu lieu sur les navires, dans les ports, sur les côtes et le littoral, effectuent des enquêtes, et en cas de culpabilité, dans la limite de leur compétence, procèdent conformément au présent décret.

Les organismes maritimes et fluviaux seront avertis de tout délit disciplinaire ou de toute infraction ayant eu lieu à bord des navires roumains et prendront les mesures légales.

(c) DÉCRET N° 40 DU 28 JANVIER 1956 PORTANT MODIFICATION DU DÉCRET N° 41/1950 CONCERNANT LA SURVEILLANCE, LE CONTRÔLE ET LE RÉGIME DE LA NAVIGATION MARITIME ET FLUVIALE ¹

Le Présidium de la Grande Assemblée Nationale de la République Populaire Roumaine décrète :

Article 1^{er}. Les articles 4, 120 et 172 du décret n° 41/1950 concernant la surveillance, le contrôle et le régime de la navigation maritime et fluviale sont modifiés comme suit :

« *Article 4.* Les navires maritimes et fluviaux de toute catégorie et quel que soit leur pavillon qui entrent dans les eaux ou dans les ports roumains sont tenus de se conformer aux dispositions du présent décret ainsi qu'aux dispositions des lois, règlements et instructions concernant la navigation et son régime dans les ports et les eaux nationales et territoriales de même qu'aux mesures d'ordre concernant les personnes. »

« *Article 120.* L'emploi d'un pilote est obligatoire dans les ports, les rades et les bassins où le pilotage a été institué par ordre du ministre des Transports navals et aériens et seulement pour la catégorie de navires pour laquelle il a été institué. »

« *Article 172.* Par eaux nationales on comprend :

« *a)* les fleuves, les rivières, les canaux et les lacs intérieurs navigables de la République Populaire Roumaine ;

« *b)* les eaux des fleuves et des rivières de frontière, de la rive roumaine jusqu'au thalweg.

« Par eaux territoriales on comprend :

« Une portion de mer bordant le littoral roumain et dont l'étendue et les limites sont fixées par la loi. »

Article 2. Les dispositions du décret n° 41/1950 sont applicables tant dans les eaux nationales que dans les eaux territoriales.

Article 3. Par le terme « eaux nationales » employé dans les dispositions légales antérieures au présent décret on entend aussi bien les eaux nationales que les eaux territoriales telles qu'elles sont définies dans le présent décret.

Article 4. Le terme « vaisseaux » employé dans le décret n° 41/1950 est remplacé par le terme « navires ».

¹ Le texte français de ce décret a été fourni par la Mission permanente de la République populaire roumaine auprès de l'Organisation des Nations Unies.

(d) ACT No. 2306 OF 24 JUNE 1938 TO AMEND CERTAIN PROVISIONS OF
ACT No. 82 OF 1934¹

Article 1. Article 3 of the Act to standardize the lifeboat taxes levied in the maritime ports and in the Danube maritime ports published in the Official Gazette No. 107 of 11 May 1934 shall be amended as follows:

“*Article 3.*² Every cargo vessel of whatever type coming from sea into one of the ports enumerated in Article II shall pay a lifeboat tax of 2 lei per net register ton of the net tonnage shown in the appropriate national certificate and calculated in accordance with the English regulations.

“Mail vessels operating a regular passenger and mail service shall pay only 1 lei per net register ton of the tonnage shown in the appropriate national certificate calculated in accordance with the English regulations.

“Vessels of war and pleasure yachts shall be exempt from lifeboat tax.”

Article 3. This decree shall enter into force on 1 May 1938.

Sweden

(a) ROYAL ORDER No. 31 OF 9 FEBRUARY 1945 CONCERNING PROVISIONS
RELATING TO NAVIGATION IN SWEDISH TERRITORIAL WATERS, AS
AMENDED³

Article 1. Except as otherwise provided, this Order shall apply to any craft in Swedish territorial waters, irrespective of its size or its means of propulsion (vessel), with the exception of vessels belonging to the Swedish armed forces and of foreign warships.

The provisions of article 3, paragraph 3, and of articles 10-13 shall apply only to the extent prescribed by His Majesty in the event of a war or threat of war involving the Kingdom or of other extraordinary circumstances resulting from a state of war.

Article 2. For the purposes of this Order, the term “Swedish territorial waters” means:

(a) Swedish lakes, watercourses and canals;

(b) Harbours, harbour entrances and bays along the coasts of the Kingdom together with other maritime waters inshore of and between the islands, islets and drying rocks lying off the coasts; and

(c) All other maritime waters up to a distance of four nautical miles, or 7,408 metres, from the land domain of the Kingdom or from lines repre-

¹ *Monitorul Oficial Nr. 144* of 27 June 1938. Translation by the Secretariat of the United Nations.

² Dans sa Note du 11 juin 1956, la Mission Permanente de la République Populaire Roumaine auprès des Nations Unies a indiqué que « les taxes prévues à l'Article 3 de cette loi (loi no. 82 du 1934) sont aujourd'hui de 0.10 et 0.05 lei à la suite d'un nouveau calcul sur la base de la loi pour la réforme monétaire du 26 janvier 1952. »

³ *Svensk Författningssamling*, 1945, Nr. 31. For the amendment, *ibid.*, 1946, Nr. 185: Text of Order and Amendment thereto provided by the Ministry for Foreign Affairs of Sweden. Translation by the Secretariat of the United Nations.

senting the seaward boundary of the waters referred to in sub-paragraph (b), but not beyond the limit, as specifically determined, of another country's territorial waters.

. . .

Article 7. The master shall allow the vessel to be inspected by a competent civil or military authority.

. . .

Article 11. Foreign vessels of over 300 register tons gross tonnage may not, in Sweden, save by leave of the National Traffic Commission, be laid up or otherwise taken for a longer period than three weeks out of commission.

Where the leave referred to in the first paragraph hereof is granted, the place within Swedish territorial waters where the vessel is laid up and other incidents of the laying-up shall be governed by the instructions issued by the commander-in-chief of the Navy after consultation with the National Traffic Commission. These provisions shall also apply where a Swedish vessel of over 300 register tons gross tonnage is to be laid up or otherwise taken out of commission for any other purpose than classification, reconstruction, repairs or maintenance.

If a foreign vessel is, as mentioned in the first paragraph, laid up or otherwise taken out of commission for a longer period than three weeks, or if a Swedish vessel is, as mentioned in the second paragraph, laid up or taken out of commission for a purpose other than classification, reconstruction, repairs or maintenance, the vessel shall be transferred for laying-up to such other place within Swedish territorial waters as the commander-in-chief of the Navy after consultation with the National Traffic Commission may direct; and the laying-up shall otherwise be governed by the terms of the direction.

Article 12. A vessel proceeding to or from a foreign country may not put in at a port other than a port open to the type of foreign traffic to which the voyage relates except in an emergency, and in such event the master of the vessel shall, as soon as possible after arrival, report the circumstances to the civil or military authority immediately responsible for the supervision of traffic in the port.

Article 13. (1) 1. Except in emergency or by special leave, a vessel may not enter or navigate in an area of Swedish territorial waters designated by His Majesty by order as a prohibited area, even though no provision of article 12 forbids it to do so.

. . .

(b) CUSTOMS DECREE NO. 391 OF 7 OCTOBER 1927, AS AMENDED UP TO 1955¹

Article 1. The customs territory of Sweden, by which is meant Swedish territory in which the customs services are to exercise their functions, includes:

¹ *Ibid.*, 1927, Nr. 391, p. 865. Text of Decree and Amendments thereto provided by the Ministry for Foreign Affairs of Sweden. Translation by the Secretariat of the United Nations.

- (a) The land areas of the Kingdom;
- (b) Lakes rivers and canals in the Kingdom;
- (c) Ports, entrances to ports and bays on the coasts of the Kingdom as well as other maritime waters situated landwards from, or between, islands, islets and reefs alongside the coasts which are not constantly submerged; and
- (d) Maritime waters which extend for a distance of four nautical miles, or 7,408 metres, from the land areas of the Kingdom or from the lines delimiting the seaward boundaries of the waters mentioned under (c) above.

The customs territory extends in the Sund to the middle of the strait, and at the maritime boundary between the Kingdom and Norway, to a distance of four nautical miles from that part of a straight line uniting the northernmost of the reefs known as Stora Drammen and the rock named Hejeknubb situated southeast of the island of Heja, which is on the Swedish side of that boundary.

(c) ROYAL ORDER NO. 84 OF 29 APRIL 1932 RESPECTING THE BOUNDARIES OF THE SWEDISH CUSTOMS AREA IN THE SOUND ¹

His Majesty has been pleased to order that the provisions of Article I, second paragraph, of the Customs Act No. 391 of 7 October 1927 in respect of the boundaries of the Swedish Customs area in the Sound shall be so construed that the customs area in the said waters which is bounded on the north by a line between Stevns light and Falsterbo cape shall, during such time as the Customs area continues to be constituted as provided in other regulations of a general character, be considered to be separated from Danish territorial waters by a line drawn as follows:

In the northern part of the Sound, from its northern boundary line to the site of the Lous Flak light and whistling buoy (lat N.55°49'36", long W. 12°42'42") the line shall go midway between the coast of Seeland and the Swedish mainland (disregarding the island of Ven).

From the site of the Lous Flak light and whistling buoy, the line shall go without deviation to the site of the lighted buoy at Saltholm Flak northwest (lat N. 55°41'55", long. W. 12°51'00") and thence southwards along straight lines drawn between the following four points:

- (1) lat N. 55°38'37", long W. 12°53'54"
- (2) lat N. 55°36'49", long W. 12°53'04"
- (3) lat N. 55°32'25", long W. 12°43'57"
- (4) lat N. 55°29'19", long W. 12°43'06"

The line shall then be carried to the southern boundary in accordance with rules similar to those applicable to the northern portion of the Sound and along straight lines determined by the following points:

- (4) lat N. 55°29'19", long W. 12°43'06"
- (5) lat N. 55°25'52", long W. 12°36'49"
- (6) lat N. 55°20'12", long W. 12°38'42"

This order shall come into force on the day following the date of its publication in the Swedish Statutes Series, such publication date being determined from information appearing on the order.

¹ *Ibid.*, 1932, Nr. 84. Text of Order provided by the Ministry for Foreign Affairs of Sweden. Translation by the Secretariat of the United Nations.

(d) ROYAL LETTER No. 151 OF 4 MAY 1934 TO THE GENERAL CUSTOMS ADMINISTRATION CONCERNING THE ESTABLISHMENT OF THE BOUNDARIES OF THE SWEDISH CUSTOMS TERRITORY ¹

In connexion with a request by the General Customs Administration, His Majesty in a Decree of 31 March 1933 recommended that the Hydrographic Department, in consultation with the General Customs Administration and an expert on territorial waters made available by the Minister of Foreign Affairs, should prepare and submit to His Majesty a report on the question whether and to what extent the boundaries of the customs territory as defined in article 1 of the Customs Decree should be delineated on charts, together with proposals for such delineation of boundaries as might be considered desirable.

In a communication dated 18 November 1933, the Chief of the Hydrographic Department submitted one copy each of fourteen separate charts covering the coastal area of the Realm and showing both the boundaries between the internal and external territorial waters and the boundaries of the customs territory as defined in article 1 of the Customs Decree.

The chief of Naval Staff and the General Customs Administration subsequently submitted their separate views on the matter, and the Chief of the Hydrographic Department on 30 April 1934 supplemented the report and inserted additional information in the relevant charts.

His Majesty hereby declares that the provisions of article 1 of the Customs Decree are to be construed in accordance with the boundary lines shown on the fourteen charts covering the coastal area of the Realm which were submitted to His Majesty by the Chief of the Hydrographic Department, and further that the said charts, bearing a reference to the present instructions of His Majesty, shall henceforth be kept at the Hydrographic Department.

(e) ACT No. 225 OF 20 JUNE 1924 CONCERNING UNLAWFUL DEALING IN ALCOHOLIC BEVERAGES AND WINES, AS AMENDED ²

Unlawful importation into Swedish territorial waters

Article 2. (1) Alcoholic beverages and wines may not be imported into Swedish territorial waters from international or foreign waters in vessels of less than 500 net tons.

In special circumstances the King may likewise prohibit such importation into a specified area of Swedish territorial waters in vessels of a net tonnage greater than that laid down in this article.

(2) The prohibition set forth in paragraph 1 shall not prevent the importation into Swedish territorial waters of alcoholic beverages and wines:

¹ *Ibid.*, 1934, Nr. 151, p. 195. Text of Letter provided by the Ministry of Foreign Affairs of Sweden. Translation by the Secretariat of the United Nations.

² *Sveriges Rikets Lag*, 1950, p. B 626. Text of Act and Amendment thereto provided by the Ministry for Foreign Affairs of Sweden. Translation by the Secretariat of the United Nations. See also: *United Nations Legislative Series, Laws and Regulations on the Régime of the High Seas*, vol. 1, 1951, p. 90.

(a) If the beverages are part of the stores of the vessel in which they are transported, or the property of passengers in the vessel or persons employed therein, and are shown not to exceed the amount required for the voyage, or may lawfully be introduced by a passenger into the Kingdom for his personal use in accordance with regulations in force; and

(b) In passage without unnecessary stops through the Sound between Falsterbo Reef and Kullen Light from international or foreign waters to other such waters, if the circumstances clearly show no intention to import beverages illegally into the Kingdom; unless passage is made through waters within one half kilometre of the shore of Sweden.

(3) The General Customs Board may in special cases waive the prohibition referred to in this article.

Article 3. (1) Persons violating the prohibition referred to in article 2 shall incur the penalties prescribed for unlawful importation into the Kingdom.

If the circumstances clearly show no intention to import the beverages unlawfully into the Kingdom, only a fine not exceeding 500 kronor may be imposed.

If it is shown that the vessel in which the beverages were transported was compelled by an actual peril of the sea to enter and remain in Swedish territorial waters in order to save the ship, cargo or human life, the defendant shall be acquitted.

(2) Prosecutions for the offence referred to in paragraph 1 may not be instituted except with the leave of the General Customs Board.

Article 4. (1) Customs officers may, when so required in the course of their duty, carry out such inspection of a vessel as may be necessary to ascertain whether alcoholic beverages or wines are being transported in the vessel in violation of the prohibition referred to in article 2.

(2) If a chief customs or coastguard officer finds it necessary, because of suspected unlawful importation of alcoholic beverages or wines, to place a special customs guard on a vessel of under 500 net tons arriving from or sailing to a foreign port, he may, if beverages carried on board the vessel during the voyage are seized in accordance with this Act, order that the cost of such guard shall be borne by the owner of the vessel.

The cost of the guard shall be payable at the rates laid down for additional customs services and by the relevant procedure for remunerating such services.

(f) ACT No. 463 OF 27 NOVEMBER 1925, EXTENDING THE APPLICATION OF ACT No. 225 OF 20 JUNE 1924 CONCERNING UNLAWFUL DEALING IN ALCOHOLIC BEVERAGES AND WINES ¹

If alcoholic beverages have been introduced in a vessel of less than 250 net tons register into waters situated outside Swedish territorial waters but within twelve nautical miles of the Swedish coast or of the outermost islands lying off the coast, and the circumstances clearly indicate that the

¹ *Svensk Författningssamling*, 1925, Nr. 463, p. 1115. Text of Act provided by the Ministry for Foreign Affairs of Sweden. Translation by the Secretariat of the United Nations. See also: *United Nations Legislative Series*, Laws and Regulations on the Régime of the High Seas, vol. 1, 1951, p. 94.

vessel is in the said waters for the purpose of committing or abetting the unlawful importation of such beverages into the Kingdom, the offence of unlawful importation into Swedish territorial waters within the meaning of the Act containing special provisions concerning unlawful dealing in alcoholic beverages and wine shall be deemed to have been committed.

In frontier waters less than twenty-four nautical miles wide the boundary of the waters referred to in the first paragraph shall be deemed to coincide with the mid-line or with the frontier established by agreement, customs or otherwise.

The provisions of this Act shall not apply to vessels of a foreign nationality, unless the King orders that the Act shall apply to vessels of that nationality.

(g) ACT NO. 234 OF 31 MAY 1935 SUPPLEMENTING THE PROVISIONS IN FORCE CONCERNING THE IMPORT OF ALCOHOLIC BEVERAGES AND WINE INTO SWEDISH TERRITORIAL WATERS ¹

The provisions of article 2, paragraph 2 (b), article 3, paragraph 1, article 7 and article 8, paragraph 1, of Act No. 225 of 20 June 1924, containing special rules concerning unlawful dealing in alcoholic beverages and wines with regard to cases of importation of alcoholic beverages or wines into Swedish territorial waters in which the circumstances clearly show no intention to import the beverages unlawfully into the Kingdom shall, to the extent that the King may so order, not apply to importation into territorial waters covered by an agreement with a foreign State for common supervision in order to prevent the smuggling of alcoholic liquors unless circumstances also clearly show no intention to import the beverages unlawfully into the State with which the agreement is concluded.

(h) ROYAL ORDER NO. 65 OF 3 APRIL 1934, FOR THE EXECUTION OF THE AGREEMENT BETWEEN FINLAND AND SWEDEN FOR A COMMON SURVEILLANCE SERVICE FOR PREVENTING THE ILLICIT IMPORTATION OF ALCOHOLIC BEVERAGES ²

In pursuance of the Agreement between Finland and Sweden for a common surveillance service for preventing the illicit importation of alcoholic liquors, signed on 29 December 1933,³ and in virtue of the Act of 23 March 1934 (No. 54), to empower the Crown to make orders placing foreign surveillance staff on the same footing as Swedish customs officers in certain cases, His Majesty has been pleased to order as follows:

Article 1. For the purpose of preventing the illicit importation of alcoholic beverages into a Swedish or Finnish customs area, Swedish customs staff and staff of the sea surveillance service of Finland shall exercise common surveillance within the zone of sea situated between 60°30' and 59°45' latitude north and bounded on the west by straight lines drawn between the

¹ *Ibid.*, 1935, Nr. 234, p. 456. Text of Act provided by the Ministry for Foreign Affairs of Sweden. Translation by the Secretariat of the United Nations.

² *Ibid.*, 1934, Nr. 65, p. 91. Text of Order provided by the Ministry for Foreign Affairs of Sweden. Translation by the Secretariat of the United Nations. See also *United Nations Legislative Series*, Laws and Regulations on the Régime of the High Seas, vol. I, 1951, p. 158.

³ See *infra*, Second Part, Chapter II, Treaty No. 50.

reefs of Högaklegrund Ostergryndan, Klacken, Gråskälsbrännan, Understen, Travarn, Halsaren, Storbrottet, Lerbådan, Simpnäsklubb, Håkanskär, Tjärven, Söderarm and Längden, and on the east by straight lines drawn between the reefs of Jernbådan, Sälskär, Malgrunden, Skarven, Yttre Borgen, Gislan, Torskubbar, Sandgrunden, Uddbåda, Mellangadden, Nyhamn, Lågskär, Vittensten, Granbåda and Voronina, and thence by a straightline drawn southwards.

Regulations for the conduct of the surveillance service shall be made by agreement between the general customs board and the head of the sea surveillance service of Finland.

Article 2. Within that part of the zone of sea described in article 1 situated west of the line mentioned in article 2, paragraph (1) (d), of the Convention relating to the non-fortification and neutralization of the Aaland Islands,¹ signed at Geneva on 20 October 1921, Finnish surveillance staff may carry out such inspection of a vessel as is absolutely necessary to fulfil the purpose of the supervision, and exercise the right of seizure conferred upon Swedish customs officers by the Act of 20 June 1924 (No. 225) containing special provisions concerning unlawful dealing in alcoholic beverages and wines, and by the Act of 27 November 1925 (No. 463) to extend the application of the said Act.

These provisions shall, in that part of the zone of sea situated between Swedish territorial waters and the said line, apply only to vessels of Swedish and Finnish nationality.

Article 3. A vessel navigating within the zone of sea west of the line mentioned in article 2 shall immediately comply with an order to stop given by Swedish or Finnish surveillance staff for the purpose of inspection; provided that within that part of the zone of sea situated between Swedish territorial waters and the said line these provisions shall apply only to a vessel of such nationality as the said staff may be empowered to inspect.

. . .

(i) NOTICE NO. 13 OF 24 JANUARY 1936 CONCERNING THE AGREEMENT OF 28 OCTOBER 1935 BETWEEN SWEDEN AND DENMARK²

His Majesty, the King, in pursuance of the Convention concluded between Sweden and Denmark on 28 October 1935 for common supervision in order to prevent the smuggling of alcoholic beverages³ and of the Act of 23 March 1934 (No. 53) respecting the right of the Crown to make orders concerning the placing in certain cases of the supervision staff of a foreign country on a footing of equality with Swedish customs officers and of the Act of 31 May 1935 (No. 234) supplementing the provisions in force regarding the importation of alcoholic beverages and wines into Swedish territorial waters, has been pleased to order as follows:

Article 1. Within Swedish and Danish territorial waters in the Sound and certain parts of the Kattegat and the Baltic, namely:

¹ See *infra*, Second Part, Chapter I, Treaty No. 9.

² *Svensk Författningssamling*, 1936, Nr. 13, p. 33. Text of Notice provided by the Ministry for Foreign Affairs of Sweden. Translation by the Secretariat of the United Nations. See also: *United Nations Legislative Series, Laws and Regulations on the Régime of the High Seas*, 1951, vol. 1, p. 151.

³ See *infra*, Second Part, Chapter II, Treaty No. 52.

On the Swedish side, from 56°27' north latitude (Hallands Väderö lighthouse), along the west, south and east coast of Skåne, to 55°39.8' north latitude (Stenshuvud), and

On the Danish side, from 12°17.5' east longitude (Gilbjergghoved), along the north and east coast of Zealand, together with Møen and Falster, to 11°58' east longitude (Gedser) and round the island of Bornholm and the islands known as Aerteholmene,

Swedish and Danish supervision staff shall, in accordance with the detailed regulations agreed upon between the General Customs Board and the competent Danish customs authority, and in pursuance of the provisions respecting Sweden laid down in articles 2-11, co-operate in combating the illicit import of alcoholic beverages into Sweden and Denmark.

The provisions of this Order relating to the territorial waters shall not be applicable to ports and entrances to ports.

Where measures to prevent unlawful importation in vessels of Swedish or Danish nationality are concerned, such co-operation as aforesaid shall also take place in the waters immediately outside the said territorial waters within the zone referred to in article 9 of the Convention concluded at Helsingfors, on 19 August 1925, for the suppression of the contraband traffic in alcoholic liquors, together with the comments on the said article contained in the Final Protocol to that Convention.

Article 2. The provisions of sub-paragraph (b) of paragraph 2 of article 2, paragraph 1 of article 3, article 7, and paragraph 1 of article 8 of the Act of 20 June 1924 (No. 225), containing special provisions concerning unlawful dealing in alcoholic beverages and wines, in respect of cases where the circumstances clearly show that the alcoholic beverages or wines introduced into Swedish territorial waters are not or were not intended to be unlawfully imported into Sweden, shall not apply in respect of the introduction of such beverages or wines into the Swedish territorial waters specified in article 1 unless the circumstances clearly show that there similarly is or was no intention to import the said beverages unlawfully into Denmark.

Article 3. Danish supervision staff shall, within the Swedish territorial waters specified in article 1 and the waters adjacent thereto situated in the zone referred to in the last paragraph of article 1, have the right to inspect any vessel if such inspection is absolutely necessary for the purposes of the relevant supervision, and shall have the same rights in respect of confiscation as are granted to Swedish customs officers under the Act containing special provisions concerning unlawful dealing in alcoholic beverages and wines, as modified by article 2 of this Act, or under the Act of 27 November 1925 (No. 463) extending the application of the first-mentioned Act:

Provided that the foregoing provision shall, in respect of waters outside the territorial waters, apply only where action is taken against vessels of Swedish or Danish nationality.

Article 4. (1) Any vessel proceeding within the Swedish territorial waters specified in article 1 or the waters adjacent thereto situated in the zone referred to in the last paragraph of article 1 shall immediately comply with any order to stop given by Swedish or Danish supervision staff for the purposes of carrying out an inspection: Provided that in waters outside the territorial waters this provision shall not apply unless the nationality of the vessel is such that it is subject to inspection by the aforesaid staff.

Note. See also: Royal Notice No. 317 of 5 June 1953 concerning the peacetime division of the Armed Forces and the division of the Kingdom into military districts, article 2 and Annex II (*supra*, Chapter I, under Sweden (b)).

Union of South Africa

(a) PUBLIC HEALTH ACT No. 36 OF 1919¹

CHAPTER V. PORTS AND INLAND BORDERS OF THE UNION

Application of Provisions

70. The provisions of this Act as regards vessels, except where otherwise expressly stated, shall apply to every vessel of whatsoever kind anchoring off or arriving in any port or being elsewhere within the territorial waters of the Union: Provided that the Minister may, subject to such conditions or limitations as may be prescribed by him, exempt from any such provisions any of His Majesty's warships or any warship of any foreign country, or any vessel engaged solely in the coasting trade and plying only between ports of the Union.

Port Health Officer may inspect Vessels and Persons on Board for the Purpose of Ascertaining whether infection Exists on Board

73. (1) The port health officer may at any time board any vessel and inspect any part thereof or anything therein, and may medically examine any person on board and require any such person to answer any question for the purpose of ascertaining whether or not infection exists or has recently existed on board.

(2) Any person who refuses to allow any such officer to board any vessel or to make any inspection or medical examination as aforesaid or otherwise obstructs or hinders any such officer in the execution of his duty, or who fails or refuses to give any information which he may lawfully be required to give, or who gives false or misleading information to any such officer knowing it to be false or misleading, shall be guilty of an offence.

(b) PORT HEALTH REGULATIONS, MADE UNDER SECTION 86 OF THE PUBLIC HEALTH ACT No. 36 OF 1919 (GOVERNMENT NOTICE No. 988 OF 16 JUNE 1924, AS AMENDED)²

Duties of Port Health Officer

1. The port health officer shall be responsible, subject to the instructions of the Minister, for the medical and health inspection of and the granting of pratique to, or the taking of such health measures or precautions as may be necessary in connection with, all vessels arriving at the port; for the sanitary and health supervision of vessels at the port and of the port area and harbour; for the proper carrying out and enforcement, on vessels at the

¹ *Revised statutes of the Union of South Africa*, vol. III, 1917-1920, p. 922.

² E.H. Cluver, *Medical and Health Legislation in the Union of South Africa*, South Africa, 1949, pp. 511 *et seq.*

port and throughout the port area and harbour, of measures for the destruction of rodents, for preventing the multiplication or migration of rodents, and for ensuring the prompt discovery and investigation of any sickness or mortality among them possibly due to plague; for the direction and control of the sanitary or other staff employed at the port by the Department of Public Health; and for the proper carrying out or enforcement of the provisions of the Public Health Act, No. 36 of 1919, and the regulations thereunder in respect of vessels, passengers, crews, and cargoes at the port and of the port area and harbour. He shall carry out his duties so as to obviate unnecessary delay or detention of vessels, passengers, or merchandise, and in matters which also affect the Railway and Harbour Administration or any other Government Department, or the local authority at or adjoining the port, shall act in consultation and co-operation with the responsible officers concerned.

. . .
(c) CUSTOMS ACT OF 1955¹
. . .

CHAPTER I. ADMINISTRATION OF ACT AND POWERS OF OFFICERS
. . .

5. (1) An officer may board and search any vehicle or ship, and may search any person found therein or thereon for goods upon which duty has not been paid, or in respect of which he has reasonable cause to believe that there has been a contravention of any provision of any law relating to customs, and may freely remain on such vehicle or ship in pursuance of his duties.
. . .

7. The Commissioner or the proper officer at any port or place in the Union may station any officer on board of any ship or aircraft while within the limits of that port or place, and the master of any ship and the pilot of any aircraft on board of which an officer is so stationed shall, according to his means, provide for such officer accommodation and board to the satisfaction of the Commissioner.

8. (1) The proper officer may board any ship arriving at any port in the Union, or being within three miles of the coast thereof, and freely stay on board for so long as he deems necessary for the proper performance of his duties or until all goods laden therein have been duly delivered from such ship, and such officer shall have free access to and the right to rummage every part of the ship and to examine all goods on board, with power to fasten down hatchways and to mark any goods before landing and to lock up, seal, mark or otherwise secure any goods on board that ship, and also the ship's wireless apparatus.

(2) The proper officer may enter any aircraft arriving in the Union and may *mutatis mutandis* exercise the powers provided for in sub-section (1).
. . .

9. (1) The proper officer, if he boards any ship or aircraft under the powers conferred by section *eight*, may, subject to the rules, seal up all

¹ The Union of South Africa, *Government Gazette*, vol. CLXXXI, p. 6.

sealable goods on board the ship or aircraft which are either unconsumed stores of the ship or aircraft or the personal property or in the possession of the master or pilot or any member of the crew thereof, and the master or pilot or members of the crew, as the case may be, shall declare all such sealable goods on the prescribed form. The proper officer may also under direction of the Commissioner seal up any goods, other than sealable goods as defined in sub-section (4), in the possession of the master, pilot, members of the crew or passengers on board the ship or aircraft. Except in accordance with the rules, no person shall break or disturb any seal placed by the officer on such goods while the ship or aircraft remains at any place in the Union, or is proceeding between any places in the Union.

(2) Nothing in this section contained shall in any way affect the provisions of section *twenty-two*.

(3) The proper officer may permit surplus stores to be entered for home consumption under and subject to the same rules, regulations and duties to which the like kind of goods would be subject on importation, or permit any surplus stores to be entered and warehoused for future use as ships' or aircraft stores, although the same could not be legally imported for home consumption.

(4) For the purposes of this section "sealable goods" means—

(a) Tobacco, cigars, cigarettes and any other preparations of tobacco or substitutes therefor;

(b) Any spirits or alcoholic liquors;

(c) Opium, preparations of opium in any form and opium outfits;

(d) Cocaine, preparations of cocaine and other habit-forming drugs;

(e) Saccharine;

(f) Articles brought or intended as gifts for or for sale to or exchange with any person;

(g) All excisable goods and non duty-paid goods shipped at a place in the Union as ship's or aircraft stores;

(h) Any other goods which may from time to time be declared by rule or regulation to be sealable goods.

Note. See also: See Shore Act No. 21 of 1935 (*supra*, Chapter I, under Union of South Africa (a)), and Proclamation No. 317 of 1929, section 2 (*supra*, Chapter I, under Union of South Africa (c)).

Union of Soviet Socialist Republics

(a) REGULATIONS OF 15 JUNE 1927 FOR THE DEFENCE OF THE STATE FRONTIERS OF THE USSR ¹

I. GENERAL

II. FRONTIER ZONES

9. For the defence of the State frontier of the USSR, the following zones shall be established:

¹ *Sobranie Zakonov I Rasporyazhenii SSR*, 1927, No. 62, c. 625, p. 1218. Translation by the Secretariat of the United Nations. See also *United Nations Legislative Series*, Laws and Regulations on the Régime of the High Seas, vol. I, 1951, p. 116.

(a) Along land frontiers: 4-metre, 500-metre, 7½-kilometre and 22-kilometre frontier zones measured inward from the line of the State frontier;

(b) Along coastal frontiers: 7½-kilometre and 22-kilometre coastal frontier zones, measured inland from the line of the highest flood-tide;

(c) Along coastal frontiers: a maritime zone extending seaward from the line of the lowest ebb-tide on the mainland and on islands to a distance of twelve miles, except where otherwise provided by international agreements concluded with the USSR.

Note 1. In areas where cordons are stationed at a considerable distance from the State frontier of the USSR and where defence cannot be ensured along the actual line of the state frontier of the USSR, the 7½-kilometre and the 22-kilometre frontier zones shall be measured inward from the line along which the cordons are stationed. In such cases the local population shall be admitted to the territory between the cordons and the frontier according to regulations to be drawn up by the competent authorities of the Unified State Political Department by agreement with the local provincial and area (and corresponding) executive committees.

Note 2. Frontier zones along frontiers following the course of rivers, lakes and artificial waterways shall be measured from the shore line.

10. The 4-metre zone shall be marked by special signs on the ground. Other frontier zones and the twelve mile maritime zone shall be marked on large-scale maps.

. . .

III. FRONTIER DEFENCE

A. *On land*

. . .

B. *On water*

23. Along the whole extent of the State water frontiers of the USSR, and in the maritime zone (article 9, paragraph (c)) of the open seas surrounding the coasts of the USSR, all civilian vessels without distinction of flag shall be subject to control by the frontier defence service of the Unified State Political Department.

Note. This article applies also to civilian flying and aeronautical machines.

24. Control of military vessels by the frontier defence service shall be carried out without distinction of flag according to special regulations.

25. Civilian vessels in the area under the control of the frontier defence service of the Unified State Political Department may without distinction of flag be stopped and searched by the frontier defence service. The captain of a vessel subjected to search shall be obliged to present all the documents in his possession relating to the vessel and cargo.

Note. The signal to stop shall be given by vessels of the frontier defence service of the Unified State Political Department as follows: in the daytime, by hoisting the international signal agreed on for this purpose; at night, by displaying on the mast (above the masthead light) two vertically-arranged green lights. A vessel to which such signal is given shall be obliged to stop and may go ahead only after receiving permission to do so from the vessel which has stopped it.

26. Civilian vessels may be arrested without distinction of flag in the following circumstances:

(a) When the captain does not present all the relevant documents relating to the vessel and cargo;

(b) When in the maritime zone (article 9, paragraph (c)), or at any point on the shore not mentioned in article 7, the vessel proceeds to load or unload cargo or to embark or disembark persons without the proper permission;

(c) When, within the boundaries of the maritime zone (article 9, paragraph (c)), the vessel engages in fishing or hunting or in any other maritime occupation in a prohibited area, or in a free area without proper documents or by unlawful means.

27. The pursuit of a vessel which has failed to comply with the demands of the frontier defence service within the maritime zone (article 9, paragraph (c)) may be continued beyond that zone into the open sea, but must in all circumstances be discontinued on the entry of the pursued vessel into the waters of a foreign State, and the pursuit of a vessel flying a foreign flag must be finally relinquished on the entry of the vessel into a foreign port.

28. If on a civilian vessel, under whatever flag it is sailing, persons are found who have boarded it with the purpose of travelling beyond the boundaries of the USSR without proper permission or have committed offences and are liable to arrest under the law of the USSR or a Union republic, only such persons and not the vessel shall be liable to arrest.

Persons discovered on board a vessel who are there for the purpose of being set ashore on the territory of the USSR without proper permission shall not be taken from the vessel but shall remain on board in the charge of the captain and shall not be allowed ashore.

Note. If in the circumstances mentioned in the first part of this article an unlawful act is committed in respect of a vessel flying the flag of the USSR, the vessel may be arrested.

29. If a vessel is subjected to search or arrest, a special report shall be drawn up and signed by the competent commanding officer of the frontier defence service and by the captain of the vessel subjected to search or arrest.

If the search discloses no violation of an act or regulation, it shall not be necessary to make a report unless the captain of the vessel subjected to search so requests.

The report shall be written in Russian and signed by both parties. If the captain of the vessel subjected to arrest or search requests a copy of the report at the time of signature, he shall forthwith be given a copy in Russian. If, however, the circumstances prevent his being given a copy of the report, forthwith, it shall be sent to the address indicated by him.

30. When a vessel is arrested, all the ship's papers and freight documents shall be taken from the captain and a general list of them shall be drawn up by him. The documents shall be sewn and tied together, sealed with the seals of the competent commanding officer of the frontier defence service and the captain of the vessel, and attached to the report.

31. If the captain of a stopped or arrested vessel considers the action of the frontier defence service to be irregular or does not agree with the contents of the report, he may make a reservation to that effect in any language on the report itself or as a separate document to be attached thereto.

32. The frontier defence service shall ensure that no fires are lit on the shore which might be taken for guide lights or distinguishing signs.

33. In case of need vessels of the frontier defence service of the Unified State Political Department may navigate at night without regulation lights within the maritime zone (article 9, paragraph (c)).

34. In case of need the frontier defence service may request assistance from the nearest naval vessels of the USSR in accordance with regulations to be laid down by the Unified State Political Department in agreement with the People's Commissariat for Military and Naval Affairs.

IV. USE OF WEAPONS

35. The frontier defence service shall use weapons in the following circumstances:

- (a) To repel armed attacks and put down armed resistance;
- (b) To repel an attack or suppress resistance which, though not armed, is conducted by several persons, or by one person in such a way as to expose members of the frontier defence service to evident danger;
- (c) When persons under arrest attempt to escape and cannot be prevented from doing so by any other means;
- (d) When persons subject to arrest within the 22-kilometre zone or on a frontier river, lake or artificial water-way do not stop after the challenge "Stop!" has been uttered twice and a preliminary warning shot has been fired into the air, and there is no other means of arresting them;
- (e) When, after warning by one blank round and two shotted rounds (across bow and stern), a vessel fails to obey the command to stop or discontinue the loading or unloading of cargo or the embarkation or disembarkation of persons;
- (f) When flying or aeronautical machines fly over the frontier of the USSR at an unauthorized point or in violation of the regulations.

36. It is prohibited to fire so that a projectile may fall on the territory of an adjacent State.

37. Members of the frontier defence service using weapons unlawfully shall be liable to disciplinary or criminal proceedings according to the nature of the offence.

- (b) ACT No. 431 of 24 JULY 1928 CONCERNING THE USE OF RADIO EQUIPMENT ON FOREIGN VESSELS WITHIN THE TERRITORIAL WATERS OF THE UNION ¹

The Council of People's Commissars of the USSR decrees:

I

1. Foreign military and non-military vessels in the marginal seas or inland waters of the USSR at a distance of ten miles from the shore may use their radio equipment only in accordance with the provisions of this Order.

¹ *Sobranie Zakonov I Rasporozhenii*, 1928, No. 48, p. 900. Translation by the Secretariat of the United Nations. See also *United Nations Legislative Series, Laws and Regulations on the Régime of the High Seas*, vol. 1, 1951, p. 121.

2. Non-military vessels within the transmission area of radio stations on the shore may not exchange radio telegrams except in the cases mentioned in article 7 of this Order.

3. Foreign non-military vessels in ports more than ten miles in a direct line from the nearest shore radio station, and foreign non-military vessels in the Sea of Azov, may use their radio equipment only by special written permission of the master of the commercial port, specifying a time-limit or issued on each separate occasion on which the vessel visits the port or inland waters of the USSR.

If the nearest shore radio station belonging to the People's Commissariat for Military and Naval Affairs or to some other public authority is situated not more than ten miles in a direct line from a commercial port, foreign vessels as aforesaid may receive permission from the master of such commercial port to exchange radio messages only by agreement with the local representatives of the competent authorities.

4. The local naval authorities shall be entitled to restrict the exchange of radio messages by foreign military vessels within the ten-mile limit in respect of time, the areas in which conversations may be conducted, and wave-length.

5. The master of the nearest commercial port shall be responsible for securing compliance with the provisions of article 2 of this Order.

He shall close and seal the radio equipment of foreign non-military vessels for the whole duration of the stay of such vessels in the port or within the ten-mile limit mentioned in article 1 of this Order.

6. Foreign vessels anchored in quarantine and requiring to communicate by radio with the local shore radio station may in emergency use their chief transmitter at minimum power or their lowest-powered set at the days and hours notified to them by the said station.

7. The restrictions on the use of the ship's radio equipment laid down in articles 2 to 6 of this Order shall not apply:

- (a) To vessels in danger or transmitting messages to avert an accident;
- (b) To vessels assisting other vessels in distress; and
- (c) In convoying vessels through ice.

On entering ports with shore radio stations, foreign vessels may on especially important occasions conclude a radio conversation commenced with the port, but only if they transfer to minimum power or to their lowest-powered set.

8. Whenever ship's radio equipment is used in accordance with this Order, foreign military and non-military vessels shall comply with the applicable regulations for international radio communication adopted by the USSR and also with the regulations relating to internal radio communications within the USSR. On their arrival in ports of the USSR, foreign vessels shall be informed by the competent local military and naval authorities or by the port authorities of unpublished regulations relating to internal radio communication.

9. Radio messages transmitted by foreign military and non-military vessels must be in clear and must not contain any symbol or code, except conventional signals under the official international rules for radio communication and the international code of signals.

10. The commander or captain of a foreign vessel shall be the person empowered to negotiate with the authorities on all questions arising out of this Order.

11. The provisions of this Order shall have effect only if the USSR is not at war and only in respect of vessels flying the flag of a nonbelligerent State.

12. Persons who violate the regulations set forth in this Order shall be liable under the criminal law of the Union Republic concerned.

13. Instructions for giving effect to this Order shall be issued by the People's Commissariat of Communications by agreement with the People's Commissariat for Military and Naval Affairs, the Unified State Political Department (OGPU), the People's Commissariat for Foreign Affairs and the People's Commissariat for Posts and Telegraphs.

II

14. The regulations relating to the use of wireless telegraphy by foreign vessels on the coasts or in inland waters of the RSFSR and the Soviet Union Republics, confirmed on 16 January 1923 by the Council of People's Commissars of the RSFSR (*Sobranie Uzakoneniye RSFSR*, 1923, No. 6, p. 93), are hereby repealed.

(c) MERCHANT SHIPPING CODE OF 14 JUNE 1929 (ANNEX IX: CONCERNING PROPERTY SUNKEN AT SEA)¹

1. The salvaging of property (a ship, portions of a ship, articles of ship's equipment, cargo, etc.), sunken in a harbour situated within the coastal area mentioud in article 9, paragraph c, of the Order of 15 June 1927 regarding the defence of the national frontiers of the USSR (*Sobranie Zakonov Soyuzo SSR*, USSR Statutes Series, 1927, No. 62, page 623) or in inland waters of the USSR, shall be carried out in accordance with the provisions set forth in the following articles.

2. When the property is sunken in a harbour or fairway, or near the boundaries of a commercial port, and is obstructing navigation or harbour works, the authorities of the commercial port may fix a time-limit sufficient in the circumstances for the completion of the salvage work, and may also fix a special time-limit for notification by the owner of his intention to salvage the property. If the owner of the sunken property is unknown, the port authorities shall insert in the *Izvestie TsIK Soyuzo SSR i VTsIK* ("News of the Central Executive Committee of the USSR and the All-Russian Central Executive Committee") a single notice inviting the owner to notify his intention of salvaging the property and to carry out the work of salvage within the time-limits specified by them.

If the flag but not the owner of a sunken foreign vessel is known, then in addition to the fixing of time-limits, the matter shall be reported to the People's Commissariat for Foreign Affairs.

3. If the owner of sunken property as referred to in article 2 fails to notify the port authorities of his intention of salvaging the property, or to

¹ *Kodeks Torgovogo Moreplavaniya Soyuzo SSR* (Merchant Shipping Code of the USSR) (Moscow and Leningrad 1947), annex IX, pages 78-80. Translation by the Secretariat of the United Nations.

salvage it within the time-limit, the port authorities shall take steps to salvage the property or, where necessary, to destroy or remove it by other means.

4. In cases not covered by article 2, the owner of sunken property may, within a year of the date on which the property sank, notify the appropriate authority of the frontier defence service of the USSR of his intention to salvage the property. The notification shall specify the time-limit within which the owner proposes to complete the salvage work. The authority of the frontier defence service shall set the owner a time-limit sufficient for the completion of the salvage work.

Note: If the sunken property belongs to the People's Commissariat for Military and Naval Affairs, the question of salvage and of the time-limits for the completion of salvage work shall in all cases, except in that of a sunken ship (article 12), be decided by agreement between the People's Commissariat for Military and Naval Affairs and the frontier defence service.

5. For the salvaging of property sunken within the limits of the waters of a naval base or a fortified area, it shall be necessary, in addition to complying with the provisions of articles 2 to 4, to obtain permission from the People's Commissariat for Military and Naval Affairs.

6. The appropriate authority of the frontier service shall determine how the salvage work is to be carried out and, in particular, whether it may be carried out by the owner of the sunken property or by a salvage undertaking on his behalf.

7. The owner of the sunken property shall forfeit his rights therein:

(a) In cases where a special time-limit has been fixed for notification of intention to salvage the sunken property (article 2): from the moment when he waives his right to raise the property or, if he makes no express waiver, from the moment of the expiry of such time-limit, or from the moment of the expiry of the time-limit he has been set for salvaging the sunken property, if the property has not been raised within that period;

(b) In cases covered by article 4: from the moment of the expiry of the time-limit of one year from the notification of intention to salvage the sunken property or of the time-limit fixed for the salvaging of the property, if the salvage work has not been carried out.

8. If it is necessary immediately to remove the sunken property because it directly endangers navigation, the port authorities may take the steps described in article 3 without setting the owner of the property the time-limits mentioned in article 2; but if the owner is known, they shall inform him of the steps that have been taken, and if he is not known, they shall insert a suitable notice in the *Izvestie TsIK Soyuzo SSR i VTsIK* ("News of the Central Executive Committee of the USSR and the All-Russian Central Executive Committee").

In the case of military property, the prior approval of the People's Commissariat for Military and Naval Affairs must be obtained, before the steps described in the present article are taken.

9. Property salvaged by port authorities in accordance with article 8 or, if to keep it would be impossible or inadvisable, the proceeds of its sale, shall be delivered to its owner if he presents himself not later than two years from the date on which the property sank.

10. The authorities of the commercial port shall be reimbursed out of the value of the property for the expenses incurred by them in salvaging the property in accordance with articles 3 and 8.

11. If sunken property is salvaged accidentally, the salvager shall be obliged to surrender it to the port authorities concerned but shall be entitled to a reward equal to one-third of its value.

12. The present annex IX to the Merchant Shipping Code of the Union of Soviet Socialist Republics shall not be applicable to ships of the USSR Navy.

(d) REGULATIONS CONCERNING AREAS IN WHICH NAVIGATION IS RESTRICTED AND RULES FOR NAVIGATION THEREIN ¹

1. It may from time to time be found necessary to forbid ships entry into certain coastal areas of the USSR or to restrict navigation therein. In such cases, the appropriate restrictions will be published in Notices to Mariners and sailing directions; and in cases of extreme emergency, when the relevant instructions cannot be conveyed to mariners in good time, a special "warning service", operated by special ships, lightships and shore stations, will be set up in the areas affected.

Note. A warning service may, however, also be set up in areas in which the restrictions on navigation have been published in good time.

2. Accordingly, mariners are advised when approaching the coasts of the USSR to pay strict attention to signals displayed by the warning service, as described in paragraphs 4 and 5 of these Regulations.

3. When entering an area in which navigation has been restricted or where a warning service has been set up, mariners are advised, in the interests of safety, to pay strict attention to all regulations in force and to comply scrupulously with any additional instructions issued by the warning service.

4. The distinguishing markings of ships, lightships or shore stations operating the warning service are as follows:

- (a) By day—a triangular blue flag;
- (b) By night—three blue lights hoisted in a vertical line at the gaff.

5. If entry into or navigation in the area is prohibited, the ship, lightship or shore station operating the warning service, shall display, in addition to the distinguishing markings described in paragraph 4 of these Regulations, the following signals:

- (a) By day—three red balls hoisted in a vertical line;
- (b) By night—three red lights hoisted in a vertical line.

6. If entry into or navigation in the area is not prohibited and if the warning service displays no special signals or issues no special instructions with reference to the ship's course, the ship may proceed to its destination, while observing the rules published in Notices to Mariners and sailing directions.

If, in an area with regard to which no special regulations have been published for navigation and no special instructions have been issued by the

¹ Notices to Mariners, No. 2, 1955, Hydrographic Department. Text of Regulations provided by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations. Translation by the Secretariat of the United Nations.

warning service, there are warships present, mariners shall steer their course to avoid passing between such warships and to avoid any possibility of collision with them.

7. Pilots shall be acquainted in good time with all regulations to be strictly observed in cases of restricted navigation.

Issued pursuant to Notices to Mariners, Hydrographic Department, 1936, No. 103.

(e) NOTICE OF 1941 CONCERNING AREAS IN WHICH NAVIGATION AND ANCHORAGE ARE PROHIBITED ¹

Notification of prohibited navigation and anchorage areas

From time to time the need arises to prohibit navigation and anchorage in certain coastal waters of the USSR. In such cases, the boundaries of the areas in which navigation and anchorage are prohibited for all ships without exception are announced in the Naval Hydrographic Department's Notices to Mariners.

Such prohibited areas are maintained for a considerable period of time, and will henceforward be called "prohibited navigation areas".

Areas in which anchorage alone is prohibited are permanent and will henceforward be called "prohibited anchorage areas".

The boundaries of all prohibited navigation and anchorage areas announced in the Naval Hydrographic Department's Notices to Mariners must be marked on navigational charts.

Issued pursuant to HD Notice to Mariners No. 360, 1941.

(f) NOTICE OF 1941 CONCERNING FORTIFIED ZONES AND RULES FOR NAVIGATION THEREIN ¹

It may sometimes be found necessary to lay down special conditions, of a permanent rather than a temporary nature, for navigation in certain areas contiguous to the Union of Soviet Socialist Republics. Such areas will henceforth be known as "fortified zones".

All ships sailing in waters contiguous to the Union of Soviet Socialist Republics are required to conform strictly to the "Rules for Navigation in Fortified Zones of the USSR" set forth below.

The areas declared to be fortified zones will be announced in the Notices to Mariners of the Naval Hydrographic Service.

RULES FOR NAVIGATION IN FORTIFIED ZONES OF THE USSR

1. These Rules shall apply to all foreign-going merchant ships, whether of USSR or of foreign nationality.

2. Fortified zones shall be published in the Notices to Mariners of the Naval Hydrographic Service. Ignorance of them shall not be accepted as a defence for any breach.

¹ Notices to Mariners, Hydrographic Department, No. 3, 1955. Text of notice provided by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations. Translation by the Secretariat of the United Nations.

3. No foreign-going merchant ship, whether of USSR or of foreign nationality, may enter or leave a fortified zone without previous authorization.

Where entry into a port open to foreign-going merchant ships necessitates passage through a fortified zone, the procedure for entry into the fortified zone shall be prescribed by special notice in each case.

4. No merchant ship may in any circumstances proceed through a fortified zone without a pilot.

When proceeding through a fortified zone the master of a ship shall promptly carry out any instructions which the pilot may give in conformity with the navigation regulations for that zone (e.g. instructions to darken ship, to order personnel off the upper deck and the like).

5. A merchant ship proceeding through a fortified zone by night shall show fixed lights only, unless special orders to darken ship have been issued or the pilot has given instructions on the subject.

By day, a ship shall be required to fly its national flag, house pennant and distinguishing pennant.

6. A ship proceeding through a fortified zone shall not come to anchor at a distance less than three cables from the centre of the restricted fairway and from the prescribed course.

7. Merchant ships shall give way to warships at all times and shall not hinder their movements and manoeuvres.

8. On the approach of fog, a fortified zone shall be closed to the passage of merchant ships.

Issued pursuant to Notices to Mariners, Hydrographic Department, No. 360, 1941.

(g) NOTICE OF 1955 CONCERNING THE SALUTE PORTS
OF THE USSR ¹

The salute ports of the USSR are Kronstadt, Sevastopol, Vladivostok and Polyarny.

Issued pursuant to Notice to Mariners, Hydrographic Department, No. 8, 1954.

(h) RULES OF 1955 CONCERNING DISTRESS SIGNALS AND THE NOTIFICATION
OF DANGERS TO NAVIGATION ²

I. The present rules shall apply to all ships of the merchant fleet of the Union of Soviet Socialist Republics (cargo ships, auxiliaries, icebreakers, factory ships, expedition ships, etc.) and also to foreign merchant ships in the waters of the Union of Soviet Socialist Republics.

II. In these rules the terms "distress signals", "alarm signal", "urgency signal" and "safety signal" mean the following:

¹ Notice to Mariners, Hydrographic Department, No. 7, 1955. Text of Notice provided by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations. Translation by the Secretariat of the United Nations.

² Notice to Mariners, Hydrographic Department, No. 14, 1955. Text of Rules provided by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations. Translation by the Secretariat of the United Nations.

A. "Distress signals". When a ship or a seaplane, while afloat, is in distress and requires assistance from other ships or from the shore, the following shall be the signals to be used, either together or separately:

- (a) A gun or other explosive signal fired at intervals of about a minute;
- (b) A continuous sounding with any fog signal apparatus;
- (c) Rockets or shells, throwing red stars, fired one at a time, at short intervals;
- (d) A signal made by radiotelegraphy or any other signalling method, consisting of the group . . . — — — . . . in Morse Code;
- (e) A signal sent by radiotelephony consisting of the spoken word "Mayday";
- (f) The International Code signal of distress indicated by NC;
- (g) A signal consisting of a square flag having either above or below it a ball or anything resembling a ball;
- (h) Flames on the ship (as from a burning tar barrel, oil barrel, etc.);
- (i) A red parachute flare.

The use of any of the above signals, except for the purpose of indicating that a ship or seaplane is in distress, and the use of any signal which may be confused with any of the above signals is prohibited.

Note. For ships in distress a radio signal designed to actuate the automatic alarm signal on other ships and to draw attention to distress calls or messages has been established. This signal consists of a series of twelve dashes sent in one minute, the duration of each dash being four seconds and the duration of the interval between two consecutive dashes one second.

B. "The radio alarm signal". A signal indicating that the calling ship is about to transmit distress signals by radio; this signal consists of twelve dashes.

C. "Urgency signal". A signal indicating either that a ship, while not in serious and imminent danger, requires assistance, or that a ship wishes to transmit a radio message concerning its own safety or the safety of a person on board or within sight; this signal is transmitted by radiotelegraphy and consists of three repetitions of the group XXX.

D. "Safety signal". A signal indicating that a message of great importance for the safety of navigation is about to follow; for example, a message concerning an approaching storm, change in the navigational situation, etc.; this signal is sent by radiotelegraphy and consists of the group TTT.

III. The master of every ship encountering dangerous ice, a dangerous derelict, dangerous flotsam, a dangerous tropical storm (a hurricane in the West Indies, a typhoon in the China Seas, a cyclone in the Indian Ocean or a similar storm in other areas) or any other direct danger to navigation shall be bound to communicate the information to all ships in the vicinity and to the nearest shore radio station or other station with which he can communicate, with a view to its transmission to all concerned.

. . .

VII. The distress signal may be used only by a ship in serious or imminent danger and requiring immediate assistance, or by a ship which observes that another ship is in serious and imminent danger and is not able to transmit the distress signal, where the latter ship, in the opinion of the master of the calling ship, is in need of assistance.

In all other circumstances the use of the distress signal shall be prohibited. Similarly, the use of any signal which may be confused with distress signals shall be prohibited.

XII. 1. The master of any ship receiving a distress signal from another ship by radiotelegraphy or any other means shall be bound to proceed with all speed to the assistance of the persons in distress.

2. The master of a ship shall be released from this obligation:

(a) In the event of serious danger to his ship, crew and passengers;
 (b) If it is manifestly impossible for him to arrive in time to render assistance to the ship in distress, and

(c) In the cases set forth in paragraphs 5 and 6 of this article.

3. The master of a ship in distress, after consultation, so far as may be possible, with the masters of the ships which have answered his call for assistance, shall have the right to requisition such one or more of those ships as he considers best able to render assistance.

4. It shall be the duty of the master or masters of the ship or ships requisitioned to comply with the requisition by continuing to proceed with all speed to the assistance of the persons in distress.

5. The master of a ship proceeding to render assistance shall be released from the obligation imposed by paragraph 1 of this article if he is informed by the master or masters of other ships which are proceeding to the assistance of the ship in distress and have been requisitioned (paragraph 3) that they are complying with the requisition and are proceeding to render assistance.

6. Similarly, the master of a ship proceeding to render assistance shall be released from the obligation imposed by paragraph 1, and if his ship has been requisitioned, from the obligation imposed by paragraph 3, if he is informed by a ship which has reached the persons in distress that assistance is no longer necessary.

7. In the circumstances set forth in paragraph 2 (a) and (b), the master of a ship, on receiving a distress signal, must immediately inform the master of the ship in distress of those circumstances and enter in his log-book his reasons for failing to proceed to the assistance of the latter ship.

XIII. A master of a ship who commits a breach of any of the provisions of the present rules shall be liable to disciplinary or criminal proceedings, as provided by law.

Issued pursuant to Order of the People's Commissariat for Water Transport of the Union of Soviet Socialist Republics No. 57 of 4 February 1935.

(i) CIRCULAR CONCERNING THE EXECUTION OF DESCRIPTIVE HYDROGRAPHIC AND HYDROLOGICAL WORK IN SEAS ADJACENT TO THE USSR ¹

Descriptive hydrographic and hydrological work in seas adjacent to the USSR, within the 12-mile maritime zone of the USSR, shall be carried out exclusively by vessels flying the flag of the USSR.

¹ Hydrographic Department Circular No. 85 of 16 March 1932. Text of Circular provided by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations. Translation by the Secretariat of the United Nations.

Foreign vessels may carry out hydrographic and hydrological work in the said maritime zone only with the authorization of the Government of the USSR.

The competent governmental organs of the USSR shall receive applications for such authorization through the intermediary of the People's Commissariat for Foreign Affairs.

(j) RULES OF 20 AUGUST 1940 FOR THE SANITARY PROTECTION OF THE FRONTIERS¹

PART IV. SANITARY CONTROL OF SHIPS ARRIVING AT USSR PORTS FROM FOREIGN PORTS OR PLACES

1. On approaching a port of call, the master of a ship shall where possible report to the harbour-master on the state of health of the crew and passengers on board, on any cases of communicable diseases or deaths which have occurred during the voyage, on any unusual mortality of rats observed, and on sanitary conditions in the last port of call or in the port of departure, with a view to the notification of the port sanitary service in good time. The harbour-master shall immediately transmit the information received to the port sanitary service and to the immigration office or frontier guard unit in order that any necessary sanitary measures may be taken in due time.

Where it is possible to report the above-mentioned information, the master of the ship shall do so, as a rule, six hours before the estimated time of arrival of the ship in port.

2. Every ship arriving at a port of the USSR from foreign ports or places shall stop, by agreement with the customs service, at a point indicated to it by the port authority and shall hoist at its foremast the yellow flag "Q" of the International Code of Signals. If the ship has a case of any of the communicable diseases referred to in Part I on board (plague, cholera, yellow fever, typhus or smallpox), the yellow and black flag "L" of the International Code of Signals shall be hoisted.

3. A ship arriving from foreign ports or places shall continue to fly the yellow or the yellow and black flag until the sanitary service gives it *free pratique*.

Note. By night the flags shall be replaced by a single red light at the foremast.

4. Before the sanitary inspection of the ship, no one except the pilot and, if necessary, the chief immigration officers, shall be permitted to board or leave the ship; no representatives of the local authorities shall be permitted

¹ Approved on 20 August 1940 by the People's Commissariat for Health of the USSR with the agreement of the People's Commissariats of the USSR for Foreign Affairs, Internal Affairs, Foreign Trade, Maritime Shipping, River Shipping, Communications and Agriculture and of the Central Department of the Civil Air Fleet of the USSR. Issued pursuant to articles 4 and 9 of the Order of 23 August 1931 of the Central Executive Committee and the Council of People's Commissars of the USSR concerning the sanitary protection of the frontiers of the USSR (*Sobranie Zakonov*, 1931, No. 55, page 355). Text of Rules provided by the Permanent Mission of the USSR to the United Nations. Translation by the Secretariat of the United Nations.

to board the ship until the medical officer carrying out the inspection gives his permission; and access by private individuals shall be prohibited until the yellow or the yellow and black flag is lowered.

5. Until a ship arriving from foreign ports or places has been given full rights of free *pratique*, no authority (port, customs etc.) may give it any instructions concerning the disembarkation of passengers or the unloading of cargo, cattle etc.

6. Where a ship arriving from foreign ports or places stops, on account of damage or for any other navigational reason, at a point on the coast of the USSR where there is no port sanitary service or sanitary control port, the local authorities, in particular the NKVD officers, shall institute strict measures of surveillance in order to ensure that the crew and passengers are prevented from holding intercourse with the shore. The ship's arrival shall immediately be reported to the sanitary authority, the customs office and the NKVD units of the nearest port or, in certain localities, to the State sanitary inspectorate and the NKVD authorities of the nearest inhabited locality.

7. Before the port sanitary service officer arrives and the sanitary inspection is carried out, the crew and passengers of ships referred to in paragraph 3 shall not be permitted to disembark, except where the ship is in danger; in such cases, the nearest local health, customs, frontier guard or NKVD authority shall be notified immediately of the disembarkation or removal of personnel, in order that the necessary sanitary measures may be taken.

8. A ship, arriving from foreign ports or places at a USSR port, shall not be permitted by the port sanitary service to berth alongside without stopping at the roadstead unless the master has reported to the harbour-master, six hours before arrival, the information referred to in part IV, paragraph 1, of these Rules and the information given is sufficient to indicate whether or not the ship is healthy.

In all other cases, ships arriving from foreign ports or places shall stop at the roadstead for sanitary inspection.

9. Sanitary inspections of ships arriving from foreign ports or places shall be carried out between sunrise and sunset. Ships of regular lines shall be inspected first.

In case of need, a sanitary inspection may be carried out at any hour of the day or night, provided that there is adequate artificial lighting in all parts of the ship.

Note. Rules for the sanitary inspection of foreign ships by night shall be made at each port by the Port Administration in agreement with the heads of the sanitary service and the immigration offices.

10. Infected or damaged ships and ships requiring immediate medical assistance shall be inspected by officers of the sanitary authority at any hour of the day or night.

11. Officers of the sanitary service must keep:

(a) A register of notifications and requests for sanitary inspection of ships, with exact particulars of the day, hour and minute of their receipt and execution;

(b) A register of ships inspected, with a record of their sanitary condition and of sanitary control documents collected and issued.

12. The arrival of a ship at a USSR port from a foreign voyage shall immediately be reported by telephone to the port sanitary service officer, the immigration or NKVD frontier guard officer and the customs service by the Port Administration.

13. The departure of a ship from a USSR port on a foreign voyage shall be reported by telephone to the sanitary service officer and the immigration office or the NKVD frontier guard by the Port Administration as soon as all sailing preparations are completed.

The port Administration shall instruct the master of the departing ship to ensure that all the crew are on board on the arrival of the sanitary service officer for the ship's inspection.

14. When carrying out their duties, port sanitary service officers must carry identification papers issued by the head of the port sanitary service. When visiting a foreign-going ship, a port sanitary service officer must also carry the special permit to board such ships issued by immigration offices.

15. Before taking any sanitary measures the cost of which must be borne by the ship, the port sanitary service shall inform the master of the ship of the cost of the said measures.

16. In taking any measures under these Rules which are liable to restrict movement, port sanitary service officers must so far as possible, especially in the case of uninfected ships, limit themselves to such measures as are absolutely indispensable. In so doing they shall take into consideration any preventive measures taken on departure of the ship from an infected port or during the voyage, the presence of a doctor on board and the ship's disinfection, disinsectization and deratization facilities, and any other circumstances which might enable them to determine the degree of danger of the introduction of communicable diseases; for example, whether the ship has the requisite bill of health, the measures applied at the ship's port of departure, any periodic deratizations carried out and so forth.

17. The port sanitary service may require the ship's doctor or, failing him, the master of the ship or his deputy, to submit an official statement that there have been no cases of cholera, plague, yellow fever, typhus or smallpox on board since the ship's departure from a specified infected port or within the time-limits laid down in these Rules before the ship's arrival at a USSR port.

18. Any ship arriving in port which does not wish to submit to measures prescribed by the sanitary service shall be at liberty to put back to sea. Such a ship may however be permitted to land goods, if the ship is isolated and if the goods are subjected to the measures laid down in these Rules. It may also, by agreement with the customs authority, the frontier guard or the NKVD authorities, be permitted to disembark passengers at their request, on condition that they comply with the measures prescribed by the port sanitary service. The ship may also, while remaining isolated, take on fuel, foodstuffs and water.

19. The sanitary service of the port of arrival shall, when requested, furnish the master or the shipowner or his agent with a certificate specifying the nature of the sanitary measures taken and the reasons why they were applied. Persons arriving on board such ships shall be entitled to receive from the port sanitary service certificates stating the time of their arrival and the measures to which they have been subjected.

20. Ships arriving from an infected port which have been subjected to adequate sanitary measures in any port of a foreign State shall not be subjected to these measures again on their arrival at a USSR port, provided that there has been no single case of disease since the sanitary measures were applied and that the ship has not called at an infected port.

Note. A ship shall not be deemed to have called at a port if, without having been in contact with the shore, it has landed only passengers and luggage, and mails, or if it has taken on board only mails or passengers, with or without luggage, who have not been in communication with the port or with infected localities. In the case of yellow fever the ship must, in addition, have remained as far as possible, and in no circumstances less than two hundred metres, off shore, in order to prevent access of infection-bearing mosquitoes (*Stegomyia*).

21. Ships arriving from foreign ports or places which have been given free *pratique* at a USSR port during a non-epidemic period shall be permitted to enter another USSR port on the same coast after an officer of the port sanitary service has interrogated the master of the ship and the ship's doctor. However, if one or more ports of the said coast are declared by the People's Commissariat of Health of the USSR to be infected with one of the communicable diseases referred to in these Rules, all ships leaving or having called at such ports shall be subjected to the measures prescribed for ships arriving from foreign ports or places.

22. On visiting foreign ports and during their stay in such ports, ships sailing under the flag of the USSR shall observe the provisions of the International Sanitary Convention. When visiting ports of States with which the USSR has concluded separate sanitary conventions, they shall in addition observe the provisions of those conventions and shall comply with all sanitary measures prescribed for them by the foreign sanitary authorities, if these measures are in conformity with the aforesaid conventions.

23. Where misunderstandings arise in foreign ports in connexion with any demands made by the local sanitary authorities, the master of a ship sailing under the flag of the USSR must call upon a plenipotentiary representative or consul of the USSR in the country concerned for assistance in disposing of them.

(k) ORDER OF 23 AUGUST 1931 OF THE CENTRAL EXECUTIVE COMMITTEE AND THE COUNCIL OF PEOPLE'S COMMISSARS OF THE USSR CONCERNING THE SANITARY PROTECTION OF THE FRONTIERS OF THE USSR ¹

Having regard to the ratification by the Government of the USSR of the International Sanitary Convention signed at Paris on 21 June 1926 (*Sobranie Zakonov*, 1929, Part II, No. 19, p. 106), the Central Executive Committee and the Council of People's Commissars of the USSR hereby order as follows:

1. The purpose of the sanitary protection of the land and sea frontiers of the USSR is to prevent the introduction of communicable diseases into the USSR from abroad and their transmission abroad from the USSR.

¹ *Sobranie Zakonov*, 1931, No. 55, p. 355. Text of Order provided by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations. Translation by the Secretariat of the United Nations.

The following shall be deemed to be communicable diseases within the meaning of this Order: plague, cholera, yellow fever and, if prevailing in epidemic form, typhus and smallpox.

(1) CUSTOMS CODE OF 19 DECEMBER 1928 ¹

SECTION II

Carriage of goods by sea in foreign-going ships

28. Ships shall be permitted to arrive from foreign ports and places and to depart for foreign ports and places at points where there are customs offices or temporary customs posts opened pursuant to article 26. A list of such points shall be compiled by the People's Commissariat of Foreign Trade of the Union of Soviet Socialist Republics by agreement with the People's Commissariat of the Merchant Fleet, the People's Commissariat of Internal Affairs and the People's Commissariat of Foreign Affairs, and shall be published for the information of all concerned.

29. The procedure for the customs reception and clearance of ships shall be prescribed in regulations approved by the People's Commissariat of Foreign Trade of the Union of Soviet Socialist Republics.

50. The customs office shall have the right to inspect ships arriving from foreign ports or places within the limits of port waters and at any time while such vessels are lying in port.

57. Warships on operational duty sailing under the flag or belonging to the naval reserve shall not be subject to customs inspection.

Other ships of the Workers' and Peasants' Red Fleet, in particular warships which have completed a tour of operational duty may, after the crew has been disembarked, be subjected to customs inspection only if there are grounds to believe that there is contraband concealed on board; in each such case the local naval command shall be notified.

The unloading or transshipment of any articles from warships entering ports of the Union of Soviet Socialist Republics from foreign ports or places may be carried out only under the supervision of the customs office, which must be given prior notice of the time of unloading or transshipment by the captain of the ship.

The same procedure shall be followed for the customs inspection of the belongings of the crew of a warship arriving from foreign ports or places after completion of a tour of operational duty, or disembarkation of the crew.

Note. The term "warship" means any ship equipped with naval armament, manned by naval personnel and sailing under a naval or frontier

¹ Approved by Order of 19 December 1928 of the Central Executive Committee and the Council of People's Commissars of the Union of Soviet Socialist Republics. Text provided by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations. Translation by the Secretariat of the United Nations.

guard flag, and any ship of the maritime security department employed on naval operational duties by special order of the naval command.

59. The customs inspection rules prescribed for ships of the Workers' and Peasants' Red Fleet shall also apply to foreign warships.

Note. See also: Regulation of 29 March 1952 concerning the procedure for investigation of shipping casualties (*infra*, Chapter II, Section B, under USSR (a)); and Penal Code (*infra*, Chapter II, Section B, under USSR (b)).

United Kingdom of Great Britain and Northern Ireland

(a) MERCHANT SHIPPING ACT, 1894¹

PART V. SAFETY

Prevention of Collisions

418. *Collision regulation.* (1) Her Majesty may, on the joint recommendation of the Admiralty and the Board of Trade, by Order in Council, make regulations for the prevention of collisions at sea, and may thereby regulate the lights to be carried and exhibited, the fog signals to be carried and used, and the steering and sailing rules to be observed, by ships, and those regulations (in this Act referred to as the collision regulations), shall have effect as if enacted in this Act.

(2) The collision regulations, together with the provisions of this Part of this Act relating thereto, or otherwise relating to collisions, shall be observed by all foreign ships within British jurisdiction and in any case arising in a British court concerning matters arising within British jurisdiction, foreign ships shall, so far as respects the collision regulations and the said provisions of this Act, be treated as if they were British ships.

424. *Application of collision regulations to foreign ships.* Whenever it is made to appear to Her Majesty in Council that the Government of any foreign country is willing that the collision regulations, or the provisions of this Part of this Act relating thereto or otherwise relating to collisions, or any of those regulations or provisions should apply to the ships of that country when beyond the limits of British jurisdiction, Her Majesty may, by Order in Council, direct that those regulations and provisions shall, subject to any limitation of time conditions and qualifications contained in the Order, apply to the ships of the said foreign country, whether within British jurisdiction or not, and that such ship shall for the purpose of such regulations and provisions be treated as if they were British ships.

PART VI. SPECIAL SHIPPING INQUIRIES AND COURTS

Inquiries and Investigations as to Shipping Casualties

464. *Shipping casualties.* For the purpose of inquiries and investigations under this Part of this Act, a shipping casualty shall be deemed to occur —

¹ *Halsbury's Statutes of England*, Second Edition, vol. 23, p. 613 *et seq.*

(1) When on or near the coasts of the United Kingdom any ship is lost, abandoned, or materially damaged;

(2) When on or near the coasts of the United Kingdom any ship has been stranded or damaged, and any witness is found in the United Kingdom;

(3) When on or near the coasts of the United Kingdom any ship causes loss or material damage to any other ship;

(4) When any loss of life ensues by reason of any casualty happening to or on board any ship on or near the coasts of the United Kingdom;

(5) When in any place any such loss, abandonment, material damage, or casualty as above mentioned occurs, and any witness is found in the United Kingdom;

(6) When in any place any British ship is stranded or damaged, and any witness is found in the United Kingdom;

(7) When any British ship is lost or is supposed to have been lost, and any evidence is obtainable in the United Kingdom as to the circumstances under which she proceeded to sea or was last heard of.

465. *Preliminary inquiry into shipping casualties.* (1) Where a shipping casualty has occurred, a preliminary inquiry may be held respecting the casualty by the following persons; namely, —

(a) Where the shipping casualty occurs on or near the coasts of the United Kingdom, by the inspecting officer of the coastguard or chief officer of customs residing at or near the place at which the casualty occurs; or

(b) Where the shipping casualty occurs elsewhere, by the inspecting officer of the coastguard or chief officer of customs residing at or near any place at which the witnesses with respect to the casualty arrive or are found or can be conveniently examined; or

(c) In any case by any person appointed for the purpose by the Board of Trade.

(2) For the purpose of any such inquiry, the person holding the same shall have the powers of a Board of Trade inspector under this Act.

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PART IX. WRECK AND SALVAGE

Vessels in Distress

510. *Definition of "wreck" and "salvage".* In this Part of this Act, unless the context otherwise requires —

(1) The expression "wreck" includes jetsam, flotsam, lagan, and derelict found in or on the shores of the sea or any tidal water;

(2) The expression "salvage" includes all expenses, properly incurred by the salvor in the performance of the salvage services.

511. *Duty of receiver where vessel in distress.* (1) Where a British or foreign vessel is wrecked, stranded, or in distress at any place on or near the coasts of the United Kingdom or any tidal water within the limits of the United Kingdom, the receiver of wreck for the district in which that place is situate shall, upon being made acquainted with the circumstance, forthwith proceed there, and upon his arrival shall take the command of all persons present, and shall assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel and of the lives of the persons belonging to the vessel (in this Part of this Act referred to as shipwrecked persons) and of the cargo and apparel of the vessel.

(2) If any person wilfully disobeys the direction of the receiver, he shall for each offence be liable to a fine not exceeding fifty pounds; but the receiver shall not interfere between the master and the crew of the vessel in reference to the management thereof, unless he is requested to do so by the master.

517. *Examination in respect of ships in distress.* (1) Where any ship, British or foreign, is or has been in distress on the coasts of the United Kingdom, a receiver of wreck, or at the request of the Board of Trade a wreck commissioner or deputy approved by the Board, or, in the absence of the persons aforesaid, a justice of the peace, shall, as soon as conveniently may be, examine on oath (and they are hereby respectively empowered to administer the oath) any person belonging to the ship, or any other person who may be able to give any account thereof or of the cargo or stores thereof, as to the following matters; (that is to say,)

- (a) The name and description of the ship;
- (b) The name of the master and of the owners;
- (c) The names of the owners of the cargo;
- (d) The ports from and to which the ship was bound;
- (e) The occasion of the distress of the ship;
- (f) The services rendered; and
- (g) Such other matters or circumstances relating to the ship, or to the cargo on board the same, as the person holding the examination thinks necessary.

(2) The person holding the examination shall take the same down in writing, and shall send one copy thereof to the Board of Trade, and another to the Secretary of Lloyd's in London, and the secretary shall place it in some conspicuous situation for inspection.

(3) The person holding the examination shall, for the purposes thereof, have all the powers of a Board of Trade inspector under this Act.

Dealing with Wreck

519. *Penalty for taking wreck at time of casualty.* (1) Where a vessel is wrecked, stranded, or in distress at any place on or near the coasts of the United Kingdom or any tidal water within the limits of the United Kingdom, any cargo or other articles belonging to or separated from the vessel, which may be washed on shore or otherwise lost or taken from the vessel shall be delivered to the receiver.

(2) If any person, whether the owner or not, secretes or keeps possession of any such cargo or article, or refuses to deliver the same to the receiver or any person authorised by him to demand the same, that person shall for each offence be liable to a fine not exceeding one hundred pounds.

(3) The receiver or any person authorised as aforesaid may take any such cargo or article by force from the person so refusing to deliver the same.

Removal of Wrecks

530. *Removal of wreck by harbour or conservancy authority.* Where any vessel is sunk, stranded, or abandoned in any harbour or tidal water under the control of a harbour or conservancy authority, or in or near any approach

thereto, in such manner as in the opinion of the authority to be, or be likely to become, an obstruction or danger to navigation or to lifeboats engaged in lifeboat service in that harbour or water or in any approach thereto, that authority may —

(a) Take possession of, and raise, remove, or destroy the whole or any part of the vessel; and

(b) Light or buoy any such vessel or part until the raising, removal, or destruction thereof; and

(c) Sell, in such manner as they think fit, any vessel or part so raised or removed, and also any other property recovered in the exercise of their powers under this section, and out of the proceeds of the sale reimburse themselves for the expenses incurred by them in relation thereto under this section, and the authority shall hold the surplus, if any, of the proceeds in trust for the persons entitled thereto.

Provided as follows:

(1) A sale shall not (except in the case of property which is of a perishable nature, or which would deteriorate in value by delay) be made under this section until at least seven clear days notice of the intended sale has been given by advertisement in some local newspaper circulating in or near the district over which the authority have control; and

(2) At any time before any property is sold under this section, the owner thereof shall be entitled to have the same delivered to him on payment to the authority of the fair market value thereof, to be ascertained by agreement between the authority and the owner, or failing agreement by some person to be named for the purpose by the Board of Trade, and the sum paid to the authority as the value of any property under this provision shall, for the purposes of this section, be deemed to be the proceeds of sale of that property.

531. *Power of lighthouse authority to remove wreck.* (1) Where any vessel is sunk, stranded, or abandoned in any fairway, or on the seashore or on or near any rock, shoal, or bank, in the British Islands, or any of the adjacent seas or islands, and there is not any harbour or conservancy authority having power to raise, remove, or destroy the vessel, the general lighthouse authority for the place in or near which the vessel is situate shall, if in their opinion the vessel is, or is likely to become, an obstruction or danger to navigation or to lifeboats engaged in the lifeboat service, have the same powers in relation thereto as are by this Part of this Act conferred upon a harbour or conservancy authority.

(2) All expenses incurred by the general lighthouse authority under this section, and not reimbursed in manner provided by this Part of this Act, shall be paid out of the Mercantile Marine Fund, but shall be subject to the like estimate, account, and sanction as the expenses of a general lighthouse authority, other than establishment expenses.

532. *Powers of removal to extend to tackle, cargo, etc.* The provisions of this Part of this Act relating to removal of wrecks shall apply to every article or thing or collection of things being or forming part of the tackle, equipments, cargo, stores, or ballast of a vessel in the same manner as if it were included in the term "vessel", and for the purposes of these provisions any proceeds of sale arising from a vessel and from the cargo thereof, or any other property recovered therefrom, shall be regarded as a common fund.

Offences in respect of Wreck

535. *Taking wreck to foreign port.* If any person takes into any foreign port any vessel, stranded, derelict, or otherwise in distress, found on or near the coasts of the United Kingdom or any tidal water within the limits of the United Kingdom, or any part of the cargo or apparel thereof, or anything belonging thereto, or any wreck found within those limits, and there sells the same, that person shall be guilty of felony, and on conviction thereof shall be liable to be kept in penal servitude for a term not less than three years and not exceeding five years.

536. *Interfering with wrecked vessel or wreck.* (1) A person shall not without the leave of the master board or endeavour to board any vessel which is wrecked, stranded, or in distress, unless that person is, or acts by command of, the receiver or a person lawfully acting as such, and if any person acts in contravention of this enactment, he shall for each offence be liable to a fine not exceeding fifty pounds, and the master of the vessel may repel him by force.

(2) A person shall not —

(a) Impede or hinder, or endeavour in any way to impede or hinder, the saving of any vessel stranded or in danger of being stranded, or otherwise in distress on or near any coast or tidal water, or of any part of the cargo or apparel thereof, or of any wreck;

(b) Secrete any wreck, or deface or obliterate any marks thereon; or

(c) Wrongfully carry away or remove any part of a vessel stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water, or any part of the cargo or apparel thereof, or any wreck, and if any person acts in contravention of this enactment, he shall be liable for each offence to a fine not exceeding fifty pounds, and that fine may be inflicted in addition to any punishment to which he may be liable by law under this Act or otherwise.

537. *Summary procedure for concealment of wreck.* (1) Where a receiver suspects or receives information that any wreck is secreted or in the possession of some person, who is not the owner thereof or that any wreck is otherwise improperly dealt with, he may apply to any justice of the peace for a search warrant and that justice shall have power to grant such a warrant, and the receiver, by virtue thereof, may enter any house, or other place, wherever situate, and also any vessel, and search for, seize, and detain any such wreck there found.

(2) If any such seizure of wreck is made in consequence of information given by any person to the receiver, on a warrant being issued under this section, the informer shall be entitled, by way of salvage, to such sum not exceeding in any case five pounds as the receiver may allow.

Salvage

544. *Salvage payable for saving life.* (1) Where services are rendered wholly or in part within British waters in saving life from any British or foreign vessel, or elsewhere in saving life from any British vessel, there shall be payable to the salvor by the owner of the vessel, cargo, or apparel saved, a reasonable amount of salvage, to be determined in case of dispute in manner hereinafter mentioned.

(2) Salvage in respect of the preservation of life when payable by the owners of the vessel shall be payable in priority to all other claims for salvage.

(3) Where the vessel, cargo, and apparel are destroyed, or the value thereof is insufficient, after payment of the actual expenses incurred, to pay the amount of salvage payable in respect of the preservation of life, the Board of Trade may, in their discretion, award to the salvor, out of the Mercantile Marine Fund, such sum as they think fit in whole or part satisfaction of any amount of salvage so left unpaid.

545. *Salvage of life from foreign vessels.* When it is made to appear to Her Majesty that the government of any foreign country is willing that salvage should be awarded by British courts for services rendered in saving life from ships belonging to that country, when the ship is beyond the limits of British jurisdiction, Her Majesty may, by Order in Council, direct that the provisions of this Part of this Act with reference to salvage of life shall, subject to any conditions and qualifications contained in the Order, apply, and those provisions shall accordingly apply to those services as if they were rendered in saving life from ships within British jurisdiction.

546. *Salvage of cargo or wreck.* Where any vessel is wrecked, stranded, or in distress at any place on or near the coasts of the United Kingdom or any tidal water within the limits of the United Kingdom, and services are rendered by any person in assisting that vessel or saving the cargo or apparel of that vessel or any part thereof, and where services are rendered by any person other than a receiver in saving any wreck, there shall be payable to the salvor by the owner of the vessel, cargo, apparel, or wreck, a reasonable amount of salvage to be determined in case of dispute in manner hereinafter mentioned.

Jurisdiction of High Court in Salvage

565. *Jurisdiction of High Court in salvage.* Subject to the provisions of this Act, the High Court, and in Scotland the Court of Session, shall have jurisdiction to decide upon all claims whatsoever relating to salvage, whether the services in respect of which salvage is claimed were performed on the high seas or within the body of any county, or partly on the high seas and partly within the body of any county, and whether the wreck in respect of which salvage is claimed is found on the sea or on the land, or partly on the sea and partly on the land.

Duties on Wreck

569. *Provisions as to duties, etc. on wrecked goods.* (1) All wreck, being foreign goods brought or coming into the United Kingdom or Isle of Man, shall be subject to the same duties as if the same was imported into the United Kingdom or Isle of Man respectively, and if any question arises as to the origin of the goods, they shall be deemed to be the produce of such country as the Commissioners of Customs may on investigation determine.

(2) The Commissioners of Customs and Inland Revenue shall permit all goods, wares, and merchandise saved from any ship stranded or wrecked on her homeward voyage to be forwarded to the port of her original destination, and all goods, wares, and merchandise saved from any ship stranded

or wrecked on her outward voyage to be returned to the port at which the same were shipped; but those Commissioners shall take security for the due protection of the revenue in respect of those goods.

PART XI. LIGHTHOUSES

General Management

634. *Management of lighthouses, buoys, and beacons.* (1) Subject to the provisions of this Part of this Act, and subject also to any powers or rights now lawfully enjoyed or exercised by any person or body of persons having by law or usage authority over local lighthouses, buoys, or beacons, (in this Act referred to as "local lighthouse authorities)," the superintendence and management of all lighthouses, buoys, and beacons shall within the following areas be vested in the following bodies; namely, —

(a) Throughout England and Wales, and the Channel Islands, and the adjacent seas and islands, and at Gibraltar, in the Trinity House;

(b) Throughout Scotland and the adjacent seas and islands, and the Isle of Man, in the Commissioners of Northern Lighthouses; and

(c) Throughout Ireland and the adjacent seas and islands, in the Commissioners of Irish Lights,

and those bodies are in this Act referred to as the general lighthouse authorities, and those areas as lighthouse areas.

(2) Subject to the provisions of this Part of this Act, the general lighthouse authorities shall respectively continue to hold and maintain all property now vested in them in that behalf in the same manner and for the same purposes as they have hitherto held and maintained the same.

Light Dues

643. *Light dues payable in respect of certain ships.* . . . Light dues shall be payable in respect of all ships whatever, except ships belonging to Her Majesty, and ships exempted from payment thereof in pursuance of this Act.

647. *Publication of light dues and regulations.* Tables of all light dues, and a copy of the regulations for the time being in force in respect thereof, shall be posted up at all custom houses in the United Kingdom, and for that purpose each of the general lighthouse authorities shall furnish copies of all such tables and regulations to the Commissioners of Customs in London, and to the chief officers of customs resident at all places where light dues are collected on account of that lighthouse authority; and those copies shall be posted up by the Commissioners of Customs at the Custom House in London, and by the chief officers of customs at the custom houses of the places at which they are respectively resident.

Lighthouses, etc. in Colonies

670. *Dues for colonial lighthouses, etc.* (1) Where any lighthouse, buoy, or beacon has, either before or after the passing of this Act, been erected or placed on or near the coasts of any British possession by or with the consent of the legislature of that possession, Her Majesty may by Order in Council fix such dues (in this Act referred to as colonial light dues) to be

paid in respect of that lighthouse, buoy, or beacon by the owner or master of every ship which passes the same and derives benefit therefrom, as Her Majesty may deem reasonable, and may by like order increase, diminish, or repeal such dues, and those dues shall from the time mentioned in the Order be leviable throughout Her Majesty's dominions.

(2) Colonial light dues shall not be levied in any British possession unless the legislature of that possession has by address to the Crown, or by Act or ordinance duly passed, signified its opinion that the dues ought to be levied.

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PART XIII. LEGAL PROCEEDINGS
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Jurisdiction

684. *Provision as to jurisdiction in case of offences.* For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed and every cause of complaint to have arisen either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be.

685. *Jurisdiction over ships lying off the coasts.* (1) Where any district within which any court, justice of the peace, or other magistrate, has jurisdiction either under this Act or under any other Act or at common law for any purpose whatever is situate on the coast of any sea, or abutting on or projecting into any bay, channel, lake, river, or other navigable water, every such court, justice, or magistrate shall have jurisdiction over any vessel being on, or lying or passing off, that coast, or being in or near that bay, channel, lake, river, or navigable water, and over all persons on board that vessel or for the time being belonging thereto, in the same manner as if the vessel or persons were within the limits of the original jurisdiction of the court, justice, or magistrate.

(2) The jurisdiction under this section shall be in addition to and not in derogation of any jurisdiction or power of a court under the Summary Jurisdiction Acts.

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Damage occasioned by Foreign Ship
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688. *Power to arrest foreign ship that has occasioned damage.*

(1) Whenever any injury has in any part of the world been caused to any property belonging to Her Majesty or to any of Her Majesty's subjects by any foreign ship, and at any time thereafter that ship is found in any port or river of the United Kingdom or within three miles of the coast thereof, a judge of any court of record in the United Kingdom (and in Scotland the Court of Session and also the sheriff of the county within whose jurisdiction the ship may be) may, upon its being shown to him by any person applying summarily that the injury was probably caused by the misconduct or want of skill of the master or mariners of the ship, issue an order directed to any officer of customs or other officer named by the judge, court, or sheriff, requiring him to detain the ship until such time as the owner, master, or consignee thereof has made satisfaction in respect of the injury, or has given security, to be approved by the judge, court, or sheriff, to abide the event of any action, suit, or other legal proceeding that may be instituted in respect of the injury, and to pay all costs and damages

that may be awarded thereon; and any officer of customs or other officer to whom the order is directed shall detain the ship accordingly.

(2) Where it appears that, before an application can be made under this section, the ship in respect of which the application is to be made will have departed from the limits of the United Kingdom or three miles from the coast thereof, the ship may be detained for such time as will allow the application to be made, and the result thereof to be communicated to the officer detaining the ship, and that officer shall not be liable for any costs or damages in respect of the detention unless the same is proved to have been made without reasonable grounds.

(3) In any legal proceeding in relation to any such injury aforesaid, the person giving security shall be made defendant or defender, and shall be stated to be the owner of the ship that has occasioned the damage; and the production of the order of the judge, court, or sheriff made in relation to the security shall be conclusive evidence of the liability of the defendant or defender to the proceeding.

. . .

(b) FOREIGN ENLISTMENT ACT, 1870¹

. . .

Preliminary

. . .

2. *Application of Act.* This Act shall extend to all the dominions of Her Majesty, including the adjacent territorial waters.

. . .

Illegal Enlistment

. . .

7. *Penalty on taking illegally enlisted persons on board ship.* If the master or owner of any ship, without the licence of Her Majesty, knowingly either takes on board, or engages to take on board, or has on board such ship within Her Majesty's dominions, any of the following persons, in this Act referred to as illegally enlisted persons; that is to say,

(1) Any person who, being a British subject within or without the dominions of Her Majesty, has, without the licence of Her Majesty, accepted or agreed to accept any commission or engagement in the military or naval service of any foreign state at war with any friendly state;

(2) Any person, being a British subject, who, without the licence of Her Majesty, is about to quit Her Majesty's dominions with intent to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state;

(3) Any person who has been induced to embark under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state;

Such master or owner shall be guilty of an offence against this Act, and the following consequences shall ensue; that is to say,

(1) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the

¹ *Ibid.*, vol. 5, p. 853.

offender is convicted; and imprisonment, if awarded, may be either with or without hard labour; and

(2) Such ship shall be detained until the trial and conviction or acquittal of the master or owner, and until all penalties inflicted on the master or owner have been paid, or the master or owner has given security for the payment of such penalties to the satisfaction of two justices of the peace, or other magistrate or magistrates having the authority of two justices of the peace; and

(3) All illegally enlisted persons shall immediately on the discovery of the offence be taken on shore, and shall not be allowed to return to the ship.

. . .
Illegal Prize

14. *Illegal prize brought into British ports restored.* If, during the continuance of any war in which Her Majesty may be neutral, any ship, goods, or merchandise captured as prize of war within the territorial jurisdiction of Her Majesty, in violation of the neutrality of this realm, or captured by any ship which may have been built, equipped, commissioned, or despatched, or the force of which may have been augmented, contrary to the provisions of this Act, are brought within the limits of Her Majesty's dominions by the captor, or any agent of the captor, or by any person having come into possession thereof with knowledge that the same was prize of war so captured as aforesaid, it shall be lawful for the original owner of such prize, or his agent, or for any person authorized in that behalf by the Government of the foreign state to which such owner belongs, to make application to the Court of Admiralty for seizure and detention of such prize, and the court shall, on due proof of the facts, order such prize to be restored.

Every such order shall be executed and carried into effect in the same manner, and subject to the same right of appeal, as in case of any order made in the exercise of the ordinary jurisdiction of such court; and in the meantime and until a final order has been made on such application the court shall have power to make all such provisional and other orders as to the care or custody of such captured ship, goods, or merchandise, and (if the same be of perishable nature, or incurring risk of deterioration) for the sale thereof, and with respect to the deposit or investment of the proceeds of any such sale, as may be made by such court in the exercise of its ordinary jurisdiction.

. . .
Legal Procedure

21. *Officers authorized to seize offending ships.* The following officers, that is to say,

(1) Any officer of customs in the United Kingdom, subject nevertheless to any special or general instructions from the Commissioners of Customs, or any officer of the Board of Trade, subject nevertheless to any special or general instructions from the Board of Trade;

(2) Any officer of customs or public officer in any British possession, subject nevertheless to any special or general instructions from the governor of such possession;

(3) Any commissioned officer on full pay in the military service of the Crown, subject nevertheless to any special or general instructions from his commanding officer;

(4) Any commissioned officer on full pay in the naval service of the Crown, subject nevertheless to any special or general instructions from the Admiralty or his superior officer, may seize or detain any ship liable to be seized or detained in pursuance of this Act, and such officers are in this Act referred to as the "local authority"; but nothing in this Act contained shall derogate from the power of the Court of Admiralty to direct any ship to be seized or detained by any officer by whom such court may have power under its ordinary jurisdiction to direct a ship to be seized or detained.

23. *Special power of Secretary of State or chief executive authority to detain ship.* If the Secretary of State or the chief executive authority is satisfied that there is a reasonable and probable cause for believing that a ship within Her Majesty's dominions has been or is being built, commissioned, or equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be despatched contrary to this Act, such Secretary of State or chief executive authority shall have power to issue a warrant stating that there is reasonable and probable cause of believing as aforesaid, and upon such warrant the local authority shall have power to seize and search such ship, and to detain the same until it has been either condemned or released by process of law, or in manner hereinafter mentioned.

24. *Special power of local authority to detain ship.* Where it is represented to any local authority, as defined by this Act, and such local authority believes the representation, that there is a reasonable and probable cause for believing that a ship within Her Majesty's dominions has been or is being built, commissioned, or equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be despatched contrary to this Act, it shall be the duty of such local authority to detain such ship, and forthwith to communicate the fact of such detention to the Secretary of State or chief executive authority.

(c) QUEEN'S REGULATIONS AND ADMIRALTY INSTRUCTIONS, 1953 ¹

Foreign Relations

2810. *Neutrality.* When Powers in amity with Her Majesty are in a state of war, or are engaged in hostilities, it is the duty of all Her Majesty's officers to observe a strict and impartial neutrality between the contending parties, and to respect unreservedly the just exercise of their respective belligerent rights.

2811. *Respect of territorial limits.* The territorial limits of foreign powers in amity with Her Majesty are scrupulously to be respected, in so far as they do not exceed the limits generally recognised in international law. No exercise of authority over the persons, the ships, or the goods of another

¹ *The Queens' Regulations and Admiralty Instructions for the Government of Her Majesty's Naval Service*, London, Her Majesty's Stationery Office, 1953, ch. 28.

nation is permissible in territorial waters, nor are any gun firing or other practices or hydrographic surveys to take place within such limits without the permission of the appropriate authorities.

. . .

2815. *Foreign Enlistment Act 1870.* Any naval or Royal Marine officer may be called upon to exercise certain responsibilities under the Act and, although he is unlikely to have to do so without instructions from the Admiralty, he is also expected to bring to the notice of higher authority suspected breaches or impending breaches of it. It is therefore desirable that officers should have a general knowledge of the purposes of the Act.

. . .

(3) It is also an offence for the master or owner of any ship, whether British or not, in British territory to take on board any British subject who intends to enlist in the armed forces of a foreign state at war with a friendly power.

(4) It is also an offence for any person in British territory, whether British himself or not, to attempt to induce a British subject to enlist in the armed forces of a foreign state at war with a friendly power.

(5) The normal procedure under the Act in the case of a ship is to obtain an order of the High Court or similar authority against her. Any Customs Officer, or Ministry of Transport officer or naval or military or air force officer on full pay may then be called upon to seize and detain the ship.

(6) In the United Kingdom a Secretary of State, or in other British territory the chief executive authority, may issue a warrant for the detention of such a ship if he has reasonable and probable cause for believing that the ship is about to be used for a purpose contrary to the Act. The officers mentioned in the preceding clause may be called upon to detain the ship under the warrant of the Secretary of State or the chief executive authority. In such cases the onus is upon the owner to show that he is not guilty of the suspected offence. If he is successful in doing so, the Crown may be liable for damages.

(7) In cases of extreme urgency, e.g. where the ship would have sailed for a foreign port before a warrant could be obtained, local authorities, including local naval authorities, may detain a ship under the Act, communicating the fact forthwith to the Government department concerned. Since wrongful detention in these circumstances will mean that the Crown has to pay damages, it is obvious that the evidence of an intended infringement of the Act must be very strong to justify detention by local authorities on their own initiative even in cases of extreme urgency.

(8) Special caution is to be used in dealing with armed ships.

. . .

(10) The powers of seizure and detention given to officers as above are exercisable in British territorial waters over any private ship whatever be her nationality.

(11) These powers are also exercisable on the high seas, not being territorial waters, over British ships but over no other ships.

(12) They are not exercisable over any ship in foreign territorial waters.

(13) They are not exercisable in any waters over any ship of war of any foreign state.

. . .

(d) COAST PROTECTION ACT, 1949¹

PART I

Coast Protection

. . .

18. *Prohibition of excavation, etc. of materials on or under the seashore.* (1) Subject to the provisions of this section, and notwithstanding anything contained in any other enactment, it shall be unlawful to excavate or remove any materials (other than minerals more than fifty feet below the surface) on, under or forming part of any portion of the seashore to which the provisions of this section are applied.

(2) The provisions of the last foregoing subsection shall not affect the excavation or removal of any materials by the Minister of Transport in the exercise of the powers conferred upon him by Part II of this Act, or the excavation or removal thereof by any other person in compliance with a notice served by that Minister under the said Part II.

(3) A coast protection authority may make an order applying the provisions of this section to any such portion of the seashore within their area or lying to seaward therefrom as may be described in the order:

Provided that the order may, as respects the whole of that portion of the seashore or any such part thereof as may be specified in the order, except from the provisions of subsection (1) of this section the carrying out of operations of any such class as may be so specified, and any such exception may be either unconditional or subject to such conditions as may be specified in the order.

. . .

PART II

Provisions for Safety of Navigation

34. *Restriction of works detrimental to navigation.* (1) Subject to the provisions of the next following section, no person shall without the consent in writing of the Minister of Transport carry out any of the following operations, that is to say, —

(a) Construct, alter or improve any works on, under or over any part of the seashore lying below high water mark of ordinary spring tides;

(b) Deposit any object or any materials on any such part of the seashore as aforesaid, or

(c) Remove any object or any materials from any part of the seashore lying below low water mark of ordinary spring tides, so that obstruction or danger to navigation is caused or is likely to result.

. . .

49. *Interpretation.* (1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:

. . .

Subject to the provisions of the next following subsection, “seashore” means the bed and shore of the sea, and of every channel, creek, bay or

¹ *Halsbury's Statutes of England*, Second Edition, vol. 26, p. 1167 *et seq.*

estuary, and of every river as far up that river as the tide flows, and any cliff, bank, barrier, dune, beach, flat or other land adjacent to the shore;
 "surface", in relation to land covered by water, means the surface of the land;

. . .
 . . .
 . . .

(e) RIVER BOARDS ACT, 1948 ¹

Establishment and Functions of River Boards

5. (1) A river board area shall—

(a) For the purposes of the functions of the river board relating to fisheries, include those tidal waters and parts of the sea adjoining the coast of the river board area within which His Majesty's subjects have the exclusive right of fishing; and

(b) For the purposes of the functions of the river board relating to river pollution, include such tidal waters and parts of the sea adjoining the coast of the river board area as are included in the definition of "stream" for the purposes of the Rivers Pollution Prevention Act, 1876, by virtue of an order made, whether before or after the passing of this Act, under section twenty of that Act or section fifty-five of the Salmon and Freshwater Fisheries Act, 1923.

(2) Any question arising under the preceding subsection as to the extent of the tidal waters or parts of the sea included in any river board area for the purposes mentioned in paragraph (a) of that subsection shall be determined by the Minister of Agriculture and Fisheries.

. . .

(f) RIVERS (PREVENTION OF POLLUTION) (SCOTLAND) ACT, 1951 ²

PART IV. GENERAL

Tidal Waters

29. (1) The provisions of this Act shall, as from such day as the Secretary of State may by order appoint for the purpose, apply to the tidal waters specified in the Second Schedule to this Act, subject, however, to such modifications of those provisions as may be specified in the order and to any restrictions on the powers exercisable thereunder by a river purification authority which may be so specified.

(2) Subject to this section, the Secretary of State may by order direct that the provisions of this Act shall apply to any tidal waters (other than the tidal waters referred to in the foregoing subsection) specified in the order, subject, however, to such modifications of those provisions as may be so specified and to any restrictions on the powers exercisable thereunder by a river purification authority which may be so specified.

. . .

¹ 11 & 12 Geo. 6, Ch. 32. Text of Act provided by the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations.

² 14 & 15 Geo. 6, Ch. 66. Text of Act provided by the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations.

35. (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say —

“tidal waters” means any part of the sea or the tidal part of any river, watercourse or inland water (whether natural or artificial) and includes the waters of any enclosed dock which adjoins tidal waters;

SECOND SCHEDULE

Tidal Waters to which this Act Applies

1. The tidal waters of the Firth of Clyde (including the waters of Holy Loch, Loch Goil, Loch Long and Gareloch) to the north and east of an imaginary line drawn across the Firth of Clyde in a westerly direction from Cloch Point in the County of Renfrew to Castle Hill, Dunoon, in the County of Argyll and of any stream flowing into those waters.

2. The tidal waters of the Firth of Forth west of an imaginary line drawn across the Firth of Forth in a southerly direction from Kincaig Point in the County of Fife to Gullane Point in the County of East Lothian and of any stream flowing into those waters.

(g) PILOTAGE ACT, 1913,¹

Recovery, etc. of Pilotage Dues

49. (1) The following persons shall be liable to pay pilotage dues for any ship for which the services of a licensed pilot are obtained, namely:

(a) The owner or master;

(b) As to pilotage inwards, such consignees or agents as have paid or made themselves liable to pay any other charge on account of the ship in the port of her arrival or discharge;

(c) As to pilotage outwards, such consignees or agents as have paid or made themselves liable to pay any other charge on account of the ship in the port of her departure;

and those dues may be recovered in the same manner as fines of like amount under the Merchant Shipping Act, 1894, but that recovery shall not take place until a previous demand has been made in writing.

(2) Any consignee or agent (not being the owner or master of the ship) who is hereby made liable for the payment of pilotage dues in respect of any ship may, out of any moneys received by him on account of that ship or belonging to the owner thereof, retain the amount of all dues paid by him, together with any reasonable expenses he may have incurred by reason of the payment of the dues or his liability to pay the dues.

50. A licensed pilot shall not demand or receive, and a master shall not offer or pay to any licensed pilot, dues in respect of pilotage services at any other rates, whether greater or less, than the rates which may be demanded

¹ 2 & 3 Geo. 5. Chp. 31. Text of Act provided by the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations.

by law, and, if a pilot or master acts in contravention of this enactment, he shall be liable in respect of each offence to a fine not exceeding ten pounds.

51. If any boat or ship, having on board a licensed pilot, leads any ship which has not a licensed pilot on board when the last-mentioned ship cannot, from particular circumstances, be boarded, the pilot so leading the last-mentioned ship shall be entitled to the full pilotage rate for the distance run as if he had actually been on board and had charge of that ship.

. . .
(h) CUSTOMS AND EXCISE ACT, 1952 ¹
. . .

PART II. IMPORTATION, EXPORTATION AND CARRIAGE COASTWISE PORTS,
Port, customs airports, customs stations, etc.

. . .
19. *Officers' powers of boarding.* (1) At any time while a ship is within the limits of a port, or an aircraft is at a customs airport, or a vehicle is on an approved route, any officer and any other person duly engaged in the prevention of smuggling may board the ship, aircraft or vehicle and remain therein and rummage and search any part thereof.

(2) The Commissioners may station officers in any ship at any time while it is within the limits of a port, and if the master of any ship neglects or refuses to provide reasonable accommodation below decks for any officer stationed therein, or means of safe access to and egress from the ship in accordance with the requirements of any such officer, he shall be liable to a penalty of twenty pounds.

. . .
21. *Officers' powers of detention of ships, etc.* (1) Where at the expiration of a period, in the case of a ship or vehicle, of twenty-one or, in the case of an aircraft, of seven clear days from the date of making due report under section twenty-six of this Act of any ship, vehicle or aircraft, or such longer period as the Commissioners may in any case allow, any goods are still on board the ship, vehicle or aircraft, the proper officer may detain that ship, vehicle or aircraft until —

(a) Any expenses properly incurred in watching and guarding the goods beyond the said period, except, in the case of a ship or aircraft, in respect of the day of clearance inwards; and

(b) Where the goods are removed by virtue of any provision of this Act from the ship, vehicle or aircraft to a Queen's warehouse, the expenses of that removal, have been repaid to the Commissioners.

(2) Where, in the case of any derelict or other ship or aircraft coming, driven or brought into the United Kingdom under legal process, by stress of weather or for safety, or in the case of any vehicle in Northern Ireland which suffers any mishap, it is necessary to station any officer in charge thereof, whether on board or otherwise, for the protection of the revenue, the proper officer may detain that ship, aircraft or vehicle until any expenses thereby incurred by the Commissioners have been repaid.

. . .
¹ *Halsbury's Statutes of England*, Second Edition, vol. 32, p. 718.

Forfeiture of ships, etc., for certain offences

75. *Forfeiture of ship, etc., constructed, etc., for concealing goods:* Where—

(a) A ship is or has been within the limits of any port or within three or, being a British ship, twelve nautical miles of the coast of the United Kingdom; or

(b) An aircraft is or has been at any place, whether on land or on water, in the United Kingdom; or

(c) A vehicle is or has been within the limits of any port or at any aerodrome or, while in Northern Ireland, within the prescribed area, while constructed, adapted, altered or fitted in any manner for the purpose of concealing goods, that ship, aircraft or vehicle shall be liable to forfeiture.

Notes

. . .

Isle of Man. This section, in so far as it relates to customs, applies to the Isle of Man as if that island were part of the United Kingdom . . .

76. *Forfeiture of ship jettisoning cargo, etc.* (1) If any part of the cargo of a ship is thrown overboard, or is staved or destroyed to prevent seizure—

(a) While the ship is within three nautical miles of the coast of the United Kingdom; or

(b) Where the ship, having been properly summoned to bring to by any vessel in the service of Her Majesty, fails so to do and chase is given, at any time during the chase, the ship shall be liable to forfeiture.

(2) For the purposes of this section a ship shall be deemed to have been properly summoned to bring to—

(a) If the vessel making the summons did so by means of an international signal code or other recognised means and while flying her proper ensign; and

(b) In the case of a ship which is not a British ship, if at the time when the summons was made the ship was within three nautical miles of the coast of the United Kingdom.

Notes

. . .

Three nautical miles. Formerly the distance was three leagues, i.e., nine miles.

. . .

77. *Forfeiture of ship or aircraft unable to account for missing cargo.* Where a ship has been within the limits of any port, or an aircraft has been in the United Kingdom, with a cargo on board and a substantial part of that cargo is afterwards found to be missing, then, if the master of the ship or commander of the aircraft fails to account therefor to the satisfaction of the Commissioners, the ship or aircraft shall be liable to forfeiture.

Notes

. . .

Isle of Man. This section, so far as it relates to customs, applies to the Isle of Man as if that island were part of the United Kingdom . . .

Note. See also: Oil in Navigable Waters Act, 1955 (3 & 4 Eliz. 2, ch. 25)—this Act, which has not yet been brought into operation, will replace the Oil in Navigable Waters Act of 1922 (12 & 13 Geo. 5, c. 39)—; Rivers (Prevention of Pollution) Act of 1951 (14 & 15 Geo. 6, ch. 64); General Pier and Harbour Act of 1861 (24 & 25 Vict., Cap. 45), and Harbours, Dock and Piers Clauses Act of 1847 (10 Vict., Cap. 27).

British Guiana

SHIPPING CASUALTIES (INVESTIGATION AND PREVENTION) ORDINANCE, 1883/1895¹

. . .

PART I. INVESTIGATION

2. In this Part of this Ordinance, unless the context otherwise requires—
“the court” means a court of inquiry appointed under the provisions of this Part of this Ordinance;

“ship” means any sea-going vessel or steamer.

3. Nothing in this Part of this Ordinance shall be deemed to apply to any ship belonging to or in the service of Her Majesty or to any ship belonging to any foreign Prince or State.

Court of Inquiry

4. The Governor in his discretion may appoint a court of inquiry under this Part of this Ordinance —

(a) In any of the following cases, that is to say, whenever—

(i) Any ship has been lost, abandoned, or damaged on or near the coasts of the Colony; or

(ii) By reason of any casualty happening to or on board of any ship on or near those coasts, loss of life has ensued; or

(iii) Any ship has caused loss or damage to any other ship on or near those coasts; or

(iv) The loss, abandonment, damage, or casualty has happened elsewhere to any British ship and any competent witness thereof has arrived or is to be found at any place in the Colony; or

(v) Any British ship is supposed to have been lost and any evidence can be obtained in the Colony as to the circumstances under which that ship proceeded to sea or was last heard of; and . . .

. . .

Proceedings on Inquiry

. . .

10. The members of the court may go on board a ship in respect of which an inquiry is held, and may inspect her or any part of her, or any of the machinery, boats, equipment or articles on board, not unnecessarily detaining or delaying her from proceeding on any voyage.

. . .

¹ *The Laws of British Guiana*, vol. V, 1954, Cap. 267, p. 3464 *et seq.*

PART II. PREVENTION

Inspectors of Shipping

20. Every inspector shall have the following powers with respect to all vessels employed in coasting voyages and to vessels of less than one hundred and fifty tons employed in voyages between the Colony and any place without the Colony, that is to say, he may—

(a) Go on board the vessel within the territorial waters of the Colony and inspect it or any part of it or any of its machinery, boats, or equipments;

(b) Demand of the owner or master of the vessel the production of any certificate of survey or inspection issued in respect thereof;

(c) If he considers that the vessel is overloaded and that it would be dangerous to those on board to proceed on any voyage while so loaded, require the removal of any portion of the cargo or load he thinks necessary, and may detain the vessel until the portion is so removed or until the Comptroller of Customs otherwise directs; and,

(d) When he considers that the vessel is for any reason unfit to proceed to sea or on an intended voyage, detain her until he can report the circumstances to the Comptroller of Customs and until the Comptroller of Customs otherwise directs.

Collision between Ships

24. (1) In every case of collision between two ships within the territorial waters of the Colony, it shall be the duty of the master of each ship, if and so far as he can do so without danger to his own ship, crew, and passengers, if any, to stay by the other ship until he has ascertained that she has no need of further assistance, and to render to the other ship, her master, crew, and passengers, if any, such assistance as is practicable and necessary in order to save them from any danger caused by the collision, and also to give to the master the name of his own ship and of her port of registry, or of the port or place to which she belongs, and also the names of the ports or places from which and to which she is bound.

(2) If he fails to do so, and no reasonable cause for his failure is shown, the collision, in the absence of proof to the contrary, shall be deemed to have been caused by his wrongful act, neglect, or default.

(3) Every master of a ship who fails without reasonable cause to render the assistance or give the information aforesaid shall be deemed guilty of a misdemeanour, and, if he is certificated, an inquiry into his conduct may be held and his certificate may be suspended or cancelled under the regulations.

Detention of Overladen Foreign Ship

31. (1) Where a foreign ship has taken on board all or any part of her cargo within the Colony and, whilst within the territorial waters of the Colony, is unsafe by reason of overloading or improper loading, the provisions of this Part of this Ordinance with respect to the detention of British ships shall apply to that foreign ship as if she were a British ship, with the following modifications—

(a) A copy of the order for the detention of the ship shall be forthwith served on the consular officer for the State to which the ship belongs at or nearest to the place where the ship is detained; and

(b) Where a ship has been detained, the consular officer, on the request of the owner or master of the ship, may require that the person appointed by the Comptroller of Customs to survey the ship shall be accompanied by a person selected by the consular officer, and in that case, if the surveyor and that person agree, the Comptroller of Customs shall cause the ship to be detained or released as may be agreed by the surveyor and that person, but if they differ, the Comptroller of Customs shall refer the matter for the consideration of the Supreme Court in the exercise of its jurisdiction aforesaid, and the Court shall have full power to make such order as the justice of the case may require.

(2) In this section, the expression "consular officer" means any consul-general, vice-consul, consular agent, or other officer recognised by the Governor as a consular officer of a foreign State.

. . .
British Solomon Islands

(a) CUSTOMS MANAGEMENT REGULATION, 18 FEBRUARY 1907¹

. . .
2. (1) In this Regulation—

. . .
"Protectorate" means and includes the islands of the Protectorate and the waters of the said islands for three miles seaward from low-water mark of any part thereof;

. . .
Arrival and Entry Inwards of Vessels

3. The master of any vessel arriving in the Protectorate shall not anchor his vessel at any place not a port of entry nor delay unnecessarily after having entered the waters of the Protectorate in making for the port of the Protectorate to which the vessel is bound.

4. On the arrival of any vessel within the waters of the Protectorate any officer of Customs may at any place and at any time proceed on board such vessel, and, if by boat, the display by such officer of a flag of not less dimensions than four feet by two feet with the upper horizontal half blue and containing the Union Jack and the lower horizontal half white with the letters "H.M.C." conspicuous thereon, shall be deemed sufficient proof of the authority of such officer, and any person other than an officer of Customs displaying such a flag be liable to a penalty not exceeding fifty pounds or in default of payment to imprisonment not exceeding two months.

. . .
(b) QUARANTINE REGULATION, 1 APRIL 1931²

. . .
3. In this Regulation unless the context otherwise requires—

¹ *The Laws of the British Solomon Islands Protectorate*, Revised Edition, vol. I, 1950, cap. 57, p. 448.

² *The Laws of the British Solomon Islands Protectorate*, Revised Edition, vol. I, 1950, cap. 44, p. 293 *et seq.*

“quarantinable disease” means small pox, plague, cholera, yellow fever, typhus fever or leprosy or any disease declared by the Resident Commissioner by proclamation to be a quarantinable disease;

. . . .
PART III. GENERAL PROVISIONS

7. The Resident Commissioner may by proclamation declare that any place beyond or in the Protectorate is infected with a quarantinable disease or that a quarantinable disease may be brought or carried from or through that place and thereupon and so long as the proclamation remains in force that place shall be a proclaimed place within the meaning of this Regulation.

10. The High Commissioner may exempt for such time, and subject to such conditions as he thinks fit, from all or any of the provisions of this Regulation—

- (a) Any ship of war;
- (b) Any vessel trading exclusively between ports or places in the Protectorate or between the Protectorate and Australia, New Zealand or other places adjacent to the Protectorate;
- (c) Any particular vessel or class of vessels; and
- (d) Any persons or goods.

. . . .
PART IV. QUARANTINE OF VESSELS, PERSONS AND GOODS

13. The following vessels shall be subject to quarantine—

- (a) Every oversea vessel until *pratique* has been granted or until she has been released from quarantine;
- (b) Every vessel (whether a Protectorate vessel or an oversea vessel) on board which any quarantinable disease or disease which there is reason to believe or suspect to be a quarantinable disease has broken out or been discovered (notwithstanding that *pratique* has been granted or that she has been released from quarantine); and
- (c) Every vessel which is ordered into quarantine by a quarantine officer.

. . . .
PART VI. MISCELLANEOUS

61. (1) Any quarantine officer may board any vessel being in any port or place in the Protectorate and may require any person on board the vessel to submit to any prescribed examination, and may enter and inspect any part of the vessel and all goods on board the vessel and may inspect the passenger list, bill of health, log, manifest, journal and other ship's papers.

(2) The master of any vessel shall, if so required by a quarantine officer, produce to him for inspection the passenger list, bill of health, log, manifest, journal and other ship's papers.

(3) Any person failing to comply with the requirements of this section shall be liable on summary conviction to a penalty not exceeding twenty pounds.

62. (1) A quarantine officer boarding any vessel may remain thereon for such time as he considers necessary or desirable and the master shall, if

required by the quarantine officer, provide suitable and sufficient food and sleeping accommodation for him.

. . .
Falkland Islands

CUSTOMS ORDINANCE, 6 DECEMBER 1943¹

. . .
2. In this Ordinance and in any other Ordinance relating to the Customs unless the context otherwise requires . . .

“Waters of the Colony” means any waters within a space contained within an imaginary line drawn parallel to the shores or outer reefs of the Colony which appear above the surface at low water mark at ordinary spring tides and distant three miles therefrom.

. . .
*Arrival and Report of Aircraft and Ships, Landing of Passengers
and Unloading, Removal and Delivery of Goods*

46. If any aircraft or ship arriving in the Colony or the waters thereof (a) shall not come to some port therein, or such other place as may be allowed by the Collector in any special circumstances, without touching at any other place in the Colony, or (b) on arriving at any such port or place, shall not come as quickly up to the proper place of mooring or unloading as the nature of the port or place will admit, without touching at any other place, or (c) in proceeding to such proper place, shall not bring to at the station appointed by the Governor by notice in the *Gazette* for the boarding of aircraft or ships, or (d) after arriving at such proper place shall depart therefrom except directly to some other place of mooring or unloading approved of by the proper officer, or, with the authority of the proper officer, directly to some other port or to some place allowed by the Collector in any special circumstances as aforesaid in the Colony, or directly on any flight or voyage to a place outside the Colony in accordance with the provisions of the customs laws, or (e) after departing as aforesaid on any flight or voyage to a place outside the Colony shall bring to within the Colony or the waters thereof, unless in accordance with the customs laws, or with the permission of the proper officer, or for some cause which the master shall explain to the satisfaction of the Collector, then in every such case the master of such aircraft or ship shall incur a penalty of one hundred pounds.

. . .
48. Any officer on duty may board any aircraft or ship within the Colony or the waters thereof, and stay on board for any period, and shall have free access to every part, with power to secure any part by such means as he shall consider necessary, and to examine any goods, and to require any goods to be unloaded and removed for examination, or for the security thereof, or to unload and remove such goods at the expense of the master or owner, or the agent of either, and to examine any goods in course of being unloaded or removed, or when unloaded or removed, and to lock up, seal, mark or otherwise secure any goods on board such aircraft or ship.

. . .

¹ *The Laws of the Falkland Islands*, vol. 1—Ordinances, cap. 16, p. 96 *et seq.*

Gilbert and Ellice Islands

CUSTOMS ORDINANCE, 23 FEBRUARY 1912 ¹

Arrival and Entry Inwards of Vessels

4. The master of any vessel arriving in the Colony shall not, save as herein provided, anchor his vessel at any place not a port of entry, nor delay unnecessarily, after having entered the waters of the Colony, in making for the port of the Colony to which the vessel is bound.

Provided that the Resident Commissioner may give the master of any such vessel permission to anchor at any place not a port of entry. Such permission shall be in writing and may be subject to any condition the Resident Commissioner may think fit to impose and may be at any time revoked by the Resident Commissioner.

5. (1) On the arrival of any vessel within the waters of the Colony, any customs officer may at any place and at any time proceed on board the vessel, and, if he shall do so by boat, the display by the officer of a flag of not less dimensions than four feet by two feet, with the upper horizontal half coloured blue and containing the Union Jack, and the lower horizontal half coloured white, with the letters "H.M.C." conspicuous thereon, shall be deemed sufficient proof of the authority of the officer.

North Borneo

CUSTOMS ORDINANCES, 1 APRIL 1954 ²

PART VI

General Provisions Affecting Vessels in Territorial Waters

38. (1) The master of any vessel in territorial waters shall obey any signal made to him from a preventive or police vessel or any instructions given by an officer of customs or police officer in uniform from any other vessel or any place requiring him to stop or to heave to or to perform any other act.

(2) The master of any vessel found without lawful excuse in territorial waters without a clearance for a customs port in the Colony, or carrying cargo or passengers or both without a proper manifest of such, or found to have passed the customs port named in the papers of such vessel without having made entry and declared at such port, shall be liable on conviction before a magistrate of the first class to a fine of one thousand dollars and to imprisonment for a term of twelve months.

(3) Any vessel found in the circumstances described in subsection (2) shall be liable to seizure by any customs officer or police officer and shall be escorted to a convenient port in the Colony and may there be detained by such customs officer or police officer for a period not exceeding 14 days.

(4) Upon an application by the Attorney-General or any senior customs officer or police officer in any proceedings commenced against the master

¹ *The Laws of the Gilbert and Ellice Islands Colony*, Revised Edition, 1952, cap. 51, p. 328.

² *The Laws of North Borneo*, Revised Edition, vol. II, 1954, ch. 33, p. 670 *et seq.*

of such vessel, or if no such proceedings are commenced then upon notice of such application being served on the master, owner, or agent or affixed in some prominent place on such vessel, the provisions of subsections (1) and (2) of section 357 of the Criminal Procedure Code shall apply to such vessel and to its cargo and to everything on such vessel as if it were produced before the court as having been used in the commission of an offence and any magistrate of the first class may make any orders for custody, sale, destruction or confiscation authorised under such subsections.

(5) An appeal shall lie from any order of a magistrate under subsection (4) at the instance of the master, owner or agent of such vessel as if from a conviction by such magistrate.

(6) Nothing contained in subsections (2) and (3) shall apply to—

(a) Any vessel the master of which satisfies the magistrate that its entry into the waters of the Colony was due to circumstances beyond his control and that its entry and the reason therefore was at the first possible opportunity reported to the nearest customs, police or native authority and that after such entry no person on board or connected with the vessel has done any act contrary to any written law; or

(b) Any local craft if the person in charge thereof can show to the satisfaction of a senior customs officer or magistrate that he has come from a place of departure from which it is unusual to grant or carry clearances or manifests.

39. (1) If any vessel hovers within territorial waters and on examination is found to be conveying goods dutiable on import or goods of a class the importation of which is prohibited, the master and every member of the crew of such vessel shall be presumed, until the contrary is proved, to have imported uncustomed or prohibited goods, as the case may be.

(2) If any vessel hovers within territorial waters and on examination is found not to be carrying any of the goods referred to in subsection (1), such vessel shall be presumed, until the contrary is proved, to be hovering for the purpose of receiving dutiable goods upon which export duty has not been paid or prohibited goods exported contrary to a prohibition and the master and every member of the crew of such vessel shall be guilty of an offence against this Ordinance.

. . .

Sierra Leone

TERRITORIAL WATERS ORDINANCE, 12 NOVEMBER 1921¹

. . .

2. (1) The Governor-in-Council may, by Order, provide for all matters relating to surveying, sounding, the use of searchlights and navigation in the territorial waters of the Colony; and may, by such Order, impose for breach thereof a penalty, not exceeding a fine of fifty pounds, or imprisonment, with hard labour, for six months.

(2) Unless and until such Order is made the provisions contained in the schedule to this Ordinance shall be in force.

¹ *The Laws of the Colony and Protectorate of Sierra Leone*, Revised Edition, vol.II, 1946, cap. 235, p. 2516.

THE SCHEDULE

1. No foreign submarine or submersible vessel shall submerge in the territorial waters of the Colony, or enter such waters submerged.

2. The master of a ship, other than one of His Majesty's ships, shall not, except with the written permission of the Governor, permit the use of searchlights on such ship, or any boat belonging to, or employed by, such ship, within any of the ports or territorial waters of the Colony.

3. The master of a ship, other than one of His Majesty's ships, shall not, except with the written permission of the Governor, permit surveys or soundings to be made or taken in any of the ports or territorial waters of the Colony from on board such ship, or from any boat belonging to, or employed by, such ship: Provided that this section shall not be deemed to prohibit the taking of soundings necessary in the ordinary course of navigation.

4. Any person who acts in contravention of the provisions of this schedule shall be liable, on summary conviction, to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding six months: Provided that this section shall not apply to foreign ships of war.

*Tanganyika*SHIPPING ORDINANCE, 29 OCTOBER 1937¹

PART I. DETENTION OF UNSAFE SHIPS

17. (1) The Marine Superintendent or Port Officer may inspect any ship, British or foreign, for the purpose of seeing that the rules for life saving appliances have been complied with in her case.

(2) If any such officer finds that the rules for life saving appliances have not been complied with, he shall give to the owner or master notice in writing stating in what respect the said rules have not been complied with and what is, in his opinion, requisite to remedy the same.

19. The foregoing provisions of this Ordinance shall not affect a ship, other than a British ship, which is not bound to a port within the Territory and which comes to any place on the coast of the Territory for any purpose other than the purpose of embarking or landing passengers or taking in or discharging cargo, or taking in bunkercoal, oil fuel or any material for the purpose of refuelling, or taking in water or stores or mails.

PART II. SPECIAL SHIPPING INQUIRIES AND COURTS

Inquiries and Investigations as to Shipping Casualties

21. In any of the cases following, that is to say:

(a) Whenever any ship is lost, abandoned, stranded, or damaged on or near the coasts of the Territory or in the course of a voyage to a port within the Territory;

¹ *The Laws of the Tanganyika Territory*, Revised Edition, vol. III, ch. 162, p. 1969 *et seq.*

(b) Whenever any ship causes loss or material damage to any other ship on or near such coasts;

(c) Whenever any ship causes loss or material damage to any other ship, and such ships are, or either of them is, in the course of a voyage to a port within the Territory;

(d) Whenever by reason of any casualty happening to or on board of any ship on or near such coasts, in the course of a voyage to a port within the Territory, loss of life ensues;

(e) Whenever any such loss, abandonment, stranding, damage or casualty happens elsewhere, and any competent witnesses thereof arrive or are found at any place in the Territory, it shall be lawful for the Marine Superintendent or for any other person appointed for the purpose by the Governor to make inquiry respecting such loss, abandonment, stranding, damage, or casualty.

22. The Marine Superintendent or person appointed for the purpose of making inquiry pursuant to this Ordinance shall have the following powers, that is to say:

(a) He may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipment or articles on board thereof to which the provisions of this Ordinance apply, not unnecessarily detaining or delaying her from proceeding on her voyage;

. . .
PART V. WRECK AND SALVAGE
. . .

60. (1) Where a British or foreign vessel is wrecked, stranded, or in distress at any place on or near the coasts of the Territory or any tidal water within the Territory, the receiver for the district in which that place is situate shall, upon being made acquainted with the circumstances, forthwith proceed there, and upon his arrival shall take the command of all persons present, and shall assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel and of the lives of the persons belonging to the vessel (in this Part of this Ordinance referred to as "shipwrecked persons") and of the cargo and apparel of the vessel.

(2) If any person wilfully disobeys the directions of the receiver, he shall for each offence be liable to a fine of one thousand shillings; but the receiver shall not interfere between the master and the crew of the vessel in reference to the management thereof, unless he is requested to do so by the master.

. . .
Salvage
. . .

89. (1) Where services are rendered wholly or in part within territorial waters in saving life from any British or foreign vessel, or elsewhere in saving life from any British vessel, there shall be payable to the salvor by the owner of the vessel, cargo, or apparel saved, a reasonable amount of salvage, to be determined in case of dispute in manner hereinafter mentioned.

(2) Salvage in respect of the preservation of life when payable by the owners of the vessel shall be payable in priority to all other claims for salvage.

(3) Such salvage shall be a first charge on the proceeds of the sale of such vessel or part of the vessel, her equipment, stores, coal, cargo, or ballast as may have been saved.

(4) Any salvage money received by a receiver for services rendered by him shall be paid into the general revenue of the Territory:

Provided that nothing herein contained shall be deemed to preclude a receiver from recovering salvage money in the same manner as any other salvor may recover salvage money due to himself.

90. Where any vessel is wrecked, stranded, or in distress at any place on or near the coasts of the Territory or any tidal water within the Territory, and services are rendered by any person in assisting that vessel or saving the cargo or apparel of that vessel or any part thereof, and where services are rendered by any person other than a receiver in saving any wreck, there shall be payable to the salvor by the owner of the vessel, cargo, apparel or wreck, a reasonable amount of salvage, to be determined in case of dispute in manner hereinafter mentioned.

Jurisdiction of High Court

100. Subject to the provisions of this Ordinance the High Court shall have jurisdiction to decide upon all claims whatsoever relating to salvage, whether the services in respect of which salvage is claimed were performed on the high seas or within the Territory, or partly on the high seas and partly within the Territory, and whether the wreck in respect of which salvage is claimed is found on the sea or on the land, or partly on the sea and partly on the land.

Trinidad

(a) HARBOURS ORDINANCE, 7 OCTOBER 1880 ¹

General Provisions

5. All owners and masters of ships entering or being within the waters of the Colony shall be bound to take notice of all regulations for the time being in force under section 418 of the Merchant Shipping Act, 1894, and shall be bound to obey them, and to carry and exhibit no other lights and to use no other fog signals than such as are required by the said regulations; and in case of wilful default, the master or owner of the ship, if it appear that he was in fault, shall, for each occasion upon which such regulations are infringed, be liable to a fine of four hundred and eighty dollars, or to imprisonment for six months.

7. If in any case of collision it appears to the Court before which the case is tried that such collision was occasioned by the non-observance of any regulation made by or in pursuance of the Merchant Shipping Act, 1894, the ship by which such regulation has been infringed shall be deemed to be in fault, unless it is shown to the satisfaction of the Court that the circumstances of the case made a departure from the regulation necessary.

8. All vessels having drogher's certificates, when under sail or steam within the waters of the Colony between the hours of sunrise and sunset,

¹ *Trinidad and Tobago Revised Ordinances*, 1950, vol. II, Ch. 18, No. 1, p. 961 *et seq.*

shall carry at the mast-head, or if vessels having more than one mast, at the foremast-head, a flag to be prescribed by the Governor, in default whereof the master of the vessel shall be liable to a fine of five dollars for each offence.

. . .

11. (1) Every Harbour Master shall visit every vessel coming into his harbour from any place out of the Colony before or immediately after she comes to anchor, except where a vessel comes to anchor after sunset, in which case the Harbour Master shall visit her on the following morning as soon after sunrise as is practicable. A vessel until visited shall keep her ensign flying.

(2) The master or person in charge of any vessel coming into any harbour shall, when hailed by the Harbour Master and required so to do, be bound to heave-to so as to enable the Harbour Master to come on board, under a penalty in case of neglect or refusal of forty-eight dollars.

(3) The powers by this section vested in the Harbour Master may be exercised by an Assistant Harbour Master or any person acting under the authority of one of them.

. . .

14. Any person who lands from or leaves any vessel arriving in the waters of the Colony before she has been visited by a Harbour Master or Assistant Harbour Master, or some person acting under the authority of one of them, shall be liable to a fine of twenty-four dollars, and the master or person in charge of such vessel shall be liable to a fine of forty-eight dollars for every person who so lands from or leaves the vessel.

. . .

Offences and Procedure

51. For the purpose of giving jurisdiction to all courts, and to all Judges, Magistrates, and Justices, every harbour shall be deemed to be part of the Colony; and all complaints in respect of any offences committed in any harbour which are punishable on summary conviction shall be heard and determined by a Magistrate.

. . .

Admiralty Jurisdiction of Harbour Master

54. (1) The Harbour Master of every harbour shall have Admiralty jurisdiction in all causes of damage by collision where the amount claimed does not exceed one hundred and ninety-two dollars and the collision took place within his harbour.

(2) All such causes may be heard and determined in a summary way, and, if the Harbour Master sees fit, without issuing any summons or other process *in personam* or *in rem*, so always that the statement of the party complaining be taken on oath, and that the Harbour Master before making any final order gives to the parties interested in the vessel complained of an opportunity of answering the complaint, and the Harbour Master may, if he sees fit, and shall, if required by any party, take evidence on oath.

. . .

(b) NAVAL VOLUNTEER ORDINANCE, 22 JULY 1940¹

2. In this Ordinance unless the context otherwise requires—
“the Force” means the Trinidad Naval Volunteer Force raised under
this Ordinance;

3. It shall be lawful for the Governor to raise and maintain a force of
volunteers for the naval defence of the Colony within its territorial waters
to be called the Trinidad Naval Volunteer Force.

9. The Governor may cause any member of the Force to be instructed
trained and exercised on shore or on board any ship or vessel or partly on
shore and partly on board any ship or vessel within the limits of the Colony
including therein its territorial waters: Provided that no member of the
Force shall under this Ordinance be required to attend instruction training
and exercise more than twenty-eight days in any one year.

(c) SUBMARINE AREAS OF THE GULF OF PARIA
(ANNEXATION) ORDER, 1942²

2. In this Order the expression “submarine areas of the Gulf of Paria”
means the sea bed and subsoil situated beneath the waters, excluding terri-
torial waters, bounded as follows:

(a) By the parallel of 10°44'N. from its intersection with the coast of
Venezuela in the Bocas del Dragon to its intersection with the coast of the
island of Trinidad;

(b) Thence southward by the coast of the island of Trinidad to Roja
Point; lat. 10°04'N.—long. 61°30'W.;

(c) Thence by the meridian of 61°30'W. to its intersection with the
coast of Venezuela;

(d) Thence by the coast of Venezuela to the point where it is inter-
sected by the parallel of 10°44'N. in the Bocas del Dragon.

3. As from the date of this Order all the submarine areas of the Gulf of
Paria which lie to the eastward and northward of a line drawn—

Point A from a point 10°35'04"N., 61°51'33"W.

Point B to a point 10°02'24"N., 62°05'08"W. thence along the limit of
Venezuelan territorial waters.

Point Y to a point 9°57'30"N., 61°56'40"W.

Point X thence to a point 9°57'30"N., 61°30'00"W.

shall be annexed to and form part of His Majesty's dominions and shall be
attached to the Colony of Trinidad and Tobago for administrative purposes,
and the said submarine areas are annexed and attached accordingly.

4. Nothing in this Order shall—

¹ *Trinidad and Tobago Revised Ordinances*, 1950, vol. II, Ch. 10, No. 3, p. 170-171.

² *The Statutory Rules & Order and Statutory Instruments*, Revised to December 31,
1948, vol. XXIII, 1951, p. 301-302.

(a) Affect, or imply any claim to, any territory above the surface of the sea or any part of the high seas, or

(b) Prejudice any rights of passage or navigation on the surface of the sea.

5. The Governor of the said Colony shall, as soon as may be after the date of this Order, make regulations to ensure:

(1) That the marine areas within the limits specified in Section 2 of this Order shall not be closed to navigation, and that any works or installations which may be erected shall be of such nature and shall be so constructed, placed, marked, buoyed and lighted as not to constitute a danger or obstruction to shipping;

(2) That all practicable measures shall be taken to prevent the exploitation of any of the said submarine areas from causing the pollution of coastal waters by oil, mud or any other fluid or substance calculated to contaminate the sea water or shore line.

. . . .
(d) UNITED STATES BASES (TEMPORARY PROVISIONS) ORDINANCE,
31 DECEMBER 1941¹
. . . .

2. In this Ordinance —

“the Agreement” means the Agreement signed on the 27th of March, 1941, between the Government of the United Kingdom and the Government of the United States of America relating to the Bases leased to the United States of America in certain territories including the Colony of Trinidad and Tobago;

“Bases” means the Bases established in the Colony in pursuance of the communications set out in Annex I to the Agreement;

“existing law” means any Ordinance or regulation in force in the Colony at the commencement of this Ordinance;

“Leased Area” means an area in the Colony in respect of which there is for the time being subsisting a lease entered into in pursuance of the communications set out in Annex I to the Agreement or which has been declared by the Governor by notification in the *Royal Gazette* to be deemed a Leased Area for the purposes of this Ordinance.

. . . .
5. (1) The Governor in Council may make Regulations for implementing the Agreement and for providing for other matters, as to which provision seems to him to be necessary or expedient, arising out of the establishment of the Bases, and, without prejudice to the generality of this power, any such Regulations may provide for the control by or on behalf of the United States of America of —

(a) The Leased Areas and the territorial waters and air spaces adjacent to, or in the vicinity of, the Leased Areas, as contemplated by Article 1 of the Agreement;

(b) The areas comprised in the watershed of the Aripo River north of the Leased Area at Cumuto so far as may be necessary in order to safeguard, or prevent the pollution of, the waters of and in the said watershed

¹ *Trinidad and Tobago, Revised Ordinances, 1950, vol. VI, Cap. 43, No. 1, p. 1106.*

or otherwise to ensure their purity as contemplated by paragraph (2) of the Special Conditions appertaining to Trinidad set forth in Annex III to the Agreement;

(c) The United States Fleet Anchorage contemplated by paragraph (4) of the Special Provisions appertaining to Trinidad set forth in Annex III to the Agreement and the territorial waters and air spaces adjacent thereto or in the vicinity thereof.

(e) UNITED STATES BASES (PROHIBITED AND RESTRICTED AREAS) REGULATIONS, 1948¹ AS AMENDED²

2. The following areas are declared to be prohibited areas:

(1) All of the water area of Carenage Bay enclosed by a line running from Point Sinet light to Point Alice light on Point Gourde.

(2) All of the water area in Chaguaramas Bay and adjacent to La Retraite enclosed by a line extending from San Carlos Point on Point Gourde through the western tip of Gasparillo Island to Point Delgada (Crow's Nest).

(3) All of the water area of Teteron Bay enclosed by a line extending from Point Delgada to the western-most tip of land between Teteron Bay and Scotland Bay.

(4) All the water area of Scotland Bay enclosed by a line extending from the western-most tip of land between Teteron Bay and Scotland Bay to the western-most tip of land between Scotland Bay and L'Anse Pawa Bay.

(5) All of the water areas (not included in the areas hereinbefore specified) between Point Sinet and the western-most tip of land between Scotland Bay and L'Anse Pawa Bay and between the shore and an irregular line fifty yards distant from the shore at mean low tide and parallel to it.

3. No vessel shall enter or be within any prohibited area with the following exceptions:

(1) Vessels belonging to the United States Government;

(2) Vessels belonging to His Majesty's Government or the Trinidad Government whilst on official duties;

(3) Vessels operated in connection with and under the authority of Chaguaramas Terminals Limited whilst being so operated;

(4) Vessels belonging to island-home owners registered with the Island Property Owners Association of 61, Marine Square, Port-of-Spain, whilst going between La Retraite (Staubles Bay) and the islands or when anchored or moored at a mooring authorised by the United States Naval Authorities at La Retraite;

Provided always that any vessel may enter a prohibited area in an emergency which renders such entry necessary or unavoidable, in which case the burden of proving the existence of such an emergency shall be upon the person in charge of such vessel.

¹ *Laws of Trinidad and Tobago*, Revised Ordinances, 1950, vol. IX, Cap. 43, No. 1, p. 764-765.

² By the United States Bases (Prohibited and Restricted Areas) (Amendment) Regulations, 1951 (Trinidad and Tobago, *Proclamations, Orders in Council, Regulations, etc., for the year 1951* (Government Notice No. 55—1951, p. 133).

4. Any vessel found in any prohibited area in contravention of the preceding regulation and the occupants thereof may be taken into custody by any member of the United States Navy and taken to the mainland of the United States Naval Operating Base and there detained for such time as may be necessary for the purpose of committing such vessel and the occupants thereof into the custody of a member of the Trinidad Police Force.

5. Every occupant of any vessel found in a prohibited area in contravention of regulation 3 of these regulations shall be guilty of an offence and on summary conviction therefor shall be liable to a fine of \$48.00 or for a second or subsequent conviction to a fine of \$96.00: Provided that when any person is convicted of a second or subsequent offence in contravention of the preceding regulation, the vessel in which the offence was committed and any equipment found therein shall be liable to forfeiture to the Crown on the order of the Magistrate who has recorded the conviction.

6. The following area is declared to be a restricted area:

All that area enclosed by a line commencing at Point Sinet light, thence running to Caledonia Island light, thence to the western-most point to Lenagan Island, thence to the western-most point of Rock Island, thence to the southern-most point of Carrera Island, thence to San Carlos Point on Point Gourde (except the prohibited areas specified in paragraphs (1) and (5) of regulation 2 of these regulations).

7. All vessels are permitted to enter the restricted area subject to the following conditions:

(1) Vessels shall remain continuously underway;

(2) Every vessel shall carry between sunset and sunrise at least one white light visible from all points of the horizon for a distance of at least two miles and mounted at least two feet above the gunwale;

(3) The occupants of all vessels shall comply with all orders issued by a member of the United States Navy.

8. If any vessel is being navigated in the restricted area in contravention of the preceding regulation, such vessel and the occupants thereof may be taken into custody by any member of the United States Navy in like manner as is provided in regulation 4 of these regulations in the case of a vessel found in a prohibited area.

9. Every occupant of any vessel navigated in the restricted area in contravention of regulation 7 of these regulations shall be liable on summary conviction to a fine of \$24.00.

(f) PORT SERVICES (DUES, CHARGES AND MANAGEMENT) ORDINANCE,
13 DECEMBER 1948¹ AS AMENDED²

3. (1) Subject to the provisions of subsection (2) hereof, harbour dues shall be paid in accordance with the provisions of this Ordinance in respect

¹ *Trinidad and Tobago Revised Ordinances*, 1950, vol. II, Cap. 18, No. 2, p. 986-990.

² By the Port Services (Dues, Charges and Management) (Amendment) Ordinance, 1951-1953 (Trinidad and Tobago, *Revised Laws*, 1951-1953, vol. III, Ch. 18, No. 2, p. 362) and the Port Services (Dues, Charges and Management) (Amendment) Ordinance, 1954 (Trinidad and Tobago, *Ordinances*, 1954, No. 11, p. 82).

of any vessel which enters or uses any harbour in the Colony or which loads or unloads cargo at any harbour, port or place in the Colony.

(2) A vessel the tonnage of which does not exceed ten tons, or a vessel registered as a drogher, shall be exempt from payment of harbour and wharf dues; Provided that this exemption shall not apply in the case of a drogher arriving from or proceeding to a port or place outside the waters of the Colony.

. . .

5. (1) Wharf dues (in addition to harbour dues) shall be paid in accordance with the provisions of this Ordinance in respect of any vessel in Port-of-Spain harbour the tonnage of which exceeds ten tons and which loads or unloads cargo passing over, or deposited on, a wharf. Save as otherwise provided in this section, the wharf dues leviable and payable under this subsection shall be calculated in accordance with Schedule I hereto in the case of cargo described therein and in accordance with Schedule II hereto in the case of other cargo.

(2) When a vessel (the tonnage of which exceeds ten tons but does not exceed one thousand tons) berthed at any wharf would not be liable to wharf dues under sub-section (1) of this section or would be liable in respect of wharf dues computed in accordance with the provisions of that subsection for a lesser sum than that indicated in the scale set out below, wharf dues shall be paid in accordance with that scale.

. . .

6. (1) In the case of any vessel (not being a drogher) berthed at King's Wharf or moored or anchored in the Basin, Basin dues (in addition to harbour dues and to any wharf dues which may be payable) shall be paid on—

(a) The tonnage of cargo loaded into the vessel from another vessel or loaded from the vessel into another vessel, being cargo which has passed or passes over a wharf; and

(b) The tonnage of oil (to be used for the propulsion of the vessel) loaded into the vessel from another vessel; and

(c) The tonnage of fresh water taken into the vessel from water boats or other vessels.

(2) The Basin dues payable under paragraph (a) of subsection (1) of this section shall be calculated in accordance with Schedule I hereto in the case of cargo described in that Schedule and at the rate of twenty-five cents per ton in the case of other cargo.

(3) The Basin dues payable under paragraph (b) of sub-section (1) of this section shall be calculated at the rate of ten cents per ton but subject to a maximum of fifteen dollars on any occasion.

(4) The Basin dues payable under paragraph (c) of sub-section (1) of this section shall be calculated at the rate of twenty-five cents per ton.

6a. (1) Light dues (in addition to harbour dues and to any wharf, Basin and other dues which may be payable) shall be paid in accordance with the provisions of this Ordinance in respect of any vessel which enters or uses any harbour, port or place in the Colony:

Provided that the following vessels shall be exempt from the payment of light dues:

(a) Vessels the tonnage of which does not exceed ten tons:

(b) Droghers and Government-owned coastal vessels when engaged in coasting trade, except when arriving from or proceeding to a port or place outside the territorial waters of the Colony;

(c) Vessels owned or chartered by any of His Majesty's Governments or by any other Government recognised by His Majesty, and not carrying cargo for freight or passengers for fares;

(d) Vessels entering or using any harbour, port or place in the Colony solely on account of stress of weather or of being disabled or for medical assistance.

(2) In respect of vessels the tonnage of which is less than fifty tons, light dues shall be at the rate of two dollars and forty cents, payable once only in any one year.

(3) In respect of vessels the tonnage of which is not less than fifty tons, light dues shall be at the following rates:

(a) For vessels engaged in foreign trade only, and calling for any one or more of the following purposes only, namely, taking bunkers, water or other ships' stores, embarking or disembarking passengers (including passengers in transit) loading or unloading a quantity of cargo not exceeding an aggregate of one hundred tons, twenty-one dollars and sixty cents, plus one cent per ton of the tonnage of the vessel; provided that the amount payable shall not exceed a total of seventy-one dollars and sixty cents for each call of the vessel;

(b) For vessels engaged otherwise than in foreign trade only or calling for any purpose other than those specified in the preceding paragraph, twenty-one dollars and sixty cents plus two cents per ton of the tonnage of the vessel; provided that the amount payable shall not exceed a total of one hundred and twenty-one dollars and sixty cents for each call of the vessel.

(4) Vessels the tonnage of which is not less than fifty tons shall be liable —

(a) If engaged in local trade, to the payment of light dues not more than ten times in any one year;

(b) If engaged in foreign trade only, to the payment of light dues not more than five times in any one year.

(5) In respect of vessels engaged in foreign trade only and using a port in the Caribbean area as a terminus and entering or using any harbour, port or place in the Colony on both southbound and northbound trips, light dues shall be payable once only for each turnaround voyage.

For the purposes of this subsection the Caribbean area shall be taken to mean the area contained within the following limits:

On the East, the meridian of 51 degrees West;

On the West, the meridian of 90 degrees West;

On the North, the parallel of 24 degrees North;

On the South, the northern coastline of South and Central America lying between the Eastern and the Western limits above specified:

Provided that the Bahamas and Sombrero Island (referred to in the Bahamas and Leeward Islands Light Dues Ordinance) shall be regarded as being excluded from those limits.

. . .

7. . . .

(3) If any vessel in respect of which harbour dues have been paid be obliged from stress of weather or other sufficient cause, after leaving a

harbour, port or place in the Colony, to return with the same cargo to a harbour, port or place in the Colony, harbour dues shall not, by reason of such return, again be payable by the vessel in respect of that cargo.

(4) Vessels owned by the Government of the United Kingdom and manned by members of His Majesty's Services not carrying goods for hire, shall be exempt from all dues in respect of the entry into any port or the use of any harbour or wharf in the Colony.

(5) Droghers and Government-owned coastal vessels when engaged in coasting trade shall be exempt from payment of harbour, wharf and Basin dues, except when arriving from or proceeding to a port or place outside the territorial waters of the Colony.

. . .

8. It shall be lawful for the Governor in Council by order, in any special case or class of case, to remit, reduce, direct refunds of, or grant exemptions from, the whole or any part of any dues, fees or charges payable under this Ordinance or any bye-laws made thereunder.

. . .

United States of America

(a) COAST GUARD ¹

. . .

Section 89. Law enforcement

(a) The Coast Guard may make inquiries, examinations, inspections, searches, seizures, and arrests upon the high seas and waters over which the United States has jurisdiction, for the prevention, detection, and suppression of violations of laws of the United States. For such purposes, commissioned, warrant, and petty officers may at any time go on board of any vessel subject to the jurisdiction, or to the operation of any law, of the United States, address inquiries to those on board, examine the ship's documents and papers, and examine, inspect, and search the vessel and use all necessary force to compel compliance. When from such inquiries, examination, inspection, or search it appears that a breach of the laws of the United States rendering a person liable to arrest is being, or has been committed, by any person, such person shall be arrested or, if escaping to shore, shall be immediately pursued and arrested on shore, or other lawful and appropriate action shall be taken; or, if it shall appear that a breach of the laws of the United States has been committed so as to render such vessel, or the merchandise, or any part thereof, on board of, or brought into the United States by, such vessel, liable to forfeiture, or so as to render such vessel liable to a fine or penalty and if necessary to secure such fine or penalty, such vessel or such merchandise, or both, shall be seized.

. . .

Section 91. Safety of naval vessels

The captain of the port, Coast Guard district commander, or other officer of the Coast Guard designated by the Commandant thereof, or the Governor of the Canal Zone in the case of the territory and waters of the

¹ 14 U.S.C. 89, 91 (1952).

Canal Zone, shall so control the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States, as to insure the safety or security of such United States naval vessels as may be present in his jurisdiction. In territorial waters of the United States where immediate action is required, or where representatives of the Coast Guard are not present, or not present in sufficient force to exercise effective control of shipping as provided herein, the senior naval officer present in command of any naval force may control the anchorage or movement of any vessel, foreign or domestic, to the extent deemed necessary to insure the safety and security of his command.

- (b) ARMY APPROPRIATION ACT OF 1918, GIVING TO THE SECRETARY OF WAR AUTHORITY TO ADOPT REGULATIONS TO PROTECT LIFE AND PROPERTY IN TARGET PRACTICE IN WATERS UNDER THE JURISDICTION OF THE UNITED STATES ¹

Section 3. Regulations to prevent injuries from target practice

Authority to adopt regulations.—In the interest of the national defense, and for the better protection of life and property on the navigable waters of the United States, the Secretary of the Army is authorized and empowered to prescribe such regulations as he may deem best for the use and navigation of any portion or area of the United States or waters under the jurisdiction of the United States endangered or likely to be endangered by Artillery fire in target practice or otherwise, or by the proving operations of the Government ordinance proving grounds at Sandy Hook, New Jersey, or at any Government ordinance proving ground that may be established elsewhere on or near such waters, and of any portion or area of said waters occupied by submarine mines, mine fields, submarine cables, or other material and accessories pertaining to seacoast fortifications, or by any plant or facility engaged in the execution of any public project of river and harbor improvement; and the said Secretary shall have like power to regulate the transportation of explosives upon any of said waters: *Provided*, That the authority conferred shall be so exercised as not unreasonably to interfere with or restrict the food fishing industry, and the regulations prescribed in pursuance hereof shall provide for the use of such waters by food fishermen operating under permits granted by the Department of the Army.

Detail of vessels to enforce regulations.—To enforce the regulations prescribed pursuant to this section, the Secretary of the Army may detail any public vessel in the service of the Department of the Army, or, upon the request of the Secretary of the Army, the head of any other department may enforce, and the head of any such department is authorized to enforce, such regulations by means of any public vessel of such department.

- (c) OIL POLLUTION ACT, 1924 ²

Section 432. Definitions

When used in sections 431-437 of this title, unless the context otherwise requires —

¹ 40 Stat. 892 (1918), as amended, 33 U.S.C. 3 (1952).

² 43 Stat. 604, as amended, 33 U.S.C. 431-437 (1952).

(a) The term "oil" means oil of any kind or in any form, including fuel oil, oil sludge, and oil refuse;

(b) The term "person" means an individual, partnership, corporation, or association; any owner, master, officer or employee of a vessel; and any officer, agent, or employee of the United States;

(c) The term "coastal navigable waters of the United States" means all portions of the sea within the territorial jurisdiction of the United States, and all inland waters navigable in fact in which the tide ebbs and flows;

(d) The term "Secretary" means the Secretary of the Army.

Section 433. Prohibition against discharge of oil generally

Except in case of emergency imperiling life or property, or unavoidable accident, collision, or stranding, and except as otherwise permitted by regulations prescribed by the Secretary as in sections 434-437 of this title authorized, it shall be unlawful for any person to discharge, or suffer, or permit the discharge of oil by any method, means, or manner into or upon the coastal navigable waters of the United States from any vessel using oil as fuel for the generation of propulsion power, or any vessel carrying or having oil thereon in excess of that necessary for its lubricating requirements and such as may be required under the laws of the United States and the rules and regulations prescribed thereunder. The Secretary is authorized and empowered to prescribe regulations permitting the discharge of oil from vessels in such quantities, under such conditions, and at such times and places as in his opinion will not be deleterious to health or sea food, or a menace to navigation, or dangerous to persons or property engaged in commerce on such waters, and for the loading, handling, and unloading of oil.

(d) TARIFF ACT OF 1930¹

SUBTITLE IV. ADMINISTRATIVE PROVISIONS

PART I. DEFINITIONS

Section 1401. Miscellaneous

When used in this subtitle or in Part I of Subtitle III of this chapter —

(m) *Customs waters.*

The term "customs waters" means, in the case of a foreign vessel subject to a treaty or other arrangement between a foreign government and the United States enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon such vessel upon the high seas the laws of the United States, the waters within such distance of the coast of the United States as the said authorities are or may be so enabled or permitted by such treaty or arrangement and, in the case of every other vessel, the waters within four leagues of the coast of the United States.

¹ 46 Stat. 708, 747, 749, as amended, 19 U.S.C. 1401 (m), (n), 1581, 1587 (1952), as amended 19 U.S.C. 1581 (d) (Supp. II, 1955).

(n) *Hovering vessel.*

The term "hovering vessel" means any vessel which is found or kept off the coast of the United States within or without the customs waters, if, from the history, conduct, character, or location of the vessel, it is reasonable to believe that such vessel is being used or may be used to introduce or promote or facilitate the introduction or attempted introduction of merchandise into the United States in violation of the laws respecting the revenue.

PART V. ENFORCEMENT PROVISIONS

Section 1581. Boarding vessels

(a) Any officer of the customs may at any time go on board of any vessel or vehicle at any place in the United States or within the customs waters or, as he may be authorized, within a customs-enforcement area established under sections 1701 and 1703-1711 of this title, or at any other authorized place, without as well as within his district, and examine the manifest and other documents and papers and examine, inspect, and search the vessel or vehicle and every part thereof and any person, trunk, package, or cargo on board, and to this end may hail and stop such vessel or vehicle, and use all necessary force to compel compliance.

(b) Officers of the Department of the Treasury and other persons authorized by such department may go on board of any vessel at any place in the United States or within the customs waters and hail, stop, and board such vessel in the enforcement of the navigation laws and arrest or, in case of escape or attempted escape, pursue and arrest any person engaged in the breach or violation of the navigation laws.

(c) Any master of a vessel being examined as herein provided, who presents any forged, altered, or false document or paper to the examining officer, knowing the same to be forged, altered, or false and without revealing the fact shall, in addition to any forfeiture to which in consequence the vessel may be subject, be liable to a fine of not more than \$5,000 nor less than \$500.

(d) Any vessel or vehicle which, at any authorized place, is directed to come to a stop by any officer of the customs, or is directed to come to a stop by signal made by any vessel employed in the service of the customs and displaying proper insignia, shall come to a stop, and upon failure to comply a vessel or vehicle so directed to come to a stop shall become subject to pursuit and the master, owner, operator, or person in charge thereof shall be liable to a penalty of not more than \$5,000 nor less than \$1,000.

(e) If upon the examination of any vessel or vehicle it shall appear that a breach of the laws of the United States is being or has been committed so as to render such vessel or vehicle, or the merchandise, or any part thereof, on board of, or brought into the United States by, such vessel or vehicle, liable to forfeiture or to secure any fine or penalty, the same shall be seized and any person who has engaged in such breach shall be arrested.

(f) It shall be the duty of the several officers of the customs to seize and secure any vessel, vehicle, or merchandise which shall become liable to seizure, and to arrest any person who shall become liable to arrest, by virtue of any law respecting the revenue, as well without as within their respective districts, and to use all necessary force to seize or arrest the same.

(g) Any vessel, within or without the customs waters, from which any merchandise is being, or has been, unlawfully introduced into the United States by means of any boat belonging to, or owned, controlled, or managed in common with, said vessel, shall be deemed to be employed within the United States and, as such, subject to the provisions of this section.

(h) The provisions of this section shall not be construed to authorize or require any officer of the United States to enforce any law of the United States upon the high seas upon a foreign vessel in contravention of any treaty with a foreign government enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon said vessel upon the high seas the laws of the United States except as such authorities are or may otherwise be enabled or permitted under special arrangement with such foreign government.

. . .

Section 1587. Examination of hovering vessels

(a) Any hovering vessel, or any vessel which fails (except for unavoidable cause), at any place within the customs waters or within a customs-enforcement area established under sections 1701 and 1703-1711 of this title, to display lights as required by law, or which has become subject to pursuit as provided in section 1581 of this title, or which, being a foreign vessel to which subsection (h) of section 1581 of this section applies, is permitted by special arrangement with a foreign government to be so examined without the customs waters of the United States, may at any time be boarded and examined by any officer of the customs, and the provisions of said section 1581 shall apply thereto, as well without as within his district, and in examining the same, any such officer may also examine the master upon oath respecting the cargo and voyage of the vessel, and may also bring the vessel into the most convenient port of the United States to examine the cargo, and if the master of said vessel refuses to comply with the lawful directions of such officer or does not truly answer such questions as are put to him respecting the vessel, its cargo, or voyage, he shall be liable to a penalty of not more than \$5,000 nor less than \$500. If, upon the examination of any such vessel or its cargo by any officer of the customs, any dutiable merchandise destined to the United States is found, or discovered to have been, on board thereof, the vessel and its cargo shall be seized and forfeited. It shall be presumed that any merchandise (sea stores excepted), the importation of which into the United States is prohibited, or which consists of any spirits, wines, or other alcoholic liquors, so found, or discovered to have been, on board thereof, is destined to the United States.

(b) If any vessel laden with cargo be found at any place in the United States or within the customs waters or within a customs-enforcement area established under sections 1701 and 1703-1711 of this title and such vessel afterwards is found light or in ballast or having discharged its cargo or any part thereof, and the master is unable to give a due account of the port or place at which the cargo, or any part thereof, consisting of any merchandise the importation of which into the United States is prohibited or any spirits, wines, or other alcoholic liquors, was lawfully discharged, the vessel shall be seized and forfeited.

(c) Nothing contained in this section shall be construed to render any vessel liable to forfeiture which is *bona fide* bound from one foreign port to

another foreign port, and which is pursuing her course, wind and weather permitting.

(e) ANTI-SMUGGLING ACT OF 1935 ¹

SECTION 1701. CUSTOMS-ENFORCEMENT AREA

(a) *Establishment; extent and duration; enforcement of laws applicable to waters adjacent to customs waters*

Whenever the President finds and declares that at any place or within any area on the high seas adjacent to but outside customs waters any vessel or vessels hover or are being kept off the coast of the United States and that, by virtue of the presence of any such vessel or vessels at such place or within such area, the unlawful introduction or removal into or from the United States of any merchandise or person is being or may be occasioned, promoted, or threatened, the place or area so found and declared shall constitute a customs-enforcement area for the purposes of this chapter. Only such waters on the high seas shall be within a customs-enforcement area as the President finds and declares are in such proximity to such vessel or vessels that such unlawful introduction or removal of merchandise or persons may be carried on by or to or from such vessel or vessels. No customs-enforcement area shall include any waters more than one hundred nautical miles from the place or immediate area where the President declares such vessel or vessels are hovering or are being kept and, notwithstanding the foregoing provision, shall not include any waters more than fifty nautical miles outwards from the outer limit of customs waters. Whenever the President finds that, within any customs-enforcement area, the circumstances no longer exist which gave rise to the declaration of such area as a customs-enforcement area, he shall so declare, and thereafter, and until a further finding and declaration is made under this subsection with respect to waters within such area, no waters within such area shall constitute a part of such customs-enforcement area. The provisions of law applying to the high seas adjacent to customs waters of the United States shall be enforced in a customs-enforcement area upon any vessel, merchandise, or person found therein.

(b) *Boarding vessels; arrest and seizure; compliance with treaty provisions; authority of Secretary of Commerce unaffected*

At any place within a customs-enforcement area the several officers of the customs may go on board of any vessel and examine the vessel and any merchandise or person on board, and bring the same into port, and, subject to regulations of the Secretary of the Treasury, it shall be their duty to pursue and seize or arrest and otherwise enforce upon such vessel, merchandise, or person, the provisions of law which are made effective thereto in pursuance of subsection (a) of this section in the same manner as such officers are or may be authorized or required to do in like case at any place in the United States by virtue of any law respecting the revenue: *Provided*, That nothing contained in this section or in any other provision of law respecting the revenue shall be construed to authorize or to require any officer of the United States to enforce any law thereof upon the high

¹ 49 Stat. 517, 518, 529, as amended, 19 U.S.C. 1701, 1703, 1709 (c), (d) (1952).

seas upon a foreign vessel in contravention of any treaty with a foreign government enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon such vessel upon the high seas the laws of the United States except as such authorities are or may otherwise be enabled or permitted under special arrangement with such foreign government: *Provided further*, That none of the provisions of this chapter shall be construed to relieve the Secretary of Commerce of any authority, responsibility, or jurisdiction now vested in or imposed on that officer.

SECTION 1703. SEIZURE AND FORFEITURE OF VESSELS

(a) *Vessels subject to seizure and forfeiture*

Whenever any vessel which shall have been built, purchased, fitted out in whole or in part, or held, in the United States or elsewhere, for the purpose of being employed to defraud the revenue or to smuggle any merchandise into the United States, or to smuggle any merchandise into the territory of any foreign government in violation of the laws there in force, if under the laws of such foreign government any penalty or forfeiture is provided for violation of the laws of the United States respecting the customs revenue, or whenever any vessel which shall be found, or discovered to have been, employed, or attempted to be employed, within the United States for any such purpose, or in anywise in assistance thereof, if not subsequently forfeited to the United States or to a foreign government, is found at any place at which any such vessel may be examined by an officer of the customs in the enforcement of any law respecting the revenue, the said vessel and its cargo shall be seized and forfeited.

(b) “*Vessels of the United States*”

Every vessel which is documented, owned, or controlled in the United States, and every vessel of foreign registry which is, directly or indirectly, substantially owned or controlled by any citizen of, or corporation incorporated, owned, or controlled in, the United States, shall, for the purposes of this section, be deemed a vessel of the United States.

(c) *Acts constituting prima facie evidence vessel engaged in smuggling*

For the purposes of this section, the fact that a vessel has become subject to pursuit as provided in section 1581 of this title, or is a hovering vessel, or that a vessel fails, at any place within the customs waters of the United States or within a customs-enforcement area, to display lights as required by law, shall be prima facie evidence that such vessel is being, or has been, or is attempted to be employed to defraud the revenue of the United States.

. . .

SECTION 1709. DEFINITIONS

When used in this act:

. . .

(c) The term “*customs waters*” means, in the case of a foreign vessel subject to a treaty or other arrangement between a foreign government and the United States enabling or permitting the authorities of the United

States to board, examine, search, seize, or otherwise to enforce upon such vessel upon the high seas the laws of the United States, the waters within such distance of the coast of the United States as the said authorities are or may be so enabled or permitted by such treaty or arrangement and, in the case of every other vessel, the waters within four leagues of the coast of the United States.

(d) The term "hovering vessel" means any vessel which is found or kept off the coast of the United States within or without the customs waters, if, from the history, conduct, character, or location of the vessel, it is reasonable to believe that such vessel is being used or may be used to introduce or promote or facilitate the introduction or attempted introduction of merchandise into the United States in violation of the laws respecting the revenue.

(f) ACT TO CARRY INTO EFFECT THE INTERNATIONAL CONVENTION
OF 14 MARCH 1884 FOR THE PROTECTION OF SUBMARINE CABLES ¹

Note. For this Act as well as for the said Convention, see: *United Nations Legislative Series, Laws and Regulations on the Régime of the High Seas*, Vol. 1, 1951, pp. 251-259.

Yugoslavia

(a) ACT OF 1 DECEMBER 1948 CONCERNING THE COASTAL WATERS OF THE
FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA ²

I. GENERAL PROVISIONS

Article 1. With a view to ensuring undisturbed maritime and commercial relations with foreign countries and for the exercise of the sovereign rights of the Federal People's Republic of Yugoslavia, the present Act lays down regulations concerning the coastal waters of the Federal People's Republic of Yugoslavia.

Article 2. The coastal waters of the Federal People's Republic of Yugoslavia shall comprise the inland waters and the territorial sea.

Article 3. The inland waters of the Federal People's Republic of Yugoslavia shall include:

(1) The Bay of Budva from a line drawn joining Cape Skoci Devojka-Cape Piatamon;

(2) The Bay of Traste, from a line drawn joining Cape Zukovace-Cape Vesla;

(3) Boka Kotorska, from a line drawn joining Cape Vesla-Cape Ostri;

(4) The sea waters in the area between the mainland and the following lines: Cape Zarubac—southern shore of the island of Mirkan—southern shore of the island of Kolocep—Cape Kuk (southwest cape of the island of Lopud)—Cape Gruj (eastern cape of the island of Mljet)—southern shore of the island of Mljet—the lighthouse on the island of Glavat—southern shore

¹ 25 Stat. 41 (1888), 47 U.S.C. 21-33 (1952).

² *Službeni List*, vol. 4, No. 106, 8 December 1948, c. 876, p. 1739. Translation by the Secretariat of the United Nations.

of the Lastovski cliffs, the island of Lastovo and the island of Kopiste—Cape Velo Dance (southwest cape of the island of Korcula)—Cape Proizd (northwest cape of the island of Korcula)—the island of Lukavec—the southern shore of the Paklen islands—the island of Vodnjak (western island of the Paklen islands)—Cape Pelegrin—southern cape of the Sanj ridge on the island of Solta—the island of Stipanska—Cape Rat (western cape of the island of Drvenik Mali)—Cape Ploca—the island of Mulo—the island of Mazirin—southern shore of the island of Zirje—southwestern shore of the Kornat islands—the islands of Sestrice Tejerske—southwestern shore of Dugi island—Veli Rat—southwestern shore of the island of Skarda and Premuda—Tovarnjak—Cape Krivica on the island Losinj—the island of Srakana Mala—Cape Vnetak (the island Unije)—the islet of Galiola—Cape Kamenjak;

(5) The Bay of Bulj from Cape Kompare—Cape Peneda to the island of Brioni Veliki—the western shore of the Brioni islet to Cape Barbariga;

(6) All other bays and estuaries the width of which, measured from the shortest point of junction to the opposite shore in the direction of the mainland shore does not exceed twelve nautical miles;

(7) Ports and anchorages not included under paragraphs 1-6 of this Article.

Article 4. All the decrees of the Federal People's Republic of Yugoslavia shall be valid and applicable in the zone of the inland waters.

Article 5. The territorial waters of the Federal People's Republic of Yugoslavia shall comprise the strip of sea extending six miles towards the open sea, measured from the boundary of the inland waters or from the lowest ebb-tide shore line of the mainland or of an island situated outside the inland waters of the Federal People's Republic of Yugoslavia.

Article 6. Vessels under foreign flags may travel through the territorial waters of the Federal People's Republic of Yugoslavia on peaceful passage.

The passage of a foreign vessel is not peaceful if it uses the territorial waters of the Federal People's Republic of Yugoslavia for engaging in any actions which threaten the safety and public order of the Federal People's Republic of Yugoslavia or its material or public health interests or the safety of navigation in such maritime zone.

The stopping and anchoring of vessels for navigational or nautical causes consequent upon an accident at sea or *force majeure* shall, for such time as the cause exists, also be regarded as passage through the territorial waters of the Federal People's Republic of Yugoslavia. The termination of such cause shall be confirmed by the competent authority of the Federal People's Republic of Yugoslavia.

Article 7. Special zones may be designated within the boundaries of the territorial waters of the Federal People's Republic of Yugoslavia as military areas.

The boundaries of such zones and the conditions for navigation therein shall be laid down by the Government of the Federal People's Republic of Yugoslavia by decree published in the *Oglas za pomorce* (Seamen's Gazette).

Article 8. In order to safeguard the customs interests and the coastal security of the Federal People's Republic of Yugoslavia, the competent authorities of the Federal People's Republic of Yugoslavia may, in cases where suspicion is justifiable, inspect ship's papers and, if necessary, search vessels under foreign flags even in a maritime zone four nautical miles wide

reckoning from the outer edge of the territorial waters of the Federal People's Republic of Yugoslavia in the direction of the open sea.

The competent authorities of the Federal People's Republic of Yugoslavia may exercise control and take such restrictive measures as are deemed necessary for the protection of the riches of the sea in such area.

Further regulations for the exercise of such supervision shall be issued by decree of the Government of the Federal People's Republic of Yugoslavia.

II. SPECIAL PROVISIONS

Article 9. The Federal People's Republic of Yugoslavia shall regulate coastwise shipping and the exploitation of marine and subsoil resources in its coastal waters.

Ships under foreign flags may undertake the salvage of sunken vessels, their appurtenances or cargo in the coastal waters of the Federal People's Republic of Yugoslavia only by special authorization of the competent authority of the Federal People's Republic of Yugoslavia.

Article 10. The use of radio-telegraph and radio-telephone transmitters in the coastal waters of the Federal People's Republic of Yugoslavia shall be regulated by decree of the Government of the Federal People's Republic of Yugoslavia.

Article 11. Foreign civil aircraft may fly over the coastal waters of the Federal People's Republic of Yugoslavia, always provided that they observe the regulations of the Federal People's Republic of Yugoslavia governing flights over its territory.

Article 12. Vessels under foreign flags shall be liable for breaches of the provisions of this Act and the regulations issued on the basis thereof, in accordance with the generally recognized rules and usage of international law and the statutes of the Federal People's Republic of Yugoslavia.

The pursuit of a vessel under a foreign flag for contravention of this Act or of other statutes of the Federal People's Republic of Yugoslavia, if begun in the coastal waters of the Federal People's Republic of Yugoslavia, shall be continued beyond the boundaries of Yugoslav coastal waters provided that such pursuit is uninterrupted. The pursuit shall cease if the vessel pursued enters the coastal waters of another country.

If such a vessel is captured, the Government of the Federal People's Republic of Yugoslavia shall notify, through the diplomatic channel, the government under whose flag the captured vessel is plying.

III. FINAL PROVISIONS

Article 13. The provisions of this Act shall not apply to naval vessels flying foreign flags nor to other vessels flying foreign flags assimilated to naval vessels. The entrance, movements and stay of foreign naval vessels in the coastal waters of the Federal People's Republic of Yugoslavia shall be regulated by a special decree of the Government of the Federal People's Republic of Yugoslavia.

The provisions of this Act shall not apply to a military conflict in which the Federal People's Republic of Yugoslavia is a belligerent.

The Government of the Federal People's Republic of Yugoslavia shall be empowered to enact regulations concerning coastal waters in the event of a

military conflict in which the Federal People's Republic of Yugoslavia is neutral.

Article 14. Further regulations for the execution of this Act shall be issued by the Government of the Federal People's Republic of Yugoslavia.

(b) CUSTOMS ACT OF 12 OCTOBER 1948¹ AS AMENDED IN 1951²

. . .

Article 2. The customs area is bounded by the customs border which is the State frontier on land, on sea and on the frontier lakes.

Article 3. The frontier customs zone on land is the customs area adjacent to the customs border; the width of this zone and the measures for the exercise of customs supervision shall be determined by the Minister of Foreign Trade.

The frontier customs zone at sea and on frontier lakes and rivers, aerodromes and air routes shall be fixed by the Minister of Foreign Trade as being located at the boundaries of the territorial waters or frontiers of the Federal People's Republic of Yugoslavia.

. . .

Article 11. Navigation in Yugoslav coastal waters, on the Yugoslav sector of the Danube, on the Naretva from Metkovic to where it enters the sea and on the Yugoslav sectors of frontier lakes shall be subject to customs supervision.

Vessels plying in Yugoslav coastal waters, on the Yugoslav sectors of frontier lakes and international navigable rivers and aircraft engaged in international traffic, with or without cargo, must carry a manifest. The conditions under which Yugoslav vessels may be exempted from this requirement shall be determined by the Minister of Foreign Trade in agreement with the Minister of Marine.

The master of the vessel or captain of the aircraft shall be responsible for the accuracy of the manifest.

Deviations not exceeding 8 per cent in the weight of goods as shown on the manifest shall be allowed, depending on the nature and quality of the goods.

Article 12. Yugoslav naval vessels and foreign warships which have permission to sojourn shall not be subject to customs supervision.

If such vessels transport goods or passengers, the goods and passengers and any communication between such vessels and the shore shall be subject to customs supervision on shore.

. . .

Article 35. A fine not exceeding 100,000 dinars may be imposed on any person who:

. . .

(7) Causes a ship which carries supplies originating in a foreign country to establish contact with the Yugoslav coast before clearing customs;

¹ *Službeni List*, vol. 4, No. 90, 20 October 1948, c. 773, p. 1405. Translation by the Secretariat of the United Nations.

² The text of the Amendment to the said Act has been provided by the Secretariat of State for Foreign Affairs of the Federal People's Republic of Yugoslavia. Translation by the Secretariat of the United Nations.

(8) Places on the market any goods found near the customs boundary in coastal waters or in frontier lakes or rivers, or any goods cast upon the shore of such waters or jettisoned from any aircraft coming from abroad, unless it is proved that such goods are of domestic origin;

. . .

Article 36. A fine not exceeding 10,000 dinars may be imposed on any person who:

. . .

(8) In breach of existing provisions and without the approval of the customs authorities anchors a ship in a harbour closed to traffic;

(9) Navigates in the territorial sea without valid customs documents or communicates with a foreign country by means of any aircraft which does not carry a manifest;

(c) REGULATIONS FOR THE EXECUTION OF THE CUSTOMS ACT,
2 FEBRUARY 1949¹

. . .

Article 4. The frontier customs zone on land is the area of Yugoslav territory which extends for fifteen miles inland from the customs border.

The frontier customs zone on frontier rivers and lakes is constituted by the sections of such rivers and lakes belonging to the Federal People's Republic of Yugoslavia.

The frontier customs zone at customs airports is the area at an airport required for the performance of customs services.

The frontier customs zone on customs air routes is the area extending from the customs border to the customs airport between the points fixed in agreements on air traffic.

The inland waters of the Federal People's Republic of Yugoslavia are defined in Article 3 of the Act concerning Coastal Waters, and all the decrees of the Federal People's Republic of Yugoslavia shall apply in them.

The frontier customs zone at sea is the sea area extending for six nautical miles in the direction of the open sea measured from the boundary of the inland waters or from the lowest ebb-tide shore line of the mainland or of an island situated outside the inner seas of the Federal People's Republic of Yugoslavia.

The inland waters and the frontier customs zone at sea form the coastal waters of the Federal People's Republic of Yugoslavia.

. . .

Article 8. Provided they are open to international traffic, international water routes by sea, on frontier rivers and frontier lakes as well as ports and harbours, are customs waterways.

. . .

Article 19. Vessels plying in the waters of the Federal People's Republic of Yugoslavia and in the frontier customs zone on frontier rivers and lakes,

¹ *Službeni List*, vol. 5, No. 12, 9 February 1949, c. 100, p. 157. Translation by the Secretariat of the United Nations.

with the exception of vessels in specially authorized service (Article 77 of these regulations) are subject to customs inspection.

Customs inspection comprises: moving, stopping, inspection, search and all loading, unloading and transshipping of goods and passengers.

Article 20. Vessels plying in the coastal waters of the Federal People's Republic of Yugoslavia and in the frontier customs zone on frontier lakes and rivers, with the exception of those in specially authorized service (Article 77 of these regulations), must be provided with a manifest in addition to the other ship's papers. A foreign manifest will be accepted in the case of ships arriving from abroad.

Particulars of the cargo are entered in the manifest on the basis of customs documents or freight lists.

. . .

Article 22. The inspection of a vessel consists in checking the cargo with the ship's manifest. Such inspection is carried out under the terms of these regulations by customs control officials. For this purpose they may also engage experts and, where necessary, if the vessel is under-way, may direct it to the nearest port (harbour) for inspection.

If there are well-founded suspicions, a vessel may be searched in order to discover concealed merchandise. If such merchandise is found, the vessel may, if necessary, be escorted to the nearest customhouse.

The master of the vessel will, upon his request, be given a certificate concerning the results of the inspection or search.

(d) REGULATION RELATING TO THE FLYING OF THE FLAG OF THE MERCHANT MARINE AND INLAND WATERWAYS SHIPS OF THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA AND TO THE SIGNALS PROCEDURE APPLICABLE TO SUCH SHIPS¹

. . .

Article 5. Every foreign ship passing through the coastal waters of the Federal People's Republic of Yugoslavia shall fly its flag in conformity with articles 3 and 4 of this regulation.

¹ Text provided by the Secretariat of State for Foreign Affairs of the Federal People's Republic of Yugoslavia. Translation by the Secretariat of the United Nations.

Section B

CRIMINAL AND CIVIL JURISDICTION

Australia

- (a) TERRITORIAL WATERS JURISDICTION ACT, 1878 (AN ACT OF THE PARLIAMENT OF THE UNITED KINGDOM IN FORCE IN AUSTRALIA) (*infra*, CHAPTER II, SECTION B UNDER UNITED KINGDOM (a))
- (b) NAVIGATION ACT, 1912-1953, PARTS IX AND X (*supra*, CHAPTER II, SECTION A UNDER AUSTRALIA (b))

States of Australia

- (a) NAVIGATION ACT, 1901-1954 (NEW SOUTH WALES), PART III (*supra*, CHAPTER II, SECTION A, UNDER STATES OF AUSTRALIA (a))

Belgique

- (a) NOTE DU 27 DÉCEMBRE 1955 REÇUE DE LA MISSION PERMANENTE DE LA BELGIQUE AUPRÈS DE L'ORGANISATION DES NATIONS UNIES

. . .

Les crimes et délits de droit commun commis à bord de navires étrangers dans les eaux territoriales belges ne donnent pas lieu à l'arrêt du navire lors de son passage par ces eaux. L'intervention des autorités locales ne devient effective que si le navire entre dans un port et que si la tranquillité du port est compromise ou si le concours est réclamé soit par le Consul, soit par le capitaine ou par des passagers lésés. Cette question n'est pas réglée par la loi, mais par le droit des gens et spécialement par l'avis du Conseil d'Etat de France du 20 novembre 1806...¹.

Les tribunaux belges sont en principe compétents pour connaître des litiges entre navires étrangers notamment lorsque ces litiges trouvent leur cause dans des faits qui se sont produits pendant le passage dans des eaux belges.

Toutefois leur compétence est reconnue et les parties ne sont pas autorisées de décliner celle-ci dans les cas déterminés à l'article 52 de la loi du 25 mars 1876, modifiée par celle du 4 septembre 1908...².

Par ailleurs, les tribunaux ne peuvent pas décliner leur compétence lorsque les deux parties étrangères sont d'accord pour leur soumettre le litige....

Les tribunaux sont en tous cas compétents pour tout litige où un navire étranger est demandeur contre un navire belge....

¹ Voir *infra*, Chapitre II, Section B, France.

² Voir plus bas (b).

- (b) LOI DU 25 MARS 1876 CONTENANT LE TITRE I^{er} DU LIVRE PRÉLIMINAIRE DU CODE DE PROCÉDURE CIVILE, MODIFIÉE PAR LA LOI DU 4 SEPTEMBRE 1908 ¹

Article 52. Les étrangers pourront être assignés devant les tribunaux du royaume, soit par un Belge, soit par un étranger, dans les cas suivants:

(11°) [*L. du 4 sept. 1908, art. 2.* — En cas d'abordage ou d'assistance en haute mer ou dans les eaux étrangères, quand le bâtiment contre lequel les poursuites sont exercées se trouve dans les eaux belges au moment où la signification a lieu.]

Article 53. Lorsque les différentes bases indiquées au présent chapitre sont insuffisantes pour déterminer la compétence des tribunaux belges à l'égard des étrangers, le demandeur pourra porter la cause devant le juge du lieu où il a lui-même son domicile ou sa résidence.

Article 54. Dans les cas non prévus à l'article 52 ci-dessus, l'étranger pourra, si ce droit appartient au Belge dans le pays de cet étranger, décliner la juridiction des tribunaux belges; mais à défaut par lui de ce faire dans les premières conclusions, le juge retiendra la cause et y fera droit.

Cette réciprocité sera constatée soit par les traités conclus entre les deux pays, soit par la production des lois ou actes propres à en établir l'existence.

L'étranger défaillant sera présumé décliner la juridiction des tribunaux belges.

- (c) LOI DU 5 JUIN 1928 PORTANT REVISION DU CODE DISCIPLINAIRE ET PÉNAL POUR LA MARINE MARCHANDE ET LA PÊCHE MARITIME, MODIFIÉE PAR LA LOI DU 19 AVRIL 1934 ²

DISPOSITIONS PRÉLIMINAIRES

Article 4. Pour l'application du présent Code:

...Les termes « royaume » et « eaux ou ports du royaume » désignent la métropole, à l'exclusion de la colonie et les eaux ou ports métropolitains, à l'exclusion des eaux ou ports du Congo.

TITRE I^{er}. — DE LA PÉNALITÉ

Chapitre II. — Des infractions et de leur répression

Section II. — Des délits et des crimes maritimes

Article 52. Sera puni d'un emprisonnement de trois jours à trois mois et d'une amende de 26 francs à 300 francs, ou d'une de ces peines seulement,

¹ *Les Codes Larquier*, éd. 1953, t. I, Bruxelles, p. 159-163.

² *Ibid.*, t. II, Bruxelles, p. 149 et suiv.

à moins qu'une sanction plus forte ne résulte de l'application d'une loi particulière, tout capitaine ou homme d'équipage qui aura contrevenu aux lois et règlements de police maritime.

Article 55. Tout capitaine qui aura refusé d'obéir aux ordres des consuls ou des commissaires maritimes ou qui les aura outragés par paroles, faits, gestes ou menaces, dans l'exercice de leurs fonctions ou à l'occasion de leurs fonctions, sera puni d'une amende de 26 francs à 300 francs ou d'une de ces peines seulement.

Article 56. Le capitaine d'un navire étranger qui, dans les eaux du royaume, se rendra coupable des infractions visées aux articles 52 et 55 ci-dessus, sera passible des peines y prévues.

Article 57. Sera punie d'un emprisonnement de huit jours à un mois, et d'une amende de 26 francs à 500 francs ou d'une de ces peines seulement, toute personne qui par défaut de prévoyance ou de précaution a causé la destruction, la détérioration, le déplacement ou l'arrachement des balises, feux ou bouées ou de tous autres engins servant à la sécurité de la navigation.

- (d) LOI DU 4 SEPTEMBRE 1908 RELATIVE À LA SAISIE ET À LA SURENCHÈRE SUR ALIÉNATION VOLONTAIRE DES NAVIRES ET DES BATEAUX, AINSI QU'À LA COMPÉTENCE EN MATIÈRE MARITIME ET FLUVIALE ¹

Chapitre premier. De la saisie conservatoire

Article 1^{er}. Dans les cas qui requièrent célérité, le président du tribunal de première instance peut permettre de saisir conservatoirement les navires et les bateaux qui se trouvent dans le ressort du tribunal.

L'autorisation est accordée par le président du tribunal de commerce si la contestation a pour objet un acte commercial à l'égard du défendeur.

Le président peut, suivant l'exigence des cas, assujettir le demandeur à donner caution ou à justifier de solvabilité suffisante. Son ordonnance est exécutoire par provision.

En cas de contestation, les parties se pourvoient en référé.

Chapitre IV. De la surenchère sur aliénation volontaire

Article 29. La réquisition par laquelle un créancier inscrit poursuit la mise du navire ou du bateau aux enchères, conformément à l'article 42 du livre II du Code de commerce, contient constitution d'avoué près le tribunal du lieu où se trouve le navire, et, s'il est en cours de voyage, devant le tribunal du port d'attache.

L'acte de réquisition de mise aux enchères contient, à peine de nullité de la surenchère, l'offre de la caution, avec assignation à trois jours devant le même tribunal pour la réception de cette caution, à laquelle il est procédé comme en matière *sommaire* et urgente.

¹ *Ibid.*, t. I, Bruxelles, p. 457-459.

Brazil

CODE OF CRIMINAL PROCEDURE (LEGISLATIVE DECREE No. 3689
OF 3 OCTOBER 1941) ¹

. . .

Article 89. Persons accused of crimes committed on board any vessel in the territorial waters of the Republic or on frontier rivers or lakes, and crimes committed on board Brazilian vessels on the high seas, shall be tried and judged by the magistrate of the first Brazilian port at which the vessel calls after the crime has been committed, or, if it has left the country, by the magistrate of the last Brazilian port of call.

. . .

Canada

(a) CRIMINAL CODE (ASSENTED TO 26 JUNE 1954) ²

420. (1) Where an offence is committed by a person, whether or not he is a Canadian citizen, on a part of the sea adjacent to the coast of Canada and within three nautical miles of ordinary low water mark, whether or not it was committed on board or by means of a Canadian ship, the offence is within the competence of and shall be tried by the court having jurisdiction in respect of similar offences in the territorial division nearest to the place where the offence was committed, and shall be tried in the same manner as if the offence had been committed within that territorial division.

(2) No proceedings for an offence to which subsection (1) applies shall, where the accused is not a Canadian citizen, be instituted without the consent of the Attorney General of Canada.

(b) ADMIRALTY ACT, 1934 ³

. . .

INTERPRETATION

2. In this Act,

. . .

(b) "Court" means the Exchequer Court of Canada and includes the President and the Puisne Judges of that Court, respectively, and, as well, every District, Deputy and Surrogate Judge of that Court, whenever any thereof are exercising as a court any jurisdiction in Admiralty of that Court;

. . .

(i) "ship" includes any description of vessel used in navigation not propelled by oars;

. . .

¹ *Diário Oficial*, vol. 80, No. 238, 13 October 1941, p. 19699; Translation by the Secretariat of the United Nations; see *United Nations Legislative Series, Laws and Regulations on the Régime of the High Seas*, vol. II, 1952, p. 17.

² *Statutes of Canada*, 1953-54, Chapter 51.

³ *Revised Statutes of Canada*, 1952, Chapter 1.

JURISDICTION

18. (1) The jurisdiction of the Court on its Admiralty side extends to and shall be exercised in respect of all navigable waters, tidal and non-tidal whether naturally navigable or artificially made so, and although such waters are within the body of a county or other judicial district, and, generally, such jurisdiction shall, subject to the provisions of this Act, be over the like places, persons, matters and things as the Admiralty jurisdiction now possessed by the High Court of Justice in England, whether existing by virtue of any statute or otherwise, and be exercised by the Court in like manner and to as full an extent as by such High Court.

(2) Without restricting the generality of subsection (1) of this section, and subject to the provisions of subsection (3) thereof, section 22 of the *Supreme Court of Judicature (Consolidation) Act, 1925*, of the Parliament of the United Kingdom, which is Schedule A to this Act, shall, in so far as it can, apply to and be applied by the Court, *mutatis mutandis*, as if that section of that Act had been by this Act re-enacted, with the word "Canada" substituted for the word "England", the words "Governor in Council" substituted for "His Majesty in Council", the words "Canada Shipping Act" (with the proper references to years of enactment and sections) substituted, except with relation to mortgages, for the words "Merchant Shipping Act" (and any equivalent references to years of enactment and sections) and with the words "or other judicial district" added to the words "body of a county", wherever in such section 22 of such *Supreme Court of Judicature (Consolidation) Act, 1925*, any of the indicated words of that Act appear.

(3) Notwithstanding anything in this Act or in the Act mentioned in subsection (2), the Court has jurisdiction to hear and determine

(a) Any claim

(i) Arising out of an agreement relating to the use or hire of a ship,

(ii) Relating to the carriage of goods in a ship, or

(iii) In tort in respect of goods carried in a ship,

(b) Any claim for necessities supplied to a ship, or

(c) Any claim for general average contribution.

(4) No action *in rem* in respect of any claim mentioned in paragraph (a) of subsection (3) is within the jurisdiction of the Court unless it is shown to the Court that at the time of the institution of the proceedings no owner or part owner of the ship was domiciled in Canada.

(5) The jurisdiction of the Court over claims for services in the nature of salvage includes jurisdiction *in rem* and *in personam* in relation to salvage of life or property of, from or by aircraft on or over the sea or any tidal waters and on or over the Great Lakes of North America, so called, and such jurisdiction shall be exercised and applied in the same manner, to the same extent and with the same effect as if such aircraft were ships; but the Governor in Council may by Order in Council make modifications of and exemptions from the provisions of this subsection to such extent as appears to him necessary or expedient.

(6) The Court on its Admiralty side has and shall exercise such other jurisdiction and execute such power and authority, in or relating to admiralty matters, as

(a) Heretofore have been conferred upon it by any Act of the Parliament of Canada, or

(b) Hereafter may be conferred upon it, at the request and with the consent of Canada, by any Act of the Parliament of the United Kingdom or of any British Dominion, enacted in execution of any agreement for reciprocal legislation with relation to Admiralty jurisdiction or to shipping and navigation made or to be made and including Canada as a party thereto.

(7) The jurisdiction of the Court on its Admiralty side shall, so far as regards procedure and practice, be exercised in the manner provided by this Act or by general rules and orders, and where no special provision is contained in this Act or in general rules and orders with reference thereto any such jurisdiction shall be exercised as nearly as may be in the same manner as that in which it may now be exercised by the Court. 1934, c. 31, s. 18.

. . .

SCHEDULE A

Section twenty-two of Chapter forty-nine of 15-16 Geo. V of the Parliament of the United Kingdom, being the Supreme Court of Judicature (Consolidation) Act, 1925

22. (1) The High Court shall, in relation to admiralty matters, have the following jurisdiction (in this Act referred to as "admiralty jurisdiction") that is to say:

. . .

(iii) Any claim for damage received by a ship, whether received within the body of a county or on the high seas;

(iv) Any claim for damage done by a ship;

(v) Subject to the provisions of section five hundred and forty-seven of the *Merchant Shipping Act, 1894*, with respect to the summary determination of salvage disputes, any claim in the nature of salvage for services rendered to a ship (including, subject to the provisions of the said Act, services rendered in saving life from a ship), whether rendered on the high seas or within the body of a county, or partly on the high seas and partly within the body of a county, and whether the wreck in respect of which the salvage is claimed is found on the sea or on the land, or partly on the sea and partly on the land;

(vi) Any claim in the nature of towage, whether the services were rendered within the body of a county or on the high seas;

(vii) Any claim for necessaries supplied to a foreign ship, whether within the body of a county or on the high seas, and, unless it is shown to the Court that at the time of the institution of the proceedings any owner or part owner of the ship was domiciled in England, any claim for any necessaries supplied to a ship elsewhere than in the port to which the ship belongs;

(viii) Any claim by a seaman of a ship for wages earned by him on board the ship, whether due under a special contract or otherwise, and any claim by the master of a ship for wages earned by him on board the ship and for disbursements made by him on account of the ship;

. . .

(3) In this Act, unless the context otherwise requires, the expression "ship" includes any description of vessel used in navigation not propelled by oars. 1934, c. 31, Sch. A.

(c) CANADA PRIZE ACT, 1954¹

INTERPRETATION

2. In this Act, "ship" includes vessel and boat, with the tackle, furniture and apparel of the ship, vessel or boat, and other words and expressions have the same meaning as in the *Admiralty Act*, 1945, c. 12, s. 2.

PRIZE COURT

3. (1) The Exchequer Court of Canada on its Admiralty side shall have and exercise, subject to the provisions of this Act, jurisdiction in all matters of prize in Canada.

(2) A judge may exercise the prize jurisdiction of the Court in the same manner and to the same extent as he may exercise the Admiralty jurisdiction of the Court.

(3) The Minister of Justice may, from time to time by notice published in the *Canada Gazette*, designate by name or office, the persons who may act as Registrars, Marshals or other officers of the Court in the exercise of its prize jurisdiction. 1945, c. 12, s. 3.

4. An appeal may be taken from any decision of the Court or of a judge made in the exercise of the prize jurisdiction of the Court, in accordance with the provisions of the *Admiralty Act*, regarding appeals from decisions of the Court. 1945, c. 12, s. 4.

PRIZE LAW OF CANADA

5. (1) The Court shall, subject to the provisions of this section, take cognizance of and judicially proceed upon all and all manner of captures, seizures, prizes and reprisals made under the authority of Her Majesty in right of Canada of all ships, aircraft or goods, and shall hear and determine the same and, according to the Course of Admiralty and the Law of Nations, adjudge and condemn all such ships, aircraft or goods as belong to any enemy country or the citizens or subjects thereof or any other persons inhabiting any of the countries, territories or dominions of any enemy country or which are otherwise condemnable as prize.

(2) Subject to any orders or regulations made under this Act and until otherwise provided by or pursuant to any other Act of the Parliament of Canada, all Acts enacted by the Parliament of the United Kingdom, and all orders, regulations or rules made pursuant thereto, in force in the United Kingdom on the 10th day of September, 1939, in respect of ships, aircraft or goods taken as prize under the authority of Her Majesty in right of the United Kingdom and within or brought within the United Kingdom or the territorial waters thereof, and in respect of all matters relating to the taking thereof, or otherwise with regard thereto as prize, shall apply in, and be the law of Canada, *mutatis mutandis*, in respect of ships, aircraft or goods taken as prize under the authority of Her Majesty in right of Canada, and within or brought within Canada or the territorial waters thereof, and in respect of all matters relating to the taking thereof, or otherwise with regard thereto as prize; and, subject as aforesaid, the Court shall exercise its prize jurisdiction in respect of the like persons, matters and things and

¹ *Ibid.*, Chapter 28.

in a like manner and with a like authority and to as full an extent in respect of such last mentioned ships, aircraft or goods as the High Court of Justice in England might on the said date exercise its prize jurisdiction in respect of such first mentioned ships, aircraft or goods. 1945, c. 12, s. 5.

6. (1) After the commencement of this Act, no proceedings to enforce a claim for services rendered in retaking a ship, aircraft or goods taken by an enemy shall be instituted and no such claim shall be made or shall be relied upon in any proceedings by way of defence or otherwise without the consent of the Attorney General of Canada.

(2) Evidence of the consent required by this section may be given by means of a document purporting to give such consent and to be signed by the Attorney General of Canada. 1945, c. 12, s. 6.

RECIPROCAL ARRANGEMENTS WITH OTHER GOVERNMENTS

8. (1) Where Her Majesty in right of a government other than the Government of Canada or a co-belligerent of Her Majesty consents to the taking as prize under the authority of Her Majesty in the right of Canada, of ships, aircraft or goods within the territory or territorial waters of Her Majesty in right of the said government, or of the said co-belligerent, or to the bringing within the said territory or territorial waters of ships, aircraft or goods so taken outside the said territory or territorial waters, the Court shall have and exercise jurisdiction in prize in respect of the said ships, aircraft or goods in a like manner and to the same extent as in the case of ships, aircraft or goods so taken on the high seas and brought within Canada or the territorial waters of Canada.

(2) Where Her Majesty in right of a government other than the Government of Canada or a co-belligerent of Her Majesty has given the consent referred to in subsection (1), any ship, aircraft or goods taken as prize under the authority of Her Majesty in right of Canada within or so taken and brought within the territory or territorial waters of Her Majesty in right of the said government or of the said co-belligerent, before the said consent was given, shall be deemed to be so taken or brought with the said consent unless it is expressly stated in the said consent that it is to have effect only with respect to ships, aircraft or goods so taken or brought after the date of the consent.

(3) Without limiting or restricting the authority of the Court otherwise to receive or to admit evidence, where Her Majesty in right of a government other than the Government of Canada or a co-belligerent of Her Majesty has given the consent referred to in subsection (1), the Court may receive evidence in respect of the taking as prize under the authority of Her Majesty in right of Canada, of any ship, aircraft or goods taken within, or so taken and brought within, the territory or territorial waters of Her Majesty in right of the said government or of the said co-belligerent, or in respect of any other matters of prize relating thereto, received and recorded by a prize court constituted by or under the authority of Her Majesty in right of the said government or of the said co-belligerent if the evidence would be received and admissible in the Court if given before it. 1945, c. 12, s. 8.

9. (1) Where Her Majesty in right of a government other than the Government of Canada or a co-belligerent of Her Majesty has given the

consent referred to in section 8, or where it has been agreed that such a consent will be given, the Governor in Council may authorize the Secretary of State for External Affairs to consent on behalf of Her Majesty in right of Canada, on such terms as the Governor in Council deems advisable, to the taking as prize, under the authority of Her Majesty in right of the said government, or of the said co-belligerent, of ships, aircraft or goods within, or the bringing of ships, aircraft or goods so taken within Canada or the territorial waters of Canada.

(2) Where a consent has been given under subsection (1) to Her Majesty in right of a government other than the Government of Canada or to a co-belligerent of Her Majesty, if an undertaking by Her Majesty in right of the said government or by the said co-belligerent is given to Her Majesty in right of Canada to bear all expenses in connection therewith, the Court may order that any ship, aircraft or goods taken as prize under the authority of Her Majesty in right of the said government, or of the said co-belligerent, within, or so taken and brought within Canada or the territorial waters of Canada, be held in the custody of the Court until an order is made by a prize court constituted by or under the authority of Her Majesty in right of the said government or of the said co-belligerent with regard to the release or disposal thereof.

(3) The Court shall recognize and give effect to any proceedings or order taken or made in relation to any ship, aircraft or goods held in the custody of the Court pursuant to an order made under subsection (2) before or by a prize court having jurisdiction in respect thereof constituted by or under the authority of Her Majesty in right of the government, or of the co-belligerent of Her Majesty, under whose authority the said ship, aircraft or goods was taken or brought within Canada or the territorial waters of Canada.

(4) The Court may receive and record evidence in respect of the taking of any ship, aircraft or goods taken or brought within Canada or the territorial waters of Canada under the authority of Her Majesty in right of a government other than the Government of Canada, or of a co-belligerent of Her Majesty, to whom a consent has been given under this section, or in respect of any other matter of prize relating thereto, if application for that purpose is made to it on behalf of Her Majesty in right of the said government or of the said co-belligerent. 1945, c. 12. s. 9.

10. Notice of a consent under either of the two last preceding sections and of the terms thereof shall be given by proclamation of the Governor in Council published in the *Canada Gazette* and such proclamation shall be conclusive evidence of such consent and of the terms thereof. 1945, c. 12, s. 10.

Note. See also: Canada Shipping Act, 1934, section 693 (*supra*, Chapter II, Section A, under Canada (a)); and Foreign Enlistment Act, 1937, Sections 2-4, 6, 12, 13, 16-19 (*supra*, Chapter II, Section A, under Canada (c)).

Ceylon

(a) CRIMINAL PROCEDURE CODE, 1 MARCH 1899¹

PART VI. PROCEEDINGS IN PROSECUTIONS

Chapter XIV. Of the Jurisdiction of the Criminal Courts in Inquiries and Trials

A. Place of Inquiry or Trial

136. Any District Court or Magistrate's Court within the local limits of the jurisdiction of which an accused may be or be found shall have jurisdiction respectively in all cases of offences otherwise within their respective jurisdictions which have been committed on the territorial waters of the Island.

(b) CIVIL LAW ORDINANCE OF 1 JULY 1853,² AS AMENDED³ UP TO 1944

2. The law to be hereafter administered in this Island in respect of all contracts or questions arising within the same relating to ships and to the property therein, and to the owners thereof, the behaviour of the master and mariners, and their respective rights, duties, and liabilities, relating to the carriage of passengers and goods by ships, to stoppage *in transitu*, to freight, demurrage, insurance, salvage, average, collision between ships, to bills of lading, and generally to all maritime matters, shall be the same in respect of the said matters as would be administered in England in the like case at the corresponding period, if the contract had been entered into or if the act in respect of which any such question shall have arisen had been done in England, unless in any case other provision is or shall be made by any Ordinance now in force in this Island or hereafter to be enacted.

(c) CEYLON COURTS OF ADMIRALTY ORDINANCE OF 2 MARCH 1892,⁴ AS AMENDED⁵

2. It is hereby declared that the Supreme Court of the Island of Ceylon shall be a Colonial Court of Admiralty, and such court shall have jurisdic-

¹ *Legislative Enactments of Ceylon*, vol. I, Revised 1938, p. 327. Text provided by the Ministry for External Affairs of Ceylon.

² *Ibid.*, vol. II, Revised 1938, p. 138. Text provided by the Ministry for External Affairs of Ceylon.

³ By section 357 of the Companies Ordinance, No. 51 of 1938, and Ordinance No. 17, 1944. The texts of these ordinances have been provided by the Ministry for External Affairs of Ceylon.

⁴ *Ibid.*, vol. I, Revised 1938, p. 96. Text provided by the Ministry for External Affairs of Ceylon.

⁵ By the First Schedule of the Proclamation No. C. 126/48 of 4 February 1948 (the *Ceylon Government Gazette*, Extraordinary, No. 9828 of 5 February 1948).

tion, subject to the provisions and limitations contained in the Colonial Courts of Admiralty Act, 1890, over the like places, persons, matters, and things as the admiralty jurisdiction of the High Court in England, whether existing by virtue of any Statute or otherwise, and such Colonial Court of Admiralty may exercise such jurisdiction in like manner and to as full an extent as the High Court in England, and shall have the same regard as that court to international law and the comity of nations.

. . .

4. Any District Court having admiralty jurisdiction shall have jurisdiction, and all powers and authorities relating thereto, to try and determine the following causes:

. . .

(c) As to any claim for damage to cargo or damage to ships by collision or otherwise, or damage done by any ship, in any cause in which the amount claimed does not exceed three thousand rupees;

. . .

(d) SHIPPING INQUIRIES ORDINANCE OF 7 NOVEMBER 1899¹

. . .

2. In this Ordinance, unless the context otherwise requires —

“ Board of Trade ” means the Lords of the Committee for the time being of the Privy Council appointed for the consideration of matters relating to trade and foreign plantations;

“ High Court ” means His Majesty’s High Court of Justice in England.

3. (1) It is hereby declared that District Courts shall have jurisdiction to make inquiries as to shipwrecks, or other casualties affecting ships, or as to charges of incompetency or misconduct on the part of masters, mates, or engineers of ships, in the following cases, namely:

(a) Where a shipwreck or casualty occurs to a British ship on or near the coast of Ceylon or to a British ship in the course of a voyage to a port in Ceylon;

(b) Where a shipwreck or casualty occurs in any part of the world to a British ship registered in Ceylon;

(c) Where some of the crew of a British ship which has been wrecked, or to which a casualty has occurred, and who are competent witnesses to the facts, are found in Ceylon;

(d) Where the incompetency or misconduct has occurred on board a British ship on or near the coasts of Ceylon, or on board a British ship in the course of a voyage to a port in Ceylon;

(e) Where the incompetency or misconduct has occurred on board a British ship registered in Ceylon;

(f) When the master, mate, or engineer of a British ship, who is charged with incompetency or misconduct on board that British ship, is found in Ceylon.

(2) District Courts shall have the same jurisdiction over the matter in question as if it had occurred within their ordinary jurisdiction, but subject to all provisions, restrictions, and conditions which would have been applicable if it had so occurred.

¹ *Ibid.*, vol. VI, Revised 1938, p. 153. Text provided by the Ministry for External Affairs of Ceylon.

INQUIRIES AND INVESTIGATIONS AS TO SHIPPING CASUALTIES

4. For the purpose of inquiries and investigations under this Ordinance a shipping casualty shall be deemed to occur —

(a) When on or near the coasts of Ceylon any ship is lost, abandoned, or materially damaged;

(b) When on or near the coasts of Ceylon any ship has been stranded or damaged, and any witness is found in Ceylon;

(c) When on or near the coasts of Ceylon any ship causes loss or material damage to any other ship;

(d) When any loss of life ensues by reason of any casualty happening to or on board any ship on or near the coasts of Ceylon;

(e) When in any place any such loss, abandonment, material damage, or casualty as above mentioned occurs, and any witness is found in Ceylon;

(f) When in any place any British ship is stranded or damaged and any witness is found in Ceylon;

(g) When any British ship is lost or is supposed to have been lost and any evidence is obtainable in Ceylon as to the circumstances under which she proceeded to sea or was last heard of.

5. When a shipping casualty has occurred, a preliminary inquiry may be held respecting the casualty by the following persons, namely:

(a) Where the shipping casualty occurs on or near the coasts of Ceylon, by the receiver of wrecks residing at or nearest to the place where such loss, abandonment, damage, or casualty occurred;

(b) Where the shipping casualty occurs elsewhere, by the receiver of wrecks residing at or near any place at which the witnesses with respect to the casualty arrive or are found or can be conveniently examined; or

(c) By any other person appointed for that purpose by the Governor to make inquiry respecting such loss, abandonment, damage, or casualty.

. . .

7. When any loss of life arises by reason of any casualty happening to or on board any boat belonging to a fishing vessel, the Principal Collector of Customs may, if he thinks fit, cause an inquiry to be made or a formal investigation to be held as in the case of a shipping casualty, and the provisions of this Ordinance relating thereto shall apply accordingly.

. . .

Chile

(a) PENAL CODE, 12 NOVEMBER 1874 ¹

. . .

Article 5. Chilean penal law shall apply to all inhabitants of the Republic, including aliens. Offences committed in territorial or adjacent waters shall be subject to the provisions of this Code.

. . .

(b) CODE OF PENAL PROCEDURE, 30 AUGUST 1944 ¹

Article 1. The courts of the Republic shall have jurisdiction to try offences committed within the territory of the Republic, whether by a

¹ Text of Code provided by the Permanent Mission of Chile to the United Nations. Translation by the Secretariat of the United Nations.

Chilean citizen or an alien, with the exception of cases provided for in generally recognized rules of international law.

. . .

Article 37. A public prosecution shall be discontinued, in conformity with international law:

. . .

3. Where the accused is arrested on board a vessel flying a friendly or neutral flag which has been forced to put into port.

. . .

Article 159. Before entering or searching any premises or vessel deemed to be the territory of another State by virtue of international law, the judge shall apply for leave to proceed to the diplomatic agent concerned by means of an official communication requesting a reply within twenty-four hours. Such communications shall be transmitted through the Ministry of Foreign Affairs.

If the diplomatic agent withholds his consent or fails to reply within the stated time-limit, the judge shall inform the Ministry of Foreign Affairs. Pending a reply from the Minister regarding the results of any steps taken, the judge shall abstain from entering the place in question but shall order the precautionary measures specified in article 162.

. . .

(c) CODE OF MILITARY JUSTICE, 19 DECEMBER 1944 ¹

. . .

Article 3. The military tribunals of the Republic shall have jurisdiction over all Chileans and aliens involved in cases arising within Chilean territory and coming under military jurisdiction.

Such tribunals shall also be competent to take cognizance of cases arising and offences committed outside Chilean territory, in the following cases:

1. Where the material incident occurs within a territory under Chilean military occupation;

2. Where an offence is committed by a member of the armed forces in the exercise of his functions or while engaged on a service mission;

3. Where an offence is committed against the sovereignty of the State and its external or internal security.

. . .

(d) CODE RELATING TO THE ORGANIZATION OF COURTS, 15 JUNE 1943 ¹

. . .

Article 5. The courts established under this Code shall take cognizance of all secular judicial proceedings instituted within the territory of the Republic, whatever the nature of the case and the status of the parties thereto, subject only to the following exceptions:

(There follows a list which has no bearing on the subject under review.)

¹ Text of Code provided by the Permanent Mission of Chile to the United Nations. Translation by the Secretariat of the United Nations.

China

- (a) CHINESE CRIMINAL CODE PROMULGATED BY THE NATIONAL GOVERNMENT ON 1 JANUARY 1935; ENTERED INTO FORCE ON 1 JULY OF THE SAME YEAR ¹

. . .

Article 3. This Code shall apply to any offence committed within the territorial limits of the Republic of China. Offences committed on any Chinese vessel or aircraft beyond the territorial limits of the Republic of China shall be deemed to have been committed within the territorial limits of the Republic of China.

Article 4. An offence shall be deemed to have been committed within the territory of the Republic of China if the overt act constituting the offence is committed within the territory of the Republic of China, or if the offence produces its effect in the territory of the Republic of China.

- (b) CODE OF CIVIL PROCEDURE PROMULGATED BY THE NATIONAL GOVERNMENT OF THE REPUBLIC OF CHINA ON 1 FEBRUARY 1935, AND BROUGHT INTO EFFECT ON 1 JULY OF THE SAME YEAR ¹

. . .

Article 7. An action brought against the owner or operator of a vessel in connexion with the vessel or its navigation may be subject to the jurisdiction of the court of the place where the home port of the vessel is situated.

Article 8. An action arising out of an obligation incurred by a vessel, or secured by a vessel, may be subject to the jurisdiction of the court of the place where the vessel is located.

. . .

Article 15. An action arising out of a tort may be subject to the jurisdiction of the court of the place where the tort is committed. An action arising out of a claim for compensation, in the case of a collision between vessels or other maritime accident, may be subject to the jurisdiction of the court of the first place reached by the injured vessel, or the place in which the wrongdoing vessel is detained, or the place in which the home port of the latter is situated. An action for damages, in the case of a mishap in aerial navigation or other accident to an aircraft, may be subject to the jurisdiction of the court of the place where the injured aircraft first lands or where the wrong-doing vessel is detained.

Article 16. An action arising out of salvage in a maritime disaster may be subject to the jurisdiction of the court of the place where the salvage service is rendered, or the place first reached by the salvaged vessel.

¹ Text of Code provided by the Permanent Mission of China to the United Nations. Translation by the Secretariat of the United Nations.

- (c) MARITIME COMMERCE ACT PROMULGATED BY THE NATIONAL GOVERNMENT OF THE REPUBLIC OF CHINA ON 30 DECEMBER 1929 AND BROUGHT INTO EFFECT ON 1 JANUARY 1931 ¹

. . . .

Article 113. All matters relating to the collision of vessels shall be dealt with in accordance with the provisions of the present chapter, irrespective of the place where such collision has occurred.

. . . .

Article 118. The right of claim arising out of a collision is extinguished by prescription if not exercised within a period of two years computed from the date when such collision occurred.

Article 119. In the case of a collision of vessels, if the injured party is a Chinese vessel or a Chinese national, the court may at any time detain the wrong-doing vessel, irrespective of the place where the collision occurred, so long as such vessel is found in Chinese ports, rivers or territorial waters.

The vessel detained under the preceding paragraph may petition for its release, on condition that security is deposited with the court.

Article 120. Legal proceedings in connexion with collision may be instituted before any of the following courts:

1. The court of the place where the defendant's residence or business office is located;
2. The court of the place where the collision occurred;
3. The court of the place where the home port of the defendant vessel is situated;
4. The court of the place where the wrong-doing vessel is detained.

Costa Rica

- (a) PENAL CODE OF 21 AUGUST 1941 ²

. . . .

Article 3. Costa Rican penal law shall apply to any person committing a punishable act in the national territory, which includes the air space and territorial waters, Costa Rican legations, naval vessels and military aircraft as well as Costa Rican merchant vessels and aircraft on the high seas or in free air space, subject to the exceptions with respect to immunity and extra-territoriality recognized by international law.

-
- (b) POLICE CODE OF 21 AUGUST 1941³

. . . .

Article 3. In police cases Costa Rican law shall apply solely to offences committed in the national territory, which includes the air space and

¹ Text of Act provided by the Permanent Mission of China to the United Nations. Translation by the Secretariat of the United Nations.

² L. Jiménez de Asúa and F. Carsi Zacarés, *Códigos penales iberoamericanos*, 1946, vol. I, pp. 743-744. Translation by the Secretariat of the United Nations.

³ *Ibid.*, p. 819. Translation by the Secretariat of the United Nations.

territorial waters, Costa Rican legations, naval vessels and military aircraft as well as Costa Rican merchant vessels and aircraft on the high seas or in free air space, subject to the exceptions with respect to immunity or extra-territoriality recognized by international law.

Cuba

(a) CODE OF SOCIAL DEFENSE, 4 APRIL 1936 ¹

Article 7. (A) The provisions of the present Code shall apply to all crimes and offences committed in the territory of the Republic and in Cuban territorial waters or air space, or on board Cuban ships or aircraft, wherever they may be, subject to the exceptions established by international law and treaties.

(B) The provisions shall likewise apply to crimes committed on board foreign ships or aircraft in Cuban territorial waters or air, whether committed by Cubans or aliens, other than offences committed by one foreign member of the crew against another, unless in the latter case the assistance of the authorities of the Republic is requested by the victim, the captain of the ship or the consul of the country concerned.

(C) Notwithstanding the provisions of the last portion of the preceding sub-paragraph, the foreign nation may claim jurisdiction over the case instituted before the Cuban courts, and the surrender of the offender in accordance with any relevant provisions of treaties in force.

(D) For the purposes of this Code, territorial waters shall be taken to mean the waters surrounding the coasts of the Republic to a distance of three nautical miles therefrom reckoned from the lowest low-watermark on the most distant adjacent key or island, following the coastline of the national territory and of its keys or islands.

(E) The Cuban territorial air space shall be deemed to mean the air space situated above Cuban territory or territorial waters.

(b) LEGISLATIVE DECREE No. 108 OF 8 JANUARY 1934 ²

Article 7. (third paragraph)

The harbour-masters shall have authority to order the preventive detention or attachment of any foreign vessel against which a complaint has been lodged by reason of a collision in the territorial waters of Cuba, or by reason of a collision on the high seas if a vessel of the Cuban Marine was involved in the accident.

Note. See also: Organic Law of the Army and Navy, approved by Decree—Law No. 7 of 27 January 1942; article 36 (*supra*, Chapter I, under Cuba (a)).

¹ L. Jiménez de Asúa and F. Carsi Zacarés, *Codigos Penales Iberoamericanos* (1946), vol. I, pp. 856-858. Translation by the Secretariat of the United Nations; See also: United Nations *Legislative Series, Laws and Regulations on the Régime of the High Seas*, vol. II, 1951, p. 29.

² *Gaceta Oficial de la República de Cuba*, 9 January 1934, vol. I, p. 307 (Year 32 No. 7). Translation by the Secretariat of the United Nations.

Denmark

- (a) CIVIL PENAL CODE, AS AMENDED UP TO AND INCLUDING ACT No. 215 OF 24 JUNE 1939¹

Article 6. 1. Danish penal jurisdiction shall extend to all acts committed:

- (1) Within the Danish State;
- (2) On board Danish vessels in areas not recognized in international law as the territory of any State;
- (3) On board Danish vessels in areas recognized in international law as the territory of a particular foreign State, by persons belonging to the vessel or travelling as passengers thereon.

2. The Minister of Justice shall determine to what extent offences committed in Danish territory on board a foreign vessel by and against a person belonging to the vessel or travelling as a passenger thereon shall be prosecuted. (Cf. Order No. 290 of 15 November 1932).

- (b) ORDER No. 290 OF 15 NOVEMBER 1932 CONCERNING PROSECUTION IN RESPECT OF OFFENCES COMMITTED ON BOARD FOREIGN VESSELS IN DANISH TERRITORY²

Pursuant to article 6, paragraph (2), of the General Penal Code of 15 April 1930, the Ministry of Justice hereby orders that prosecution in respect of an offence committed on board a foreign vessel in Danish territory (port, territorial sea or territorial air space) by or against a member of the crew of or passenger on the said vessel may be instituted only if:

The offender is a Danish citizen or is resident in the Danish State;

There is a breach of the peace;

The assistance of the Danish authorities is requested by the injured party;

Danish criminal jurisdiction would, under article 8 of the Criminal Code, have extended to the offence had it been committed outside the Danish State; or the Chief Public Prosecutor so orders.

. . .

Dominican Republic

- (a) HARBOUR AND COASTAL POLICE ACT No. 3003 OF 1951, ARTICLE 4 (*supra*, CHAPTER II, SECTION A, UNDER DOMINICAN REPUBLIC (c)).
- (b) ACT No. 3342 OF 13 JULY 1952 CONCERNING THE EXTENT OF THE TERRITORIAL WATERS OF THE REPUBLIC, ARTICLE 1 (*supra*, CHAPTER I, UNDER DOMINICAN REPUBLIC (b))

Ecuador

CODE OF CRIMINAL PROCEDURE (1955 EDITION)³

. . .

Article 3. The following persons shall be subject to criminal jurisdiction in Ecuador:

. . .

¹ *Danmarks Love 1665—1941*, p. 1924; translation by the Secretariat of the United Nations.

² Denmark, *Lovtidende A*, July-December 1932, No. 54, 21 November 1932, page 1867. Translation by the Secretariat of the United Nations.

³ Text provided by the Permanent Mission of Ecuador to the United Nations. Translation by the Secretariat of the United Nations.

3. Any person, whether a national of Ecuador or an alien who commits an offence aboard an Ecuadorian vessel or aircraft on the high seas, in the free air space, or in the waters or air space of the Republic;

4. Any person, whether a national of Ecuador or an alien, who commits an offence aboard an Ecuadorian vessel or aircraft in the waters or air space of other nations;

5. Any person, whether a national of Ecuador or an alien, who commits an offence aboard a foreign vessel or aircraft, other than a warship or military aircraft, in Ecuadorian waters or in the Ecuadorian air space; this provision shall not apply, however, in any case in which the offence does not affect Ecuador or its inhabitants in any way and does not disturb the peace;

El Salvador

NAVIGATION AND MARITIME ACT OF 27 OCTOBER 1933, ARTICLE 241
(*supra*, CHAPTER II, SECTION A, UNDER EL SALVADOR (a))

Ethiopia

MARITIME PROCLAMATION No. 137 OF 1953, SECTIONS 34, 35, 36, 40, 42-45
AND 49 (*supra*, CHAPTER II, SECTION A, UNDER ETHIOPIA)

France

AVIS DU CONSEIL D'ETAT DU 20 NOVEMBRE 1806¹

Le Conseil d'Etat, qui, d'après le renvoi à lui fait par Sa Majesté, a entendu le rapport de la section de législation sur celui du grand juge, ministre de la Justice, tendant à régler les limites de la juridiction que les consuls des Etats-Unis d'Amérique, aux ports de Marseille et d'Anvers, réclament, par rapport aux délits commis à bord des vaisseaux de leur nation étant dans les ports et rades de France;

Considérant qu'un vaisseau neutre ne peut être indéfiniment considéré comme lieu neutre, et que la protection, qui lui est accordée dans les ports français, ne saurait dessaisir la juridiction territoriale pour tout ce qui touche aux intérêts de l'Etat;

Qu'ainsi le vaisseau neutre, admis dans un port de l'Etat, est, de plein droit, soumis aux lois de police qui régissent le lieu où il est reçu;

Que les gens de son équipage sont également justiciables des tribunaux du pays pour les délits qu'ils y commettraient, même à bord, envers des personnes étrangères à l'équipage, ainsi que pour les conventions civiles qu'ils pourraient faire avec elles;

Mais que si, jusque-là, la juridiction territoriale est hors de doute, il n'en est pas ainsi à l'égard des délits qui se commettent à bord du vaisseau neutre, de la part d'un homme de l'équipage neutre envers un autre homme du même équipage;

Qu'en ce cas, les droits de la puissance neutre doivent être respectés, comme s'agissant de la discipline intérieure du vaisseau, dans laquelle

¹ *Bulletin des lois*, 3^e série, t. V, p. 602.

l'autorité locale ne doit pas s'ingérer, toutes les fois que son secours n'est pas réclamé ou que la tranquillité du port n'est pas compromise;

Est d'avis que cette distinction indiquée par le rapport du grand juge et conforme à l'usage est la seule règle qu'il convienne de suivre en cette matière;

Et appliquant cette doctrine aux deux espèces particulières pour lesquelles ont réclamé les consuls des Etats-Unis;

Considérant que, dans l'une de ces affaires, il s'agit d'une rixe passée dans le canot du navire américain le *Newton* entre deux matelots du même navire, et, dans l'autre, d'une blessure grave faite par le capitaine en second du navire la *Sally*, à l'un de ses matelots pour avoir disposé du canot sans son ordre;

Est d'avis qu'il y a lieu d'accueillir la réclamation et d'interdire aux tribunaux français la connaissance des deux affaires précitées.

Germany (Federal Republic)

(a) CRIMINAL CODE (AS OF 25 AUGUST 1953) ¹

. . .

Article 4. Application to aliens. (1) The German criminal law shall apply also to acts committed in Germany by aliens.

(2) . . .

. . .

(b) CODE OF CRIMINAL PROCEDURE (AS OF 12 SEPTEMBER 1950) ²

. . .

Article 153 (b). Non-prosecution in respect of offences committed abroad. The State Prosecutor's Office may refrain from prosecuting in respect of an offence.

. . .

(2) Committed by a foreign citizen abroad or within the country while on board a foreign vessel or aircraft,

. . .

¹ Criminal Code of 15 May 1871 (*Reichsgesetzblatt*, 127), as amended by the Notice of 25 August 1953 (*Bundesgesetzblatt I*, p. 1083). Text of Code provided by the Permanent Observer of the Federal Republic of Germany to the United Nations. Translation by the Secretariat of the United Nations.

² Code of Criminal Procedure of 1 February 1877 (*Reichsgesetzblatt*, p. 253), as amended by the Notice of 12 September 1950 (*Bundesgesetzblatt I*, p. 629). Text of Code provided by the Permanent Observer of the Federal Republic of Germany to the United Nations. Translation by the Secretariat of the United Nations.

(c) ACT OF 28 SEPTEMBER 1935 CONCERNING THE INVESTIGATION OF ACCIDENTS AT SEA ^{1 2}*Chapter I**Subject of investigation*

Article 1. Accidents at sea shall be investigated by the Admiralty Courts if such investigation is in the public interest.

Article 2. (1) An investigation may in particular be opened when:

1. A seagoing vessel has suffered structural or operational damage or has caused damage;

2. A person has suffered a serious physical injury or a serious impairment of health in connexion with the operation of a seagoing vessel, or has attempted to commit suicide.

(2) Within the limit of the territorial sea, an inland vessel shall be deemed to be a seagoing vessel.

Article 3. (1) An investigation shall be opened when:

1. In connexion with an accident at sea, a vessel has sunk or been abandoned;

2. In connexion with an accident at sea, there has been loss of life;

3. A vessel is missing;

4. The supreme Reich authority ³ so orders.

(2) If the supreme Reich authority orders an investigation, the subject of the investigation shall be deemed to be an accident at sea.

Article 4. An investigation may be opened only with the approval of the supreme Reich authority if the seagoing vessel concerned:

1. Flies the German war ensign or is subject to naval procedure in respect of damage at sea;

2. Was flying a foreign flag at the time of the accident, and the accident took place outside German territory;

3. Has been removed from German jurisdiction.

. . .

(d) CODE OF CIVIL PROCEDURE OF 30 JANUARY 1877, AS AMENDED TO 12 SEPTEMBER 1950 ⁴

. . .

Article 23. Jurisdiction in respect of property. In actions concerning claims in respect of economic rights instituted against a person not having a place

¹ *Reichsgesetzblatt I*, pp. 1183 *et seq.* Text provided by the Permanent Observer of the Federal Republic of Germany to the United Nations. Translation by the Secretariat of the United Nations.

² The war-time regulations of 7 June 1943 (RGBl. I, p. 348) and 4 December 1944 (RGBl. I, p. 334) for the simplification of administrative practices, by which the Act concerning the investigation of accidents at sea was amended in certain respects, are for practical purposes regarded as irrelevant and no longer applicable. They will shortly be expressly repealed in connexion with the revision of the transport legislation.

³ The competent authority at present is the Federal Minister of Transport.

⁴ *Reichsgesetzblatt*, p. 83 and *Bundesgesetzblatt I*, p. 533. Text of Code provided by the Permanent Observer of the Federal Republic of Germany to the United Nations. Translation by the Secretariat of the United Nations.

of habitual residence in the country the competent court shall be the court which has jurisdiction in the place where property of the defendant or the object claimed in the action is situated. In the case of an action for debt, the residence of the debtor and, if the debt is secured by a thing, also the place where the thing is situated shall be deemed to be the place where the property is situated.

. . .

Article 32. Jurisdiction in respect of civil wrongs. In actions arising out of civil wrongs the competent court shall be the court which has jurisdiction in the place where the wrongful act was committed.

. . .

Article 35. Choice of jurisdiction. If several courts are competent, the choice shall rest with the plaintiff.

. . .

Article 38. Jurisdiction agreed between the parties. A court of first instance which is not *per se* competent becomes competent in consequence of an express or implied agreement between the parties.

Guatemala

PENAL CODE (ACT NO. 2164 OF 25 MAY 1936)¹

. . .

Article 6. The provisions of this Code shall apply, save as otherwise provided in international treaties in force in the Republic:

1. To Guatemalans or aliens committing offences in Guatemalan territory or on the high seas or in the free air space on board a Guatemalan vessel or aircraft.

2. To Guatemalans or aliens committing offences on board foreign merchant vessels or aircraft in Guatemalan ports or aerodromes or in the territorial waters or air space of the Republic, unless the offence is committed by a member of the crew against another member of the crew.

3. To a Guatemalan or alien member of the crew of a foreign vessel or aircraft committing an offence against a member of the same crew, if the assistance of the Guatemalan authorities is requested from aboard the vessel or aircraft, or if the peace of the port or the State is disturbed by the offence.

. . .

Article 7. When any of the persons referred to in paragraphs 1 and 2 of the foregoing article has been punished by a foreign court and has purged all or part of his sentence, due allowance shall be made therefor and the appropriate penalty commensurately reduced. Where any of the persons referred to in paragraphs 3, 4, 5 and 6 has been acquitted or punished by a foreign court and, in the latter case, purged the penalty, proceedings shall not be instituted in the Republic; if he has not purged the whole penalty,

¹ Text provided by the Permanent Mission of Guatemala to the United Nations. Translation by the Secretariat of the United Nations.

proceedings shall be instituted in the Republic and due allowance shall be made for the portion of the penalty purged abroad and the appropriate penalty shall be commensurately reduced.

Article 8. The provisions of the foregoing two articles shall not apply:

1. To persons enjoying immunity under existing rules of international law, who shall, if they commit offences in Guatemalan territory, be delivered to their Governments;

2. When, in the cases referred to in paragraphs 5 and 6 of article 6, penal proceedings for an offence have been barred by lapse of time in conformity with Guatemalan law or the law of the country in which the offence was committed.

3. In the cases referred to in paragraphs 5 and 6 of article 6 the penalties prescribed by the foreign law shall be imposed, if less severe than those prescribed by Guatemalan law. In case of doubt, the court shall decide the matter in its discretion.

. . .

Honduras

DECREE No. 191 OF 9 APRIL 1935, ARTICLE 77 (*supra*,
CHAPTER II, SECTION A, UNDER HONDURAS (*b*))

Iran

LOI DU 24 TIR 1313 (19 JUILLET 1934) RELATIVE À LA LIMITE DES EAUX
TERRITORIALES ET À LA ZONE DE SUPERVISION ET DE CONTRÔLE,
ARTICLE 8 (*supra*, CHAPITRE I, IRAN (*a*))

Israel¹

(*a*) NOTE OF 13 DECEMBER 1955 RECEIVED FROM THE MINISTRY FOR
FOREIGN AFFAIRS OF ISRAEL

. . . As regards criminal jurisdiction within territorial waters, this is exercised by virtue of the following enactments:

(*a*) Section 6 of the Criminal Code Ordinance No. 74 of 1936 . . . and Section 4 of the Criminal Procedure (Trial upon Information) Ordinance, 1924 . . .

¹ In its reply of 24 January 1950 to questionnaires of the International Law Commission (Document A/CN.4/19, paragraphs 34 and 36), the Ministry for Foreign Affairs of Israel stated:

“34. As for the exercise of criminal jurisdiction within territorial waters, the Palestine legislator followed the precedent established in the United Kingdom by the Territorial Waters Jurisdiction Act, 1878, and Section 6 of the Criminal Code Ordinance No. 74 of 1936 . . . provides that the jurisdiction of the Courts of Palestine for the purposes of that Code extends to every place within Palestine or within three nautical miles (see *supra*, Chapter I, under Israel (*a*)) of the coast thereof, measured from low water mark. The Criminal Procedure (Trial upon Information) Ordinance, 1924, . . . makes provision for jurisdiction in cases of criminal offences committed within the territorial waters of Palestine, and Section 4 (1) provides that the Court having juris-

(b) Merchant Shipping Act,¹ Part XIII, Sections 684 and 685, which provide for the jurisdiction of Israel Courts over vessels lying off the coast of Israel and over all persons on board those vessels . . .

Civil or commercial jurisdiction is exercised by either the Maritime Court or the regular Civil Courts, and this according to the subject matter to be adjudicated upon. There are, however, causes of action for which there exists concurrent jurisdiction both of the Civil Courts and the Maritime Court which apply different sets of rules, but it is believed that, for the purposes of this Note, the following observations will clarify the situation with regard to civil or commercial jurisdiction.

Under the Palestine Admiralty Jurisdiction Order, 1937, the Supreme Court of Palestine exercised jurisdiction, as a Court of Admiralty, in all matters arising upon the high seas or elsewhere or upon any lake, river or other navigable inland waters or otherwise relating to ships or shipping. Since 1952, however, a Maritime Court, which is the District Court of Haifa, was substituted for the Supreme Court and, under Section 2 of the Maritime Court Law 5712-1952, all the powers which were vested in the Supreme Court before the coming into force of the Law, are henceforth vested in the District Court of Haifa.

These powers are mentioned in certain sections of the Colonial Courts of Admiralty Act, 1890 (see Section 2 (2) of the Palestine Admiralty Jurisdiction Order, 1937). The Act, in turn, invested the Palestine Admiralty Court, by reference [Sec. 2 (3)], with jurisdiction of a Vice-Admiralty Court under the Slave Trade Act, 1873. The Admiralty Court set up by the Order further held, in 1942 . . . that it was invested by the Act with the jurisdiction exercised by the High Court of England in admiralty matters. In 1890, the date of the Act, thus excluding jurisdiction acquired subsequently by the said Court. All the relevant Acts, Orders and Rules which were applicable in England in 1890 became applicable, therefore, in Palestine and subsequently in Israel, by operation of Section 11 of the Law and Administration Ordinance of 5708-1948 (Laws of the State of Israel, Vol. 1, 5708-1948, p. 7).

The relevant Acts, Orders and Rules, etc., applicable in Israel are, therefore, as follows:

Colonial Courts of Admiralty Act, 1890 (Sections 2 (2), (3), (4), 5, 6, 16 (3));

Admiralty Court Act, 1840 (Sections 3, 4, 6-9, 18, 20, 21 and 23);

Admiralty Court Act, 1861 (Sections 1-13, 16, 18, 21, 13-28, 30, 33-35);

Vice Admiralty Order, 1883;

diction in a criminal case shall be the District Court of the district within the territorial waters adjacent to which the criminal act charged was wholly or in part committed.

“ ...

“36. The Israel Courts will exercise jurisdiction over piracy wherever committed in accordance with section 78 of the Criminal Code Ordinance. This provides that any person who commits piracy or any crime connected with or relating or akin to piracy is guilty of a felony and is liable to imprisonment for life. The Ordinance does not contain any express definition of piracy. However, by virtue of Section 4 it is probable that in the absence of any other legislation the expression ‘piracy’ has the meaning attached to it in English law.”

¹ See *infra*, Chapter II, Section A, under United Kingdom (a).

Vice Admiralty Rules, 1883;
 Order-in-Council establishing Rules for Appeals, 1865;
 The Slave Trade Act, 1873;
 Admiralty Offences (Colonial) Act, 1849 (Section 1, 3-6);
 Admiralty Offences (Colonial) Act, 1860.

It should be added that the Maritime Court does not apply general civil law and where a cause of action falls under the competence of the civil Courts, these Courts apply the general civil law obtaining in the matter: law of contracts, civil wrongs law, labour law, property law including the Ottoman Maritime Commerce Code of 1863 and the Ottoman Code of Commerce, to the extent that they are still in force in Israel, etc. For the purposes of all this legislation, Israel includes the territorial sea by virtue of the Interpretation Ordinance, 1945. Mention should also be made of Section 688 of the Merchant Shipping Act, 1894 (Drayton, *Laws of Palestine*, Vol. III, p. 2558)¹ which confers power to arrest in the territorial waters a foreign ship that has occasioned damage in any part of the world to any property belonging to the Government of Israel or to any Israel national.

(b) CRIMINAL CODE ORDINANCE 1936,² AS AMENDED³
 PART I. GENERAL PROVISIONS

Chapter III. Territorial application of code

6. The jurisdiction of the courts of Israel for the purposes of this Code extends to every place within Israel or within three nautical miles (see *supra*, Chapter I, under Israel (a)).

(c) CRIMINAL PROCEDURE (TRIAL UPON INFORMATION)
 ORDINANCE, 1 SEPTEMBER 1924⁴

3. The provisions of this Ordinance shall apply to the investigation and trial of all offences within the jurisdiction of a Court of Criminal Assize or of a district court.

Jurisdiction

4. (1) The Court having jurisdiction in a criminal case shall be the Court of Criminal Assize or the district court of the District within which or within the territorial waters adjacent to which the criminal act charged was wholly or in part committed.

¹ See *supra*, Chapter II, Section A, under United Kingdom (a).

² *Government of Palestine, Ordinances, Regulations, Rules, Orders and Notices*, Vol. 1, 1936, p. 285.

³ By Section 15 (a) of the Law and Administration Ordinance No. 1 of 5708-1948.

⁴ R. H. Drayton, *Laws of Palestine*, vol. I, p. 475.

(d) AREA OF JURISDICTION AND POWERS ORDINANCE (AMENDMENT)
LAW, 1956¹

1. The following section shall be added after section 2 of the Area of Jurisdiction and Powers Ordinance, 5708-1948:²

“2A. Any vessel or aircraft, wherever situated, which is registered in Israel shall, for the purpose of the jurisdiction of the courts, be deemed to be a part of the area of the State of Israel.”

Italy

- (a) NAVIGATION CODE OF 30 MARCH 1942, ARTICLES 578-590, 1235 (*supra*, CHAPTER II, SECTION A, UNDER ITALY (a))
- (b) ACT No. 72 OF 15 FEBRUARY 1950 CONCERNING CIVIL MATTERS WITHIN THE JURISDICTION OF PORT AUTHORITIES: INCREASE IN MAXIMUM VALUE OF SUBJECT MATTER³

Article 1. For the purpose of jurisdiction of port authorities under Articles 589 and 603 of the Navigation Code, the maximum value of matters within their jurisdiction is hereby raised to 100,000 lire.

Japan

- (a) REGULATION CONCERNING THE FUNCTIONS OF JUDICIAL POLICE OFFICIALS (INSTRUCTION OF THE CHIEF OF THE CRIMINAL AFFAIRS BUREAU, MINISTRY OF JUSTICE), DECEMBER, 1923⁴

Article 132. Judicial police officials shall exercise their functions in regard to crimes committed on board foreign vessels in the territorial waters of the Empire in cases falling under any one of the following items:

1. Crimes disturbing the peace and order of the land and in ports of the Empire;
2. Crimes having connection with anyone other than the crews, and those having connection with a subject of the Empire.

In addition to the above cases, judicial police officials shall, when investigation is deemed specially necessary, report the facts to a public procurator for instructions.

Article 133. Judicial police officials shall, when it is deemed necessary to stop the navigation of a foreign vessel in the territorial waters of the Empire, immediately report the facts to a public procurator for instructions.

¹ Passed by the Knesset on the 2nd Adar, 5716 (14th February, 1956) and published in *Sefer Ha-Chukkim* No. 198 of the 11th Adar, 5716 (23rd February, 1956), p. 34; the Bill and an Explanatory Note were published in *Hatza'ot Chok* No. 253 of 5716, p. 32. Text of Law provided by the Ministry for Foreign Affairs of Israel.

² I.R. of 5708, Suppl. I, No. 23, p. 61; *LSI* (vol. I, p. 64).

³ *Legislazione per la Marina Mercantile, Associazione Italiana di Diritto Marittimo, Istituto Italiano di Diritto Internazionale*, Rome, 1950, p. 244. Translation by the Secretariat of the United Nations.

⁴ Text of Regulation provided by the Ministry for Foreign Affairs of Japan.

- (b) LETTER FROM THE MINISTRY FOR FOREIGN AFFAIRS OF JAPAN TO THE FRENCH AMBASSADOR TO JAPAN DATED 26 AUGUST 1930 ¹

. . .

Japan does not follow the French principle, that is, it recognizes, subject to the laws in force, that the littoral State is entitled in the absence of a special agreement to the contrary, to exercise civil and criminal jurisdiction over foreign vessels and the persons on board foreign vessels in its ports . . .

. . .

Liban

CODE PÉNAL, ÉDICTÉ PAR LE DÉCRET LÉGISLATIF N° 340/NI DU 1^{er} MARS 1943 ²

CHAPITRE II. DE L'APPLICATION DE LA LOI PÉNALE DANS L'ESPACE

I. De la compétence territoriale

. . .

Article 17. Sont assimilés au territoire libanais pour l'application de la loi pénale:

1. La mer territoriale jusqu'à vingt kilomètres du rivage comptés à partir de la laisse de basse mer;
2. L'espace aérien qui recouvre la mer territoriale;

. . .

Article 18. La loi libanaise ne s'applique pas:

1. En territoire aérien libanais aux infractions commises à bord d'un aéronef étranger, si elles ne dépassent pas le bord de cet aéronef;
Néanmoins les infractions ne dépassant pas le bord de l'aéronef sont soumises à loi libanaise si l'auteur ou la victime est ressortissant libanais, ou si l'aéronef atterrit au Liban après que l'infraction a été commise.
2. Sur la mer territoriale libanaise ou dans l'espace aérien qui le recouvre, aux infractions commises à bord d'un navire ou d'un aéronef étranger si elles ne dépassent pas le bord de ce navire ou de cet aéronef;
3. Sur le territoire libanais, aux infractions portant atteinte à la sécurité de l'armée [libanaise] ou à ses intérêts et, en général, à toutes les infractions déférées par les lois en vigueur aux juridictions militaires [libanaises].

. . .

Maroc

DAHIR DU 25 MARS 1922 PORTANT RÈGLEMENT SUR L'EXERCICE DE LA PÊCHE EN FLOTTE DANS LES EAUX TERRITORIALES DU MAROC, ARTICLES 22-24
(*infra*, CHAPITRE IV, MAROC (b))

¹ Text of Letter provided by the Ministry for Foreign Affairs of Japan.

² *Journal officiel*, n° 4104 du 27 octobre 1943, Supplément, p. 1.

Monaco

ORDONNANCE DU 22 JANVIER 1891 SUR LA DISCIPLINE MARITIME, ARTICLES 15-18, 47, 48 (*supra*, CHAPITRE II, SECTION A, MONACO (*b*))

Netherlands

PENAL CODE OF 1 SEPTEMBER 1886, AS AMENDED¹

. . .

Article 2. The Netherlands Penal Law applies to any person committing a criminal act within the Kingdom in Europe.

Note. For the applicability of this Code, the term " Kingdom in Europe " is understood to include the Netherlands territorial waters.

Surinam

PENAL CODE²

. . .

Article 2. The provisions of the Surinam Penal Code shall apply to any person who commits a punishable act within Surinam.

. . .

Article 221. Any person through whose fault a vessel is sunk, stranded, destroyed, disabled or damaged shall be punished by:

1. Imprisonment or detention for a term not exceeding three months, or a fine not exceeding 300 guilders, if the life of another person is endangered by the occurrence;

2. Imprisonment or detention for a term not exceeding one year, if in consequence of the occurrence the death of any person ensues.

. . .

Article 473. If the master of a vessel flies the Netherlands flag, knowing that he has no authority to do so, he shall be punished with imprisonment for a term not exceeding one year or a fine not exceeding 300 guilders.

Article 474. Any master who, by displaying some distinguishing mark on his vessel, deliberately creates the impression that it is a Netherlands warship or Government-owned vessel, or a pilot-vessel on duty in Surinam waters or channels, shall be punished by imprisonment for a term not exceeding three months or by a fine not exceeding 300 guilders.

. . .

Article 559. A master or member of a crew who fails to observe the statutory precautions against collision or fouling shall be punished by a fine not exceeding 300 guilders.

Netherlands New Guinea

TERRITORIAL SEA AND MARITIME DISTRICTS ORDINANCE, 1939, ARTICLE 12 (*supra*, CHAPTER II, SECTION A, UNDER NETHERLANDS NEW GUINEA (*a*))

¹ English text of Article 2 of the Code was provided by the Permanent Representative of the Netherlands to the United Nations.

² M. de Niet, *Surinaams Wetboek van Strafrecht*, The Hague, 1948. Translation by the Secretariat of the United Nations.

New Zealand

OFFENCES AT SEA ACT, 1953 ¹

. . .

2. (1) In this Act —

. . .

“ Foreign country ” means a country which is not a Commonwealth country:

“ Foreign ship ” means a ship which is not a Commonwealth ship:

“ Offence ” means an offence for which the offender may be proceeded against by indictment; and includes any such offence which may be dealt with summarily under the Summary Jurisdiction Act 1952; and also includes an offence against section four or section five of the Police Offences Amendment Act (No. 2) 1952 (which relate to common assault and assaults on children and females respectively):

“ Territorial waters ”, in relation to any country, means such part of the sea adjacent to the coast of that country as is within the territorial sovereignty of that country; and includes ports, harbours, rivers, and other places in which at the passing of this Act the Admiralty of England has jurisdiction (whether exclusive or not) in respect of offences of any kind committed on board Commonwealth ships.

. . .

4. (1) This Act applies with respect to any act done or omitted to be done by any person —

(a) Whether or not he is a British subject, within the territorial waters of New Zealand, although it may have been done or omitted on board or by means of a foreign ship;

(b) Whether or not he is a British subject, on board any Commonwealth ship on the high seas or on board any such ship within the territorial waters of any Commonwealth country other than New Zealand or of any foreign country;

(c) Being a British subject, on board any foreign ship (not being a ship to which he belongs) on the high seas or on board any such ship within the territorial waters of any Commonwealth country other than New Zealand.

(2) Where any person who belongs, or within three months previously has belonged, to any Commonwealth ship does or omits to do any act at any place beyond the limits of New Zealand, whether on shore or afloat, not being an act or omission to which this Act applies by virtue of subsection one of this section, and that act or omission would, if it took place within the limits of New Zealand, be an offence against property or persons, then this Act shall apply in respect of that act or omission in the same manner in all respects as if that act or omission had taken place on board a Commonwealth ship.

5. (1) Proceedings for the trial and punishment of any person who, not being a New Zealand citizen, is charged with having committed beyond the limits of New Zealand an offence on board or by means of any ship which is not a New Zealand ship or an offence to which subsection two of section

¹ Text of Act provided by the Ministry for External Affairs of New Zealand.

four of this Act applies shall not, by virtue only of the provisions of this Act, be instituted in any Court, except with the consent of the Attorney-General, and on his certificate that it is expedient that the proceedings should be instituted:

Provided that a person charged with any such offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that the consent of the Attorney-General to the institution of a prosecution for the offence has not been obtained, but no further or other proceedings shall be taken until that consent has been obtained.

(2) On the hearing of the charge in respect of any such offence against any person who is not a New Zealand citizen it shall not be necessary to aver in the indictment or information in respect of the offence that the consent of the Attorney-General as is required by subsection one of this section has been given; and the production of a document purporting to be signed by the Attorney-General, and containing such a consent and certificate, shall be sufficient evidence for all the purposes of this section of the consent and certificate required by this section.

6. (1) Nothing in section three or section four or section five of this Act shall be construed to affect or prejudice any jurisdiction conferred by any Act of the Parliament of England or of Great Britain or of the United Kingdom which has effect as part of the law of New Zealand, or by any Act of the New Zealand Parliament, or now by law existing, in relation to matters arising within the limits or territorial waters of New Zealand or elsewhere.

(2) Nothing in this Act shall apply with respect to any offence under the Shipping and Seamen Act 1952.

Note. See also: Shipping and Seamen Act of 1952, Parts VIII, XV and XVI (*supra*, Chapter II, Section A, under New Zealand (a))

Nicaragua

PENAL CODE ¹

Article 11. Nicaraguan penal law shall apply to all inhabitants of the Republic, including aliens, save as otherwise provided under international law. Crimes and petty offences (*delitos y faltos*) committed in territorial and adjacent waters shall be subject to the provisions of this Code.

Article 13. The following persons shall be punished in accordance with this Code:

2. A master, passenger or member of the crew of a Nicaraguan merchant vessel who commits a crime or petty offence on the high seas or in the

¹ *Código Penal de la República de Nicaragua*, anotado y comentado por el Dr. Manuel Escobar h., Edición Oficial con todas sus reformas, Managua, Nicaragua, Centro América, 1950. Translation by the Secretariat of the United Nations.

territorial waters of a foreign nation, provided that in the latter case the offender has not been tried and sentenced by the authorities of the nation in which the offence was committed.

Article 14. The cases referred to in paragraph 2 of the foregoing article shall not be tried in the courts of the Republic unless the offender comes to Nicaraguan territory or is apprehended by the Nicaraguan authorities.

. . .

Norway

(a) GENERAL CRIMINAL CODE, 22 MAY 1902, AS AMENDED ¹

. . .

Article 12. In the absence of any specific provisions or any agreement concluded with a foreign State to the contrary the Norwegian Penal Code shall apply to any act committed:

1. Within the Kingdom, which shall include any Norwegian vessel on the high seas;
2. On a Norwegian vessel, wherever it may be, by a member of the crew or by any other person aboard the vessel;

. . .

(b) CODE OF CRIMINAL PROCEDURE, 1 JULY 1877, AS AMENDED BY LAW No. 12 OF 22 MAY 1902 ²

. . .

Article 136. An offence shall be tried in the jurisdiction where it was committed or, in case of doubt, in one of the jurisdictions where it is presumed to have been committed.

An offence committed on board a Norwegian ship situated abroad or on the high seas shall be prosecuted in the jurisdiction where the ship is registered or where it first puts in or where investigation is first commenced.

If there is no such jurisdiction or a trial there would entail material inconvenience for the accused or witnesses, the offence may be prosecuted in the place of domicile or, in default thereof, in the place of residence of the accused.

. . .

Pakistan

(a) PENAL CODE, ACT No. XLV OF 1860 ³

. . .

3. *Punishment of offences committed beyond, but which by law may be tried within, Provinces, etc.* Any person liable, by any Pakistan Law, to be tried for an offence committed beyond the Provinces and the Capital of the Federation shall be dealt with according to the provisions of this Code for

¹ *Norges Lovet*, 1682-1946, p. 528. Translation by the Secretariat of the United Nations. See *United Nations Legislative Series, Laws and Regulations on the Régime of the High Seas*, vol. II, 1952, p. 85.

² *Ibid.*, p. 251. Translation by the Secretariat of the United Nations.

³ Text provided by the Permanent Mission of Pakistan to the United Nations.

any act committed beyond the Provinces and the Capital of the Federation in the same manner as if such act had been committed within the Provinces and the Capital of the Federation.

4. *Extension of Code to Extra-territorial offences.* The provisions of this Code apply also to any offence committed by:

(1) Any British subject domiciled in Pakistan in any place without and beyond the Provinces and the Capital of the Federation;

(2) Any other British subject within the territories of any Acceding State or the tribal areas;

(3) Any servant of the Queen, whether a British subject or not, within the territories of any Acceding State or the tribal areas;

(4) Any person on any ship or aircraft registered in the Provinces and the Capital of the Federation wherever it may be.

Explanation. In this section the word "offence" includes every act committed outside the Provinces and the Capital of the Federation which, if committed in the Provinces and the Capital of the Federation, would be punishable under this Code.

(b) CODE OF CRIMINAL PROCEDURE, ACT NO. V OF 1898¹

188. *Liability of British subjects for offences committed out of the Provinces, etc.* When a British subject domiciled in Pakistan commits an offence at any place without and beyond the limits of the Provinces and the Capital of the Federation, or

When any British subject commits an offence in an Acceding State or tribal area, or

When a servant of the Queen (whether a British subject or not) commits an offence in an Acceding State or tribal area, or

When any person commits on any ship or aircraft registered in the Provinces and the Capital of the Federation wherever it may be,

He may be dealt with in respect of such offence as if it had been committed at any place within the Provinces and the Capital of the Federation at which he may be found.

Note. See also: Territorial Waters Jurisdiction Act of 1878² (*infra*, Chapter II, Section B, under United Kingdom (a)); Merchant Shipping Act of 1923, part VI (*supra*, Chapter II, Section A, under Pakistan).

Peru

PORT AUTHORITIES AND NATIONAL MERCANTILE MARINE REGULATIONS OF 1 JANUARY 1952, ARTICLES 31, 345-347 (*supra*, CHAPTER II, SECTION A, UNDER PERU)

¹ Text provided by the Permanent Mission of Pakistan to the United Nations.

² Act in force in Pakistan.

Philippines

JUDICIARY ACT (REPUBLIC ACT No. 296) OF 17 JUNE 1948 ¹

. . . .

Section 44. Original jurisdiction—Courts of first instance shall have original jurisdiction.

. . . .

(g) Over all crimes and offences committed on the high seas or beyond the jurisdiction of any country, or within any of the navigable waters of the Philippines, on board a ship or water craft of any kind registered or licensed in the Philippines in accordance with the laws thereof. The jurisdiction herein conferred may be exercised by the Court of first instance in any province into which the ship or water craft upon which the crime or offence was committed shall come after the commission thereof: *Provided*, That the court first lawfully taking cognizance thereof shall have jurisdiction of the same to the exclusion of all other courts in the Philippines; . . .

Poland

PENAL CODE, ENACTED BY PRESIDENTIAL DECREE OF 11 JULY 1932 ²

. . . .

Article 3. (1) Polish penal law applies to all persons who commit offences in the territory of the Polish State or on board a Polish vessel or aircraft. The territory of the State shall be deemed to include inland and coastal waters and the airspace above the territory.

(2) An offence shall be deemed to have been committed in the territory of the Polish State, or on board a Polish vessel or aircraft, if the criminal act or omission took place therein, or if the criminal effect was produced or was intended by the offender to be produced there.

Romania

(a) CODE OF CRIMINAL PROCEDURE, 19 MARCH 1936 ³ AS AMENDED ⁴

. . . .

Article 22. In case of an offence committed on board a Romanian vessel, the court of the first Romanian port at which the vessel calls after the commission of the offence shall be competent.

The court of the first Romanian port at which the vessel calls shall be competent in respect of any offence committed by the crew of a foreign

¹ *Laws and Resolutions, First Congress, Third Session and Second Special Session (1948)*, Vol. III, pp. 246, 259, 260.

² *Dziennik Ustaw*, 1932, No. 60, c. 571, pp. 1153-1154. Translation by the Secretariat of the United Nations.

³ *Monitorul Oficial*, 19 March 1936, No. 66; C. Hamangiu, *Codul General al României*, 1856-1937, vol. 24 (1936), Part I, pp. 133, 137-139. Translation by the Secretariat of the United Nations.

⁴ Text of Amendment provided by the Permanent Mission of the People's Republic of Rumania to the United Nations.

merchant vessel in the circumstances set forth at the end of paragraph 3 of Article 7 and in cases covered by paragraph 8 of Article 11 of the Penal Code.

An offence committed on a Romanian aircraft shall be within the jurisdiction of the court of the place where the aircraft lands if such place is situated in the country; if it is situated abroad, the offence shall be within the jurisdiction of the Romanian court of the place where the airport of registry of the aircraft is situated.

An offence committed by the crew of a foreign commercial aircraft in the circumstances set forth in the last part of paragraph 3 of Article 7 of the Penal Code shall be within the jurisdiction of the Romanian court of the place where the aircraft lands if such place is situated in the country; if it is situated abroad, the offence shall be within the jurisdiction of the Romanian court of the place where the airport of registry of the aircraft is situated.

. . .

(b) PENAL CODE OF 18 MARCH 1936 ¹ AS AMENDED ²

. . .

CHAPTER II. TERRITORIAL APPLICATION OF CRIMINAL LAW

Section 1. Offences committed in Romania

Article 6. Any criminal act committed in Romanian territory is punishable in accordance with the provisions of Romanian penal law.

Romanian penal law likewise applies to criminal acts committed on or over Romanian territory, within the limits of the territorial seas or inland waters, or on board a Romanian ship or aircraft.

A criminal act is deemed to have been committed in Romania if the act of commission or omission, or merely a part of the act, was begun or completed in Romanian territory or if the criminal act produces its effect in Romanian territory.

Article 7. Romanian penal law does not apply:

(1) To persons immune from criminal liability by virtue of treaties or the rules of international law;

(2) To the crews of foreign merchant vessels with respect to criminal acts committed on board while the vessel is in territorial waters or in a Romanian port, or to the crews of foreign aircraft in flight over Romanian territory or present in that territory in virtue of a special authorization by the Romanian Government, except in cases where the criminal act was committed against a Romanian or has disturbed the peace and public order of the territory, or when the master of the vessel has applied to the Romanian authorities for assistance.

¹ *Ibid.*, 18 March 1936, No. 65; *ibid.*, pp. 3-7; *Akademie für Deutsches Recht, Sammlung Ausserdeutscher Strafgesetzbücher*, No. 54 (1942), pp. 30-35. Translation by the Secretariat of the United Nations. See also *United Nations Legislative Series, Laws and Regulations on the Régime of the High Seas*, vol. II, 1952, p. 99.

² By Law No. 13 of 2 February 1948. Text of Amendment provided by the Permanent Mission of the People's Republic of Romania to the United Nations.

Note. See also: Decree No. 41 of 14 February 1950, articles 140, 142, 144, 145 (*supra*, Chapter II, Section A, under Romania (*b*)); and Decree No. 43 of 16 February 1954, article 6 (*infra*, Chapter IV, under Romania).

Sweden

PENAL CODE OF 16 FEBRUARY 1864, AS AMENDED ¹

CHAPTER I

Persons to whom Swedish criminal law applies

Article 1. A Swedish national shall be judged according to Swedish law and before a Swedish court for an offence committed by him within the Kingdom or on board a Swedish vessel or committed outside the Kingdom against Sweden or a Swedish national, or for any other offence committed outside the Kingdom if his Majesty decrees that such offence may be prosecuted within the Kingdom.

An offence shall be deemed to have been committed at the place where the criminal act took place or the offence was completed, or, in the case of an attempt, where the intended offence would have been completed.

Article 2. An alien within the Kingdom shall be judged according to Swedish law and before a Swedish court for an offence committed by him within the Kingdom or on board a Swedish vessel outside the Kingdom, and for any offence committed by him outside the Kingdom against Sweden or a Swedish national if his Majesty decrees that such offence may be prosecuted within the Kingdom.

In respect of an offence governed by international law (*folkrättsbrott*) an alien shall likewise in other circumstances be judged according to Swedish law and before a Swedish court if his Majesty decrees that proceedings may be instituted.

. . .

Union of South Africa

TERRITORIAL WATERS JURISDICTION ACT, 1878 ²

Note. See also: Sea Fisheries Act No. 10 of 1940, sections 3 and 10 (*infra*, Chapter IV, under Union of South Africa (*a*)).

South West Africa

Sealing and Fisheries Ordinance No. 12 of 1949, section 1 (*infra*, Chapter IV, under *South West Africa*).

¹ Text of Code and Amendment thereto, provided by the Ministry for Foreign Affairs of Sweden. Translation by the Secretariat of the United Nations.

² See *infra*, Chapter II, Section B, under United Kingdom (*a*). According to the Note of 9 January 1956 from the Permanent Mission of the Union of South Africa to the United Nations, this Act is applicable in that country.

Union of Soviet Socialist Republics

(a) REGULATIONS OF 29 MARCH 1952 CONCERNING THE PROCEDURE FOR INVESTIGATION OF SHIPPING CASUALTIES ¹

. . .

VI. *Investigation of casualties and accidents to foreign ships in USSR waters*

36. Under these Regulations, the following casualties and accidents to foreign ships, occurring in the territorial or harbour waters of the USSR shall be investigated:

- (a) Collisions of ships (including collisions between a moving ship and a stationary one);
- (b) Collisions of ships with a shore or floating installation;
- (c) Stranding on a shoal;
- (d) Running aground;
- (e) Fire or explosion aboard a ship;
- (f) Any other casualty to a ship or its cargo resulting in the loss of or in damage to a ship or its cargo, or in loss of life or serious personal injury;
- (g) Other accidents, where an investigation is requested by the master of the ship, the shipowners, or the consul of the country under whose flag the vessel is sailing.

Casualties and accidents to foreign ships occurring outside the territorial or harbour waters of the USSR shall likewise be investigated, if they have resulted in the death or injury of citizens of the USSR, or in damage to the property of the Soviet State or of Soviet citizens or legal entities.

37. Any shipping casualty referred to in paragraph 36 of these Regulations occurring in USSR territorial or harbour waters must be reported at the first opportunity by the master of a Soviet ship, the master of a foreign ship or any other person having intelligence thereof to the harbour-master of the maritime port (Arctic port, fishing port) nearest the scene of the casualty, who shall take all necessary measures, in particular, to render assistance to any persons in distress, and, where necessary, to ensure safety of navigation at the scene of the casualty. Assistance to foreign ships must be rendered in full conformity with articles 163-174 of the Merchant Shipping Code and with other statutory provisions.

38. Casualties to foreign ships in USSR territorial or harbour waters shall be investigated by the harbour-masters of maritime ports (Arctic ports).

39. Investigations into shipping casualties shall as a general rule be held in the port at which the ship has arrived or has been brought after the casualty, or in the port nearest the scene of the casualty. The investigation shall be held immediately on receipt of the report of the casualty.

40. The harbour-master of the maritime port (Arctic port) shall institute an investigation into a casualty referred to in paragraph 36 of these Regulations of his own motion or at the request of the master of the ship to which

¹ Approved by the Procurator-General of the USSR and the Ministry of the Navy and promulgated by Order No. 185 of the Ministry of Shipping, dated 29 March 1952. Text provided by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations. Translation by the Secretariat of the United Nations.

the casualty has occurred, of any other persons, of the crew of the ship, the shipowners, the charterers or the underwriters.

41. The harbour-master of the maritime port (Arctic port) shall inform the Ministry of Shipping by telegram that the investigation has been opened. He shall simultaneously inform the Casualties Officer of the State Insurance Institute.

42. If the investigation of the casualty brings to light any indication of foul play, the harbour-master of the maritime port (Arctic port) shall immediately inform the Procurator.

43. A ship to which a casualty has occurred may be detained only in the cases and in accordance with the procedure specified in articles 239 and 240 of the Merchant Shipping Code of the USSR and in paragraph 4 of the Order of the Labour and Defence Council of 10 April 1931 concerning the rights and duties of harbour-masters of the maritime trade ports of the USSR.

44. A copy of the casualty investigation report shall be forwarded by the harbour-master of the maritime port (Arctic port) to the Ministry of Shipping.

45. Interested organizations or persons may appeal to the Minister of Shipping against the decision of the harbour-master of the maritime port (Arctic port) concerning the casualty within two months after receipt of the decision. They shall be informed of the final decision on the matter.

46. Travel expenses connected with the investigation and the costs of analyses and expert advice shall be borne by the shipowners. In the case of a casualty involving more than one ship, the costs shall be assigned in proportion to the liability for the casualty.

Note: The Merchant Shipping Code of the USSR referred to in the text was confirmed by Order of the Central Executive Committee and the Council of People's Commissars of the USSR of 14 June 1929 (*Sobranie Zakonov*, 1929, No. 14, page 365; see also *Sobranie Zakonov*, 1929, No. 41, page 366; 1930, No. 49, page 519, No. 58, page 615, No. 59, page 624; 1931, No. 2, page 30, No. 32, page 349, No. 8, page 87, No. 9, page 108, No. 56, page 364; 1932, No. 24, page 149; 1933, No. 53, page 310; 1934, No. 1, page 10, No. 24, page 184, No. 28, page 219; 1935, No. 1, page 6; 1942, No. 11, page 188; *Sobranie Postanovlenii*, 1948, No. 2, page 10).

For the Order of the Labour and Defence Council of 10 April 1931 referred to in the text, see *Sobranie Zakonov*, 1931, No. 22, page 186.

(b) PENAL CODE OF THE RSFSR ¹

Article 75 ⁽¹⁾. Any contravention outside harbour waters of the regulations established by law or by order of the competent authorities concerning the prevention of collisions at sea and measures for the protection of sub-

¹ Adopted at the second session of the XIIth All-Union Central Executive Committee and brought into force with effect from 1 January 1927 by the Order of the All-Union Central Executive Committee of 22 November 1926 (*Sobranie Uzakoniemy*, No. 80, p. 600). Text provided by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations. Translation by the Secretariat of the United Nations.

marine telegraph cables and other regulations governing maritime navigation, shall, if it does not constitute a breach of duty (service regulations) be punishable by a fine not exceeding 300 roubles or, if it has had serious consequences, by deprivation of liberty for a period not exceeding three years or a fine not exceeding 3,000 roubles (25 June 1929), (*Sobranie Uzakonieny*, No. 50, p. 513).

Article 75 ⁽¹⁾. Any contravention of the established regulations for the use of radio equipment both on USSR and on foreign vessels in waters of the USSR shall be punishable by deprivation of liberty for a period not exceeding two years or a fine not exceeding 10,000 roubles (15 February 1931, *Sobranie Uzakonieny*, No. 9, p. 104).

. . .
Article 86

The act of engaging in fishing, hunting or any other aquatic industry in seas, rivers or lakes of national importance without the proper permission or during the closed season or in prohibited areas or with prohibited implements, means or methods shall be punishable by deprivation of liberty or correctional labour for a period not exceeding one year or a fine not exceeding 500 roubles and compulsory seizure of the unlawfully taken catch in all cases and optional seizure of the fishing or hunting implements and of the vessels used in the unlawful industry, together with all their equipment.

United Kingdom of Great Britain and Northern Ireland

(a) TERRITORIAL WATERS JURISDICTION ACT, 1878 ²

An Act to regulate the law relating to the Trial of Offences committed on the Sea within a certain distance of the Coasts of Her Majesty's Dominions.

Whereas the rightful jurisdiction of Her Majesty, her heirs and successors, extends and has always extended over the open seas adjacent to the coasts of the United Kingdom and of all other parts of Her Majesty's dominions to such a distance as is necessary for the defence and security of such dominions;

And whereas it is expedient that all offences committed on the open sea within a certain distance of the coasts of the United Kingdom and of all other parts of Her Majesty's dominions, by whomsoever committed, should be dealt with according to law:

. . .
2. *Amendment of law as to jurisdiction of the Admiral.* An offence committed by a person, whether he is or is not a subject of Her Majesty, on the open sea within the territorial waters of Her Majesty's dominions, is an offence

¹ Adopted at the second session of the XIIth All-Union Central Executive Committee and brought into force with effect from 1 January 1927 by the Order of the All-Union Central Executive Committee of 22 November 1926 (*Sobranie Uzakonieny*, No. 80, p. 600). Text provided by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations. Translation by the Secretariat of the United Nations.

² *Halsbury's Statutes of England*, Second Edition, vol. 5, p. 892.

within the jurisdiction of the Admiral, although it may have been committed on board or by means of a foreign ship, and the person who committed such offence may be arrested, tried, and punished accordingly.

3. *Restriction on institution of proceedings for punishment of offence.* Proceedings for the trial and punishment of a person who is not a subject of Her Majesty, and who is charged with any such offence as is declared by this Act to be within the jurisdiction of the Admiral, shall not be instituted in any court of the United Kingdom, except with the consent of one of Her Majesty's Principal Secretaries of State, and on his certificate that the institution of such proceedings is in his opinion expedient, and shall not be instituted in any of the dominions of Her Majesty out of the United Kingdom, except with the leave of the Governor of the part of the dominions in which such proceedings are proposed to be instituted, and on his certificate that it is expedient that such proceedings should be instituted.

4. *Provisions as to procedure.* On the trial of any person who is not a subject of Her Majesty for an offence declared by this Act to be within the jurisdiction of the Admiral, it shall not be necessary to aver in any indictment or information on such trial that such consent or certificate of the Secretary of State or Governor as is required by this Act has been given, and the fact of the same having been given shall be presumed unless disputed by the defendant at the trial; and the production of a document purporting to be signed by one of Her Majesty's Principal Secretaries of State as respects the United Kingdom, and by the Governor as respects any other part of Her Majesty's dominions, and containing such consent and certificate, shall be sufficient evidence for all the purposes of this Act of the consent and certificate required by this Act.

Proceedings before a justice of the peace or other magistrate previous to the committal of an offender for trial or to the determination of the justice or magistrate that the offender is to be put upon his trial shall not be deemed proceedings for the trial of the offence committed by such offender for the purposes of the said consent and certificate under this Act.

5. *Saving as to jurisdiction.* Nothing in this Act contained shall be construed to be in derogation of any rightful jurisdiction of Her Majesty, her heirs or successors, under the law of nations, or to affect or prejudice any jurisdiction conferred by Act of Parliament or now by law existing in relation to foreign ships or in relation to persons on board such ships.

6. *Saving as to piracy.* This Act shall not prejudice or affect the trial in manner heretofore in use of any act of piracy as defined by the law of nations, or affect or prejudice any law relating thereto; and where any act of piracy as defined by the law of nations is also any such offence as is declared by this Act to be within the jurisdiction of the Admiral, such offence may be tried in pursuance of this Act, or in pursuance of any other Act of Parliament, law, or custom relating thereto.

7. *Interpretation.* In this Act, unless there is something inconsistent in the context, the following expressions shall respectively have the meanings hereinafter assigned to them; (that is to say,)

“The jurisdiction of the Admiral”, as used in this Act, includes the jurisdiction of the Admiralty of England and Ireland, or either of such jurisdictions as used in any Act of Parliament; and for the purpose of arresting any person charged with an offence declared by this Act to be within the jurisdiction of the Admiral, the territorial waters adjacent to the

United Kingdom, or any other part of Her Majesty's dominions, shall be deemed to be within the jurisdiction of any judge, magistrate, or officer having power within such United Kingdom, or other part of Her Majesty's dominions, to issue warrants for arresting or to arrest persons charged with offences committed within the jurisdiction of such judge, magistrate, or officer;

"United Kingdom" includes the Isle of Man, the Channel Islands, and other adjacent islands;

"The territorial waters of Her Majesty's dominions", in reference to the sea, means such part of the sea adjacent to the coast of the United Kingdom, or the coast of some other part of Her Majesty's dominions, as is deemed by international law to be within the territorial sovereignty of Her Majesty; and for the purpose of any offence declared by this Act to be within the jurisdiction of the Admiral, any part of the open sea within one marine league of the coast measured from low-water mark shall be deemed to be open sea within the territorial waters of Her Majesty's dominions;

"Governor", as respects India, means the Governor General . . . ; (and as respects a British possession which) consists of several constituent colonies, means the Governor General of the whole possession or the Governor of any of the constituent colonies; and as respects any other British possession, means the officer for the time being administering the government of such possession; also any person acting for or in the capacity of Governor shall be included under the term "Governor";

"Offence" as used in this Act means an act neglect or default of such a description as would, if committed within the body of a county in England, be punishable on indictment according to the law of England for the time being in force;

"Ship" includes every description of ship, boat, or other floating craft; "Foreign ship" means any ship which is not a British ship.

(b) SALMON AND FRESHWATER FISHERIES ACT, 1923 ¹

PART IX. LEGAL PROCEDURE AND EVIDENCE

Legal Procedure

. . .

75. (1) Any offence against this Act committed on the sea-coast or at sea beyond the ordinary jurisdiction of a court of summary jurisdiction, shall be deemed to have been committed in any place abutting on such sea-coast or adjoining such sea, and may be tried and punished accordingly.

(2) Proceedings against any person contravening any of the provisions of this Act may be instituted before a court of summary jurisdiction in any place where the fish in respect whereof the proceedings are taken or the person charged may be found.

. . .

Note. See also: Merchant Shipping Act of 1894, Parts VI, IX, XIII (*supra*, Chapter II, Section A, under United Kingdom (a)); Queen's

¹ 13 & 14 *Geo. 5, Ch. 16.* Text of Act provided by the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations.

Regulations and Admiralty Instructions, 1953 (*supra*, Chapter II, Section A, under United Kingdom (c)); and the two Orders in Council affecting a member of Colonial territories (*infra*, Chapter V, under United Kingdom (a) and (b)).

Tanganyika

SHIPPING ORDINANCE, 29 OCTOBER 1937, PARTS II AND V (*supra*,
CHAPTER II, SECTION A, UNDER TANGANYIKA)

Trinidad

- (a) HARBOURS ORDINANCE, 7 OCTOBER 1880, SECTIONS 7, 51, 54 (*supra*,
CHAPTER II, SECTION A, UNDER TRINIDAD (a));
- (b) FISHERIES ORDINANCE, 11 DECEMBER 1916, SECTION 7
(*infra*, CHAPTER IV, UNDER TRINIDAD).

United States of America

CRIMINAL CODE OF 1948¹

Section 7. Special maritime and territorial jurisdiction of the United States defined

The term "special maritime and territorial jurisdiction of the United States", as used in this title, includes:

- (1) The high seas, any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, and any vessel belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof, when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

Section 2274. Destruction or misuse of vessel by person in charge

Whoever, being the owner, master or person in charge or command of any private vessel, foreign or domestic, or a member of the crew or other person, within the territorial waters of the United States, willfully causes or permits the destruction or injury of such vessel or knowingly permits said vessel to be used as a place of resort for any person conspiring with another or preparing to commit any offense against the United States, or any offense in violation of the treaties of the United States or of the obligations of the United States under the law of nations, or to defraud the United States; or knowingly permits such vessels to be used in violation of the rights and obligations of the United States under the law of nations, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

In case such vessels are so used, with the knowledge of the owner or master or other person in charge or command thereof, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws.

¹ 18 U.S.C. 7, 2274 (1952).

Note. See also: Offenses Against Neutrality, Criminal Code of 1909 (*infra*, Chapter V, under United States of America (*e*)).

Yugoslavia

(a) PENAL CODE OF 2 MARCH 1951¹

. . . .
Article 91. (1) Any person who commits a criminal offence within the territory of the Federal People's Republic of Yugoslavia shall be punishable under the criminal law of the Federal People's Republic of Yugoslavia.

(2) Any person who commits a criminal offence on board a Yugoslav merchant ship or passenger aircraft on or over the high seas, or on board a Yugoslav warship or military aircraft, shall be punishable under the criminal law of the Federal People's Republic of Yugoslavia regardless of the place where the offence was committed.

. . . .
Article 94. (1) An alien who commits a criminal offence against the People's Republic of Yugoslavia or against any of its citizens shall be punishable under the criminal law of the Federal People's Republic of Yugoslavia even if the offence was committed outside Yugoslav territory provided that the minimum mandatory penalty prescribed in respect of such offence is a sentence of imprisonment, the offence is not one of those specified in article 92 of this Code and the offender is apprehended within Yugoslav territory or is extradited to Yugoslavia.

(2) An alien who commits a criminal offence against a foreign State or against a foreign national shall be punishable under the criminal law of the Federal People's Republic of Yugoslavia even if the offence was committed on foreign territory, provided that pursuant to Yugoslav criminal law such offence is punishable by rigorous imprisonment or by a more severe penalty and the offender is apprehended within Yugoslav territory and is not extradited to the foreign State. In such a case, the court may not impose a more severe penalty than the penalty prescribed by the law of the State in which the offence was committed.

. . . .
Article 99. (4) The term "the territory of the Federal People's Republic of Yugoslavia" includes coastal waters and the air-space above all Yugoslav land and water territory.

(b) REGULATION CONCERNING JURISDICTION IN MARITIME OFFENCES¹

Article 1. Administrative penal proceedings for offences committed in violation of any provisions contained in statutory instruments which deal with the sea, ships, coasts and harbours and are designed to ensure the efficiency of maritime communications, the safety of shipping and the protection of human life at sea shall be conducted, in the first instance, by the following:

¹ Texts provided by the Secretariat of State for Foreign Affairs of the Federal People's Republic of Yugoslavia. Translation by the Secretariat of the United Nations.

(1) By the director of the competent port authority, if the offence is attributable to a water-borne craft or to the charterer, owner or master of any such craft or to any other person engaged in navigation or in a technical service connected therewith; or

(2) by the court of summary jurisdiction, if the offence is attributable to any person not covered by the preceding paragraph.

Any person aggrieved by the decision of a director of a port authority may appeal to the authority immediately superior to such director.