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INTRODUCTION

This collection of laws and regulations concerning the nationality of ships was prepared by the Codification Division of the Office of Legal Affairs of the Secretariat of the United Nations primarily for the use of the International Law Commission in the latter's study of the "Régime of the High Seas", which subject includes the "Nationality of Ships". In the report on the work of its second session¹ the Commission stated that it "considered that an attempt should be made to determine the general principles governing this matter in the various countries".

Each State lays down the conditions on which merchant ships may fly its flag and there is no uniformity in these conditions. However, as has been pointed out, "the acknowledged freedom of a State to lay down the conditions on which it shall grant its nationality to ships is, of necessity, based on the concept that the national element with regard to a ship and the manner in which it is used have a wide variety of application, and that a certain minimum should be guaranteed in the general interest of all who use the high seas."²

Of the various laws and regulations governing merchant shipping in 65 countries, only those relating to the nationality of ships are included in the present compilation. As a general rule, detailed provisions of a purely procedural, financial or fiscal character are not included. The selection has been made from the texts furnished by Governments at the request of the Secretary-General. When no texts were made available by Governments, other sources were consulted. To the Governments which have contributed legal texts a warm expression of appreciation is due.

All efforts have been made with a view to presenting as complete a collection as possible of the texts governing the nationality of ships. Any omissions or errors will be corrected in later editions.

¹ *Official Records of the General Assembly, Fifth session, Supplement No. 12, A/1316, paragraph 185.*

² *Second Report on the Régime of the High Seas, by J. P. A. François, A/CN.4/42, p. 4.*

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I. Argentina

NATIONAL COASTAL MERCHANT SHIPPING ACT, No. 12980, 1944¹

CHAPTER I. GENERAL PROVISIONS

Article 1. National coastal shipping, communication and trade may be carried on only by Argentine vessels.

Article 2. An Argentine vessel may be authorized to engage in coastal merchant shipping and use the national flag in accordance with law provided that the following conditions are satisfied:

(a) It must be registered in the national register;

(b) Its master and officers must be Argentine nationals and hold Argentine certificates of qualification;

(c) At least one-quarter of its whole company as shown on the crew list shall be Argentine nationals;

(d) The national language shall be used in all orders, oral and written, in the vessel's standing orders, in all records and books, in the documents required by the Commercial Code, Book III, and in all inscriptions on engine-room telegraphs, living quarters and compartments.

Article 3. Vessels flying a foreign flag in waters under Argentine jurisdiction may, save only for the exceptions contained in the next article, engage in international merchant shipping only.

Article 4. Vessels engaged in the frontier coastal trade in accordance with an international treaty, convention or agreement shall be exempted from the restrictions imposed by the previous article.

Article 5. Argentine vessels plying between an Argentine port and one or more ports of adjacent countries shall be governed by the same provisions of law and benefit by the same privileges as vessels engaged in the frontier coastal trade.

Article 6. Where in exceptional circumstances a coastal area cannot be supplied with necessary provisions or a contract fulfilled because suitable Argentine vessels are not available, the Executive Power may for the duration of the emergency grant temporary individual permits to foreign vessels to perform the required services.

Article 7. A naval vessel or craft shall be deemed to be Argentine-built if built or fitted out in Argentine territory.

Article 13. Any person appointed by the master of a vessel to work in its navigation, maintenance or services shall be deemed to be a member of its crew. Staff coming aboard to perform other work, even if they go to sea in the vessel, are not members of the crew.

¹ *Decretos Nacionales*, July—December 1944, p. 75. Translation by the Secretariat of the United Nations.

Article 14. The owner, manager, captain or master of a vessel carrying the national flag shall be obliged to employ therein, if available, such number of seamen of Argentine nationality registered in a seamen's licensing office as constitutes the statutory proportion of the whole company of the vessel.

If registered seamen of Argentine nationality are not available in the particular place, aliens may be engaged in their stead, and the fact shall be recorded on the crew list.

. . .

Article 55. In making orders under this Act the Executive Power shall avoid enacting any provision placing Argentine-registered vessels in a worse position than foreign vessels, and shall adopt the following table of definitions, and shall itself enact definitions of all other customary and technical terms relating to vessels, maritime matters in general and shipping used in current statutes and orders: that is to say—

1. Vessel (*barco* or *embarcación*) means a vessel made of wood, iron or other material, which floats and is capable, when propelled and directed by suitable internal or external mechanism, of transporting by water persons or objects or of being used as a store or in commercial or industrial operations;

The word *barco* or *embarcación*, which replaces the word *buque* (ship) used in the Commercial Code, includes the hull, keel, machinery and other equipment enabling navigation to be performed within the meaning of article 856 of the Code;

2. Ship (*buque*) means a vessel in which the product of its greatest length, its greatest width and the distance between the upper surface of its keel and the under surface of its upper deck is 25 cubic metres or over;

3. Small vessel (*embarcación menor*) means a vessel in which the product aforesaid is less than 25 cubic metres.

. . .

5. Merchant vessel means a vessel employed in the commercial transport of passengers, goods, or animals or in industrial operations of any kind;

. . .

8. International merchant shipping means merchant shipping between ports of different States;

9. Coastal shipping means communication and commerce between ports of the same country carried on in sight of the coast except where, to reduce distance, a course is set between two headlands.

10. National coastal trade means coastal trade carried on between ports of the Republic only;

11. Frontier coastal trade means coastal trade in the course of which stops are made on the coast of adjacent countries in accordance with a treaty, convention or reciprocal agreement;

12. Voyage means the passage of a vessel from the place where it prepares to carry out its commission until it arrives at its ultimate destination;

13. Prolongation of a voyage means additional passages, stops or absence from the port of register exceeding by not more than 20 per cent the time which the voyage was expected to take.

. . .

2. Australia

MERCHANT SHIPPING ACT, 1894¹ (AN ACT OF THE PARLIAMENT OF THE UNITED KINGDOM APPLICABLE IN AUSTRALIA).

3. Belgique

a) LOI DU 20 SEPTEMBRE 1903 SUR LES LETTRES DE MER².

Article 1er. Les navires de mer doivent être munis, pour naviguer sous pavillon belge, d'une lettre de mer délivrée conformément aux dispositions de la présente loi.

Article 2, § 1. Les lettres de mer mentionnent le nom du bâtiment, sa capacité, ses signes particuliers, le nom du capitaine et celui du propriétaire.

§ 2. Elles sont délivrées, au nom du Roi, par le Ministre des affaires étrangères ou le fonctionnaire délégué par lui³.

Article 3. Il ne sera délivré de lettre de mer qu'à des navires appartenant pour plus de moitié:

A. A des Belges;

B. A des sociétés commerciales auxquelles la loi reconnaît une individualité juridique et qui ont leur siège en Belgique;

C. A des étrangers ayant une année de résidence continue en Belgique, ou qui ont établi leur domicile en Belgique avec l'autorisation du Roi.

Article 4. § 1. Avant de pouvoir obtenir une lettre de mer, le propriétaire du navire ou le gérant, si le navire appartient à une société commerciale ou à plusieurs copropriétaires, est tenu de se présenter devant le juge de paix aux fins:

1°. [L. 25 août 1920, art. 40. — De lui exhiber le contrat passé avec le constructeur ou le contrat de vente constatant la propriété du navire, ainsi que le certificat de jaugeage et un permis de navigation valable.]

2°. De lui remettre une déclaration écrite stipulant que le navire réunit les conditions exigées par l'article 3, qu'il n'est pas armé en guerre et qu'il ne sera pas armé en guerre ou employé à des opérations illicites ou de nature à compromettre la neutralité belge;

3°. D'affirmer cette déclaration sous serment devant le dit magistrat.

§ 2. Le juge de paix dressera procès-verbal de la prestation de serment au bas de la déclaration exigée par le § 1^{er}, 2°, du présent article.

Le serment sera conçu en ces termes:

« Je jure et j'affirme que la présente déclaration est sincère et véritable, que le navire y indiqué n'est pas armé en guerre, et que ni par moi ni de mon consentement, il ne sera armé en guerre, ni employé à des opérations illicites ou de nature à compromettre la neutralité belge. »

Les formules de la déclaration écrite ainsi que celles de la lettre de mer seront déterminées par arrêté royal.

¹ See *infra* under United Kingdom.

² *Les Codes Belges*, vol. II (1947), pp. 1601-3.

³ V. loi du 31 mai 1920, article 1^{er}: « Le Ministre des chemins de fer, marine, postes et télégraphes (transports) est substitué au Ministre des affaires étrangères pour tout ce qui concerne l'exécution de la loi du 20 septembre 1903 sur les lettres de mer. »

Article 5, § 1. Les demandes en obtention de lettres de mer doivent être accompagnées d'une copie du certificat de jaugeage et d'une ampliation de la déclaration mentionnée à l'article 4, § 1^{er}, 2^o, avec le procès-verbal de la prestation de serment.

§ 2. Si ces documents sont trouvés insuffisants ou s'il y a des raisons de croire qu'il sera fait un usage illicite de la lettre de mer, celle-ci sera refusée.

Article 6, § 1. Les lettres de mer cessent leurs effets :

A. Après quatre ans de durée ;

B. Lorsque la propriété de plus de la moitié du navire est transférée ou lorsque le transfert d'une quotité moindre rend propriétaires de moitié du navire des étrangers n'ayant pas une année de résidence continue en Belgique, ou n'ayant pas établi leur domicile en Belgique avec l'autorisation du Roi ; toutefois, lorsque ces transferts de nature à modifier les conditions de propriété prescrites par l'article 3 ont lieu par succession ou testament, les lettres de mer ne cesseront leurs effets qu'après six mois ;

C. Par le changement du nom du navire ;

D. Par l'emploi du navire comme corsaire, pirate ou pour la traite, ou pour d'autres opérations illicites ou de nature à compromettre la neutralité belge ;

E. En cas de prise ou de destruction du navire.

§ 2. Lorsque, à l'expiration du terme de la lettre de mer, le navire est en cours de voyage, cette lettre reste valable jusqu'au retour du navire en Belgique, sans que ce délai puisse dépasser deux ans.

Toutefois, le ministre des affaires étrangères peut renouveler ou faire renouveler les lettres de mer périmées sans exiger que le navire se rende dans un port belge.

Article 7. § 1. Les lettres de mer périmées doivent être restituées au ministre des affaires étrangères ou au fonctionnaire qui les a délivrées. Il n'en sera délivré de nouvelles que contre remise : 1^o de l'ancienne à moins qu'il ne soit justifié de sa perte ; 2^o du certificat de jaugeage.

§ 2. En cas de destruction du navire ou de vente en pays étrangers, le capitaine remettra la lettre de mer à la légation ou au consulat belge, en indiquant le motif de la restitution. La légation ou le consulat en délivrera récépissé au capitaine et la fera parvenir, avec mention du motif de la restitution, au ministre des affaires étrangères.

§ 3. A défaut de légation ou de consulat belge sur les lieux, le capitaine sera tenu de canceler la lettre de mer en présence de son équipage, ou, à défaut de celui-ci, en présence d'un fonctionnaire public, et de transmettre la lettre au ministre des affaires étrangères.

Article 8. § 1. Le ministre des affaires étrangères ou le fonctionnaire délégué par lui pourra accorder des lettres de mer provisoires pour des navires achetés ou construits à l'étranger et réunissant les conditions exigées par l'article 3 ; elles sont valables jusqu'à ce que les formalités requises pour l'obtention des lettres de mer définitives puissent être remplies. Elles seront délivrées d'après le certificat de jaugeage du pays où le navire se trouve ; elles auront une durée de deux ans au plus et cesseront, dans tous les cas, leurs effets à l'arrivée du bâtiment en Belgique.

§ 2. Le ministre des affaires étrangères ou le fonctionnaire délégué par lui pourra également accorder à des Belges établis à l'étranger ou aux gérants, à l'étranger, de sociétés belges, des lettres de mer provisoires, valables pendant une année, pour des navires réunissant les conditions

prévues à l'article 3. Dans ces cas, les formalités prescrites par l'article 4, § 1^{er}, sont accomplies devant le fonctionnaire délégué par le ministre des affaires étrangères.

§ 3. [L. 25 août 1920, art. 40. — Il ne sera délivré de lettre de mer provisoire pour un navire se trouvant à l'étranger que sur la production d'un permis de navigation provisoire ou spécial valable.]

§ 4. La délivrance des lettres de mer provisoires pourra, en outre, être subordonnée aux autres conditions et formalités jugées nécessaires par le ministre des affaires étrangères.

§ 5. Le ministre des affaires étrangères ou le fonctionnaire délégué par lui en Belgique peut remplacer par des lettres de mer définitives les lettres de mer provisoires dont il est question au § 2 du présent article, sans que les navires soient obligés de se rendre dans un port belge.

Article 9, § 1. Le ministre des affaires étrangères pourra également délivrer des lettres de mer spéciales pour des navires construits en Belgique pour compte d'étrangers, afin qu'ils puissent se rendre, sous pavillon belge, dans un port étranger.

[L. 25 août 1920, art. 40. — Il ne sera délivré de lettres de mer spéciales que sur la production d'un permis de navigation spécial valable pour le voyage que le navire est autorisé à effectuer sous pavillon belge.]

§ 2. A l'arrivée du navire à sa destination, la lettre de mer spéciale doit être remise, contre récépissé, à la légation ou au consulat belge auquel le port ressortit.

Article 10. Les lettres de mer pourront toujours être retirées en cas d'infraction aux dispositions de la présente loi ou s'il y a lieu de croire qu'il en sera fait un usage illicite.

Article 11, § 1. Avant de faire usage d'une lettre de mer, le capitaine y apposera sa signature, qui devra être légalisée par le fonctionnaire délégué par le ministre des affaires étrangères si le capitaine est en Belgique, ou par le consul s'il est à l'étranger.

§ 2. On agira de même en cas de remplacement provisoire ou définitif du capitaine.

§ 3. Il sera donné connaissance de ce changement au ministre des affaires étrangères.

. . .

b) ARRÊTÉ ROYAL N° 690 DU 8 NOVEMBRE 1920 PORTANT RÈGLEMENT POUR L'APPLICATION DE LA LOI DU 25 AOÛT 1920 SUR LA SÉCURITÉ DES NAVIRES¹.

. . .

CHAPITRE VII

. . .

Article 130. Tout navire belge, pratiquant la navigation au long cours, est tenu d'avoir à bord un capitaine, un second et un ou plusieurs chefs de quart régulièrement brevetés, et tout navire belge, pratiquant le cabotage, est tenu d'avoir à bord un capitaine et, en outre, au moins un officier régulièrement breveté.

Les capitaines, seconds et chefs de quart visés ci-dessus doivent être de nationalité belge.

. . .

¹ *Pasinomie*, 5^e série, tome XI, 1920, p. 593.

4. Brazil

(a) PORT OFFICERS REGULATIONS, MADE UNDER DECREE NO. 5798, OF 11 JUNE 1940.¹

CHAPTER XXIII. NATIONALITY OF VESSELS

Article 183. A merchant vessel shall not be classed as a Brazilian ship, and shall not be entitled to the privileges of Brazilian nationality unless the following requirements are satisfied:

(a) The owner must be a Brazilian national by birth, or a Brazilian company or undertaking constituted according to law;

(b) The ship must be entered in the list of a port office and manned according to law.

Paragraph 1. A vessel not being a fishing vessel, which is classed as a harbour traffic vessel, may be owned by an alien.

Paragraph 2. A vessel engaged in harbour traffic shall, even if in alien ownership, be a national vessel.

Article 184. A vessel may acquire nationality and benefit by the privileges thereof if it has been—

(a) Captured from the enemy and declared lawful prize;

(b) Confiscated for breach of Brazilian law;

(c) Found by a Brazilian vessel abandoned on the high seas.

Sole paragraph. Such a vessel shall also satisfy the requirements of article 183.

Article 185. Evidence of the Brazilian nationality of a vessel shall be constituted by a certificate of registration issued by the Maritime Administrative Court or, if the vessel is under 20 tons burden, by a listing certificate issued by a port office.

Article 186. A vessel shall cease to be Brazilian if—

(a) It is captured by an enemy in wartime and declared lawful prize;

(b) It is confiscated abroad;

(c) Not being a harbour traffic vessel, it is sold to an alien;

(d) It ceases to comply with any other requirement of statute or regulation.

CHAPTER XXV. LISTING, REGISTRATION AND TRANSFER OF VESSELS

Article 202. Every Brazilian vessel other than a naval vessel shall be listed in a port office or in the branch port office for the place of residence of the owner or his legal representative.

Article 203. Every Brazilian vessel of 20 tons or over, other than a naval vessel, shall be listed in a port office and also registered in the register of ownership of the Maritime Administrative Court.

Paragraph 1. Vessels which were registered or enrolled in port offices before 30 July 1935 and the ownership of which has not changed since then shall be exempt from the condition stated above.

¹ *Repertório Enciclopédico do Direito Brasileiro* por J. M. de Carvalho Santos. Coadjuvado por José de Aguiar Dias, Vol. VII, p. 127. Translation by the Secretariat of the United Nations.

Paragraph 2. Nothing contained in paragraph 1 shall prevent the owner of a vessel to which it applies from voluntarily registering the vessel with the Court aforesaid.

. . .

Article 207. After the documents required by the Court have been examined and endorsed and any necessary survey or inspection has been made, the port office shall list the vessel and shall forward the application for registration to the Court.

Article 208. Pending registration, the vessel may ply under a provisional licence issued by the port office, which shall be returned when the certificate of registration is delivered.

Sole paragraph. If registration is not granted, the entry in the list shall be cancelled and the vessel may not sail unless the court has granted a period of grace for correction of the application.

. . .

CHAPTER XXVIII. MARITIME CEREMONIAL

A. The national flag.

Article 237. A vessel listed in a port office or branch port office shall not fly any flag at the stern except the national flag.

. . .

CHAPTER XXXVII. PRACTICE OF OCCUPATIONS: CERTIFICATES OF COMPETENCY

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Article 346. Certificates of competency of the Naval Training Department shall be issued in accordance with the rules of the Department.

Sole paragraph. Only Brazilian nationals may present themselves for examination for the said certificates.

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CHAPTER XLII. MASTER, FIRST OFFICER, CHIEF ENGINEER

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Article 393. Only a Brazilian national by birth holding the certificate required by law may be the master of a Brazilian merchant ship.

. . .

CHAPTER XLVI. LIST OF THE CREW

. . .

Article 435. Whenever a ship departs on a new voyage from the port in which the list of the crew was first drawn up, a new list showing the names of every member of the crew shall be submitted and new contracts shall be concluded.

Sole paragraph. In the said new list the duties and pay of each member of the crew shall be specified; it shall contain a declaration that two-thirds of the crew are Brazilian nationals, and the master of the ship shall enter the date and affix his seal and signature. The new list shall be compared with the original list of the crew and shall then be countersigned by the port officer and filed in the port office.

. . .

(b) CONSTITUTION OF 18 SEPTEMBER 1946.¹

Article 155. Coastal merchant shipping traffic shall not be carried by ships which are not Brazilian ships; an exception to this provision shall, however, be permitted if the public interest so requires.

Sole paragraph. The owner, manager and master and at least two-thirds of the members of the crew of a Brazilian ship shall be Brazilian nationals within the meaning of Article 29 (I, II).

5. BulgariaDECREE OF 28 SEPTEMBER 1953 CONCERNING MERCHANT SHIPPING.²

CHAPTER II. VESSELS

A. Right to wear flag of People's Republic of Bulgaria and to own vessels

Article 4. The flag of the People's Republic of Bulgaria may be worn only by vessels owned by—

- (a) Bulgarian State institutions and undertakings;
- (b) Co-operative organizations forming part of the national co-operative system;
- (c) Public organizations and other corporate bodies, including bodies in which foreign capital participates by special permission of the Council of Ministers;
- (d) Citizens of the People's Republic of Bulgaria in the cases to which article 6 applies.

The right to wear the flag of the People's Republic of Bulgaria shall be extinguished if the owner of the vessel ceases to belong to category (b), (c) or (d) hereof.

In the cases to which articles 8 and 10 apply the right to wear the Bulgarian flag shall be extinguished on the expiry of the time-limits specified therein if the State, or the owners if Bulgarian citizens, have failed to exercise their prior right of purchase.

Article 7. If a winding-up order is made in respect of a corporate body referred to in article 4 (b) or (c), the State, through the agency of the Ministry of Transport, may within six months from the date of the winding-up order purchase the vessel at a price to be determined in case of dispute by a commission composed of a representative of the Ministry of Transport, a representative of the Ministry of Finance, and a representative of the State shipping line concerned.

Article 8. If the owner of a vessel loses Bulgarian citizenship or if the ownership of the vessel is transferred by inheritance to an alien, the State, through the agency of the Minister of Transport, may within a period of six months purchase the vessel at a price to be determined in case of dispute by the commission referred to in article 7.

¹ *República dos Estados Unidos do Brasil, Constituição dos Estados Unidos do Brasil*, 1946, Imprensa Nacional. Translation by the Secretariat of the United Nations.

² *Izvestiya* (Official Gazette of the Praesidium of the National Assembly), 2 October 1953, vol. 4, No. 79. Translation by the Secretariat of the United Nations.

The purchase shall be effected by means of a declaration made in due form, and possession shall be acquired by administrative procedure, but not before payment of the purchase price.

Article 9. In a case provided for in article 7, 8, 10 or 11 the body concerned shall immediately notify the Ministry of Transport of any winding-up order, loss of Bulgarian citizenship, or transfer of a vessel to an alien by inheritance.

Article 10. Where the owner of a vessel loses Bulgarian citizenship or a joint owner's share is transferred by inheritance to an alien, the joint owners who are Bulgarian citizens may within a period of three months give written notice of their intention to buy that share in the vessel at a price to be determined by agreement or, in the absence of an agreement, by the court.

If the joint owners who are Bulgarian citizens do not exercise their right of purchase, the State may purchase the share of the alien in virtue of article 8 within six months after the expiry of the time-limit specified in the first paragraph hereof.

B. *Registration in port shipping registers*

Article 11. Every vessel entitled to wear the flag of the People's Republic of Bulgaria shall be registered in the shipping register of not more than one Bulgarian port selected by the owner. The ports at which shipping registers are to be kept shall be determined by the Minister of Transport.

C. *Transfer and charging of vessels*

Article 15. The transfer of ownership in a vessel belonging to a Bulgarian State institution or undertaking, or the creation of a charge thereon, shall be governed by the rules relating to State property.

Article 16. The transfer of ownership in and the charging of vessels belonging to the corporate bodies referred to in article 4 (b), (c) and (d) shall be effected by a written instrument with notarized signatures.

If the intending purchaser or creditor is an alien or a foreign corporate body, the owner shall first apply for permission to the Ministry of Transport and the Ministry of Foreign Affairs if the title is to be transferred or the charge created in the People's Republic of Bulgaria, or to the competent Bulgarian consul if the transaction is to take place abroad.

The Ministry of Transport may, within six months from the date of the application for permission to transfer ownership in pursuance of the second paragraph hereof, purchase the vessel at a price determined in agreement with the owner or, if no agreement is reached, at the price determined in accordance with articles 7 and 8 (2).

Article 18. Each transfer of ownership of a vessel, and each charge created on a vessel, shall be recorded in the appropriate port shipping register. The notary or consul before whom the transfer of ownership or the charging of the vessel is executed shall immediately notify the port authority in whose register the vessel is recorded.

Article 19. A transfer of ownership in, or a charge created on, a vessel registered in the shipping register of a Bulgarian port shall be binding on third parties as from the date of the entry in the port shipping register.

Where a vessel acquired abroad and operating under a temporary certificate of entitlement to wear the flag of the People's Republic of Bulgaria issued by a Bulgarian consul is transferred or charged, a note to that effect shall be made on the temporary certificate. The acquisition of ownership, or the charge, shall be binding on third parties as soon as the note is made on the temporary certificate.

CHAPTER IV. AGREEMENTS FOR CARRIAGE BY SEA

Article 34. Passengers and freight may be transported between ports of the People's Republic of Bulgaria only by vessels flying the Bulgarian flag. Exemptions from this rule may be granted only by permission of the Council of Ministers.

6. Cambodge

LOI (KRÂM) N° 901-NS DU 13 SEPTEMBRE 1954.¹

Article 2. L'ensemble du droit et de la réglementation actuellement en vigueur à la date du présent Krâm concernant les navires portant pavillon français, immatriculés à Saïgon et à Haïphong, sera provisoirement applicable aux navires portant pavillon cambodgien en tout ce qui n'est pas contraire aux dispositions du présent Krâm.

Article 3. La nationalité du bâtiment de commerce cambodgien à l'égard des Puissances étrangères et des tierces personnes publiques ou privées, est déterminée par un Acte de khmérisation conforme au modèle annexé au présent Krâm.

Article 4. L'acte de khmérisation constitue le titre authentique de propriété. Il est délivré par le Gouvernement royal dans les conditions suivantes:

Le navire doit appartenir pour 51 pour 100 au moins à des Cambodgiens.

En ce qui concerne les sociétés:

Leur siège social doit se trouver au Cambodge;

Le directeur doit être Cambodgien;

Le Conseil d'administration doit être composé en majorité de Cambodgiens;

Cinquante et un pour cent du capital au moins doivent être souscrit par des Cambodgiens.

Le capitaine, les officiers ou chefs de quart doivent être Cambodgiens. En cas de pénurie de personnel cambodgien le personnel étranger pourra être recruté avec l'agrément du Ministre des travaux publics. En ce qui concerne l'équipage, il doit être composé pour moitié au moins de Cambodgiens.

Article 5. La nationalisation cambodgienne ne peut être obtenue que dans le port d'attache du bâtiment.

Toutefois, une lettre de nationalisation cambodgienne provisoire peut être délivrée par le représentant diplomatique ou consulaire du Cambodge, si le navire est acheté hors du Royaume.

¹ Texte fourni par le Ministère des affaires étrangères du Royaume du Cambodge.

Article 6. Les bâtiments de mer, d'une jauge brute inférieure à cent tonneaux sont exemptés des formalités de khmérisation.

Article 8. Tout navire doit être immatriculé sur un registre spécial du port d'attache. Il doit être pourvu, en même temps que son immatriculation, d'un signal distinctif conforme aux dispositions internationales.

7. Canada

CANADA SHIPPING ACT, 1934.¹

PART I. RECORDING, REGISTERING AND LICENSING

Recording vessels

3. (1) Every vessel that is about to be built or is being built or equipped in Canada, and when completed will be a ship registrable in Canada, may be recorded, pending registration, under an assigned number and a temporary name in the office of the registrar of ships at the port in Canada at or nearest to which such vessel is about to be built or is being built or equipped.

(2) On the recording of any such vessel, (which, after recording, is hereinafter termed a recorded vessel) and as a condition precedent thereto, the owner thereof shall deliver to such registrar, in compliance with Form C, in the Eleventh Schedule, a written and signed description of such vessel and a statement of the port in Canada at which it is intended to be registered. 1934, c. 44, s. 3; 1950, c. 26, s. 3.

Registering ships

6. A ship shall not be deemed to be a British ship unless owned wholly by persons of the following description (in this Act referred to as persons qualified to be owners of British ships); namely

(a) Natural born British subjects or persons recognized by law throughout Her Majesty's dominions as having the status of natural born British subjects;

(b) Persons naturalized by or in pursuance of the law of some part of Her Majesty's dominions;

(c) Persons made denizens by letters of denization; and

(d) Bodies corporate established under and subject to the laws of some part of Her Majesty's dominions and having their principal place of business in those dominions;

but any person who either

(i) Being a natural born British subject or being recognized as aforesaid as having the status of a natural born British subject, has taken the oath of allegiance to a foreign sovereign or state or has otherwise become a citizen or subject of a foreign state, or

(ii) Has been naturalized or made a denizen as aforesaid; is not qualified to be the owner of a British ship unless, after taking the said oath, or becoming a citizen or subject of a foreign state, or on or after being naturalized or made denizen as aforesaid, he has taken the oath

¹ Chapter 29 of the Revised Statutes of Canada, 1952, amended by Chapter 20, 1-2 Elizabeth II, 1952-53.

of allegiance to Her Majesty the Queen, and is during the time he is owner of the ship either resident in Her Majesty's dominions or partner in a firm actually carrying on business in Her Majesty's dominions. 1934, c. 44, s. 6.

7. (1) Notwithstanding that an unregistered ship is owned wholly by persons qualified to be owners of British ships, that ship (unless she is exempted from registration or is not required to be registered by this Act or by the law of the port, whether in or out of Canada, to which she belongs) shall not be recognized in Canada, or for the purposes of this Act, as being entitled to the rights and privileges which heretofore have been or hereafter shall be accorded to British ships registered in any part of Her Majesty's dominions.

(2) Every British ship that is owned wholly by persons qualified to be owners of British ships and is not registered out of Canada may be registered in Canada.

(3) Every British ship that is so owned by persons so qualified a majority whereof, either in number or in extent of ownership, are residents of Canada, and every British ship that being so owned by persons so qualified, is, as to its management and use, principally controlled in Canada, shall, unless she is registered out of Canada, be registered in Canada.

(4) Any ship whatever may be detained until the master of the ship, if so required, produces the certificate of registry of the ship. 1934, c. 44, s. 7.

8. Ships not exceeding ten tons register tonnage employed solely in navigation on the lakes, rivers or coasts of Canada and pleasure yachts not exceeding ten tons register tonnage wherever employed or operated are exempted from registry under this Act. 1948, c. 35, s. 2.

Procedure for Canadian registration of British ships

17. (1) As soon as the requirements of this Act preliminary to registry have been complied with, the registrar shall enter in the register book the following particulars respecting the ship:

- (a) The name of the ship and the name of the port to which she belongs;
- (b) The details comprised in the surveyor's certificate;
- (c) The particulars respecting her origin stated in the declaration of ownership; and

(d) The name and description of her registered owner or owners, and if there are more owners than one, the proportions in which they are interested in her.

(2) The first registration of a recorded vessel as a ship shall be made by the registrar in whose office the vessel is recorded; such registrar shall, upon such registration, if required, change the temporary name of such vessel and register it as a ship under its changed name; he shall also transfer from his record book to his register book and register in such register book, as if mortgages made or granted after the registration of such vessel as a ship, all builder's mortgages relating to such vessel which have been recorded in his record book and according to that record remain undischarged; he shall so register such builder's mortgages in the order and according to the priority in which they were entered of record in such record book and they shall so (and as fully as if they and each of them were mortgages made or granted in their recorded order and priority after the registration of such vessel as a ship) have effect. 1934, c. 44, s. 17.

20. No registrar shall register any ship purchased or otherwise acquired from a foreign subject or corporation where any bill of sale or other document under or by virtue of which the ship became vested in the applicant for registry contains any provision express, implied or constructive, restricting the use of the vessel or imputing any measure of continued control thereof by the Government of a foreign country. 1934, c. 44, s. 20.

21. (1) Where in the opinion of the Minister any person who applies to be registered as owner of a ship has not sufficient assets in Canada, other than the ship itself, to reimburse Her Majesty for any expenses Her Majesty may subsequently incur in connection with such ship, her master or a member of her crew, the Minister may prohibit a registrar from registering such person as owner until security for such expenses, in such form and such amount as the Minister may decide, has been furnished.

(2) Where no security is given under subsection (1) or where, in the opinion of the Minister, the security given under subsection (1) is not sufficient, the Minister may, by notice in writing, order the registered owner of a ship to furnish security or additional security, as the case may be, in such form and such amount as the Minister may decide, and an officer of Customs at any port in Canada may detain the ship until the security or additional security is furnished. 1934, c. 44, s. 21; 1950, c. 26, s. 4.

22. Notwithstanding anything in this Part a ship built outside of Canada shall not, without the consent of the Minister, be registered in Canada. 1950, c. 26, s. 5.

Certificate of registry

23. (1) On completion of the registry of a ship, the registrar shall grant a certificate of registry comprising the particulars respecting her entered in the register book, with the name of her master.

(2) Every Canadian ship registered on the 1st day of August, 1936, shall be deemed to be registered under the provisions of this Act. 1934, c. 44, s. 22; 1950, c. 26, s. 2.

27. (1) In the event of the certificate of registry of a ship being mislaid, lost or destroyed, the registrar of her port of registry shall grant a new certificate of registry in lieu of her original certificate.

(2) Where the port at which the ship is at the time of the event, or first arrives after the event, is not in Canada but has a British registrar or consular officer then the master of the ship, or some other person having knowledge of the facts of the case, shall make a declaration stating the facts of the case, and the names and descriptions of the registered owners of such ship to the best of the declarant's knowledge and belief, and the British registrar or consular officer, as the case may be, may thereupon grant a provisional certificate, containing a statement of the circumstances under which it is granted.

(3) The provisional certificate shall within ten days after the first subsequent arrival of the ship at her port of discharge in Canada be delivered up to the registrar of her port of registry, and the registrar shall thereupon grant the new certificate of registry; and if the master without reasonable cause fails to deliver up the provisional certificate within the ten days

aforesaid, he is liable to a fine not exceeding two hundred and fifty dollars. 1934, c. 44, s. 26; 1950, c. 26, s. 2.

36. (1) Where at a port not within Her Majesty's dominions and not being a port of registry established by Order in Council under the *Merchant Shipping Acts*, a ship becomes the property of persons qualified to own a British ship and such persons declare to him an intent to apply to have her registered in Canada, the consular officer there may grant to her master, on his application, a provisional certificate stating

(a) The name of the ship,
 (b) The time and place of her purchase, and the names of her purchasers,
 (c) The name of her master, and
 (d) The best particulars respecting her tonnage, build, and description which he is able to obtain,
 and shall forward a copy of the certificate at the first convenient opportunity to the Minister.

(2) Such a provisional certificate has the effect of a certificate of registry until the expiration of six months from its date, or until the ship's arrival at a port in Canada where there is a registrar (whichever first happens), and on either of those events happening ceases to have effect. 1934, c. 44, s. 35; 1950, c. 26, s. 2.

37. Where it appears to the Minister that by reason of special circumstances it would be desirable that permission should be granted to any British ship to pass, without being previously registered, from any port in Canada to any other port within Her Majesty's dominions, the Minister may grant a pass accordingly, and that pass, for the time and within the limits therein mentioned, has the same effect as a certificate of registry. 1934, c. 44, s. 36.

Transfers and transmissions

38. (1) A registered ship or a share therein (when disposed of to a person qualified to own a British ship) shall be transferred by bill of sale.

39. Where a registered ship or a share therein is transferred, the transferee is not entitled to be registered as owner thereof until he, or, in the case of a corporation, the person authorized by this Act to make declarations on behalf of the corporation, has made and signed a declaration (in this Act called a declaration of transfer) referring to the ship and containing

(a) A statement of the qualification of the transferee to own a British ship, or if the transferee is a corporation, of such circumstances of the constitution and business thereof as prove it to be qualified to own a British ship, and

(b) A declaration that, to the best of his knowledge and belief, no unqualified person or body of persons is entitled as owner to any legal or beneficial interest in the ship or any share therein. 1934, c. 44, s. 38.

42. (1) Where the property in a Canadian ship or share therein is transmitted on marriage, death, bankruptcy, or otherwise to a person not qualified to own a British ship the Admiralty Court may, on application by or on behalf of the unqualified person, order a sale of the property so

transmitted, and direct that the proceeds of the sale, after deducting the expenses thereof, be paid to the person entitled under such transmission or otherwise as the court direct.

National character and flag

86. (1) An officer of Customs shall not grant a clearance or transire for any ship until the master of such ship has declared to that officer the name of the nation to which he claims that she belongs, and that officer shall thereupon inscribe that name on the clearance or transire.

(2) If a ship attempts to proceed to sea without such clearance or transire, she may be detained until the declaration is made. 1934, c. 44, s. 84.

87. (1) If a person uses the British flag and assumes the British national character on board a ship owned in whole or in part by any persons not qualified to own a British ship, for the purpose of making the ship appear to be a British ship, the ship is subject to forfeiture under this Act, unless the assumption has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.

(2) In any proceeding for enforcing any such forfeiture the burden of proving a title to use the British flag and assume the British national character shall lie upon the person using and assuming the same. 1934, c. 44, s. 85.

88. If the master or owner of a Canadian ship does anything or permits anything to be done, or carries or permits to be carried any papers or documents, with intent to conceal the British character of the ship from any person entitled by the law of Canada or of any other part of Her Majesty's dominions to inquire into the same, or with intent to assume a foreign character, or with intent to deceive any person so entitled as aforesaid, the ship is subject to forfeiture under this Act; and the master, if he commits or is privy to the commission of the offence, is in respect of each contravention of this section guilty of an indictable offence. 1934, c. 44, s. 86; 1950, c. 26, s. 2.

89. If an unqualified person acquires as owner, otherwise than by such transmission as hereinbefore provided for, any interest either legal or beneficial, in a ship using a British flag and assuming the British national character, that interest is subject to forfeiture under this Act. 1934, c. 44, s. 87.

90. Where it is declared by this Act that a British ship shall not be recognized as a British ship, that ship is not entitled to any benefits, privileges, advantages, or protection usually enjoyed by British ships nor to use the British flag or assume the British national character, but so far as regards the payment of dues, the liability to fines and forfeiture, and the punishment of offences committed on board such ship, or by any persons belonging to her, such ship shall be dealt with in the same manner in all respects as if she were a recognized British ship. 1934, c. 44, s. 88.

91. (1) The red ensign usually worn by merchant ships, with the shield of the Coat of Arms of Canada in the fly, is hereby declared to be the proper national colours for all Canadian ships and all ships and boats that would be registered in Canada if they were required to be registered at all, belonging to any British subject resident in Canada, except in the case of any ship or boat for the time being allowed to wear any other national colours in pursuance of a warrant from Her Majesty or under regulations which may be made by the Governor in Council.

(2) If any distinctive national colours, except such red ensign or except the Union Jack with a white border, or if any colours usually worn by Her Majesty's ships or resembling those of Her Majesty, or if the pendant usually carried by Her Majesty's ships or any pendant resembling that pendant, are or is hoisted on board any ship or boat registered in Canada or belonging to any British subject resident in Canada without warrant from Her Majesty or under the aforesaid regulations, the master of the ship or boat, or the owner thereof, if on board the same, and every other person hoisting the colours or pendant, are for each offence liable to a fine not exceeding twenty-five hundred dollars.

(3) Any commissioned officer on full pay in the naval, army or air service of Canada or in the naval, army or air service of Her Majesty or any officer of Customs in Her Majesty's dominions, or any consular officer, may board any ship or boat registered in Canada or owned by any resident of Canada on which any colours or pendant are hoisted contrary to this Act, and seize and take away the colours or pendant, and the colours or pendant shall be forfeited to Her Majesty.

(4) A fine under this section may be recovered with costs in the Admiralty Court.

(5) Any offence mentioned in this section may also be prosecuted, and the fine for it recovered, summarily, but where any such offence is prosecuted summarily, the court imposing the fine shall not impose a higher fine than five hundred dollars.

(6) Nothing in this section authorizes the imposition of more than one fine in respect of the same offence. 1934, c. 44, s. 89; 1950, c. 26, s. 2.

92. (1) A Canadian ship or a ship belonging to a British subject resident in Canada shall hoist the proper national colours

(a) On a signal being made to her by one of Her Majesty's ships or any ship in the service of and belonging to the Government of Canada,

(b) On entering or leaving any foreign port, and

(c) If of fifty tons gross tonnage or upwards, on entering or leaving any British port.

(2) If default is made on board any such ship in complying with this section the master of the ship is for each offence liable to a fine not exceeding five hundred dollars. 1934, c. 44, s. 90; 1950, c. 26, s. 2.

. . .

8. Ceylon

MERCHANT SHIPPING ACT, 1894.¹

9. Chile

(a) COMMERCIAL CODE, 23 NOVEMBER 1865.²

. . .

Article 827. A ship shall not be classed as a Chilean ship unless it has been registered in accordance with the provisions of the Shipping Act.

. . .

¹ See *infra* under United Kingdom.

² *Códigos de la República de Chile*, vol. III (1945), p. 187. Translation by the Secretariat of the United Nations.

(b) SHIPPING ACT, 1878.¹

SECTION I. NATIONALITY OF CHILEAN SHIPS

Article 1. "Chilean ship" means a ship which is registered in the Chilean merchant marine and satisfies the requirements of this Act.

Article 2. Only a citizen of the Republic by birth or by naturalization may own a Chilean ship.

Article 3. An alien domiciled in Chile who owns a business undertaking or carries on a trade or occupation in Chile may own a Chilean ship.

Article 4. A Chilean national resident outside the territory of the Republic may not own a Chilean ship or a share in a Chilean ship unless—

(1) He owns or is a partner or a commandite partner in a business undertaking established in Chile and his capital or other interest therein is equivalent to one-half of the value of the ship; or

(2) He deposits security equal to one-half of the value of the ship as agreed by the Office of the General Commandant of Shipping; or

(3) He is a consul or vice-consul of the Republic.

Article 5. A Chilean national who has forfeited citizenship rights for reasons specified in the Constitution and has not regained the same may not own a Chilean ship or a share in a Chilean ship.

Article 6. At least one-third of the crew of every Chilean ship shall be Chilean citizens.

A person who is a national of a State at war with the Republic may not be a member of the crew of a Chilean ship; for any offence against this provision the owner of the ship shall be liable to a fine of not less than 100 and not more than 1,000 pesos.

Article 7. The President of the Republic, in consultation with the Council of State, may order that the proportion of Chilean members of the crew of a specially equipped Chilean warship or similar ship may be less than that required by this Act; such order shall be made for a specified term, during which a ship sailing in accordance with the order shall be deemed to be properly manned.

Article 8. The following documents shall be evidence of the nationality of a Chilean ship; the certificate of registration, the ship's certificate, the crew list, and, in only those cases expressly laid down in this Act, the pass.

SECTION II. DOCUMENTS EVIDENCING NATIONALITY OF SHIP

1. *Certificate of registration, ship's certificate, pass*

Article 9. For the purpose of registering a ship in the Chilean merchant marine, the owner or owners or their duly authorized agent shall produce to the Office of the General Commandant of Shipping a certified copy of the contract, award or other valid document of title as provided in article 833 of the Commercial Code.

Article 10. The Office of the General Commandant of Shipping shall keep a register of Chilean merchant ships and shall enter therein the name, trade or occupation, and domicile of the owners of each ship; the length,

¹ *Ibid.* pp. 604-607. *Official Gazette*, 3 July 1878. Translation by the Secretariat of the United Nations.

breadth, depth and tonnage of the ship; the number of masts and type of rigging; the number of decks; the shape of the bow; whether driven by sails or steam, and if by steam the nominal power and whether propelled by wheels or a screw; the place, time and manner of construction and the name of the builder; the previous nationality, if any, and the name; evidence of the title of the present owner; and the number assigned to the ship in the registry and in the International Code of Signals according to the order and date of the entries.

Every entry made in the register shall be signed by the General Commandant of Shipping and by the owner of the ship or his duly authorized agent.

Article 11. When applying for the registration of a ship, the applicant shall exhibit to the General Commandant of Shipping his documents of title, the survey certificate and the other particulars relating to the ship which are required under the preceding article; and the Commandant shall cause these particulars to be verified by the competent shipping authority.

Article 12. Every Chilean ship shall be surveyed in accordance with special regulations which shall prescribe the method of measurement, based on the international register ton, to be employed, the persons who may effect the survey, and the remuneration to be paid to them therefor.

Article 13. The General Commandant of Shipping shall issue a certificate of registration signed by him and sealed with the seal of his Office.

This certificate shall be submitted to the Government for countersignature and approval by the Ministry of Shipping, whereupon the President of the Republic shall issue a ship's certificate so that the ship may use the Chilean flag and benefit by the rights accruing from Chilean nationality.

After the certificate of registration and the ship's certificate have been returned to the Commandant's Office, they shall be delivered to the applicant.

Article 14. Where the original owner of a ship built in a Chilean or a foreign shipyard applies for its registration and cannot produce better evidence of title, he may exhibit a builder's certificate countersigned and sealed, in the case of a ship built in Chile, by the competent shipping authority or, in the case of a ship built in a foreign country, by a consular agent of the Republic or, where there is no such agent, then by a consular agent of a friendly nation; and such certificate shall be evidence of title admissible at law.

Article 16. Except in the circumstances described in articles 24 and 25, a Chilean ship sailing without a certificate of registration or a ship's certificate or a crew list, or without a pass if one is required, shall be liable to seizure.

If any of the aforesaid documents is forged, the owner and the master of the ship shall in addition be liable to the penalty prescribed by article 194 of the Penal Code.

Article 19. Where a ship built or acquired abroad is to be registered in the Chilean merchant marine, the owner shall exhibit his documents of

title to the competent Chilean consul, who shall certify the same for the purposes of the Office of the General Commandant of Shipping.

Article 20. A ship of the kind referred to in the preceding article may proceed from the port where it was built or acquired to a Chilean port under a pass, issued by the Chilean minister or consul, authorizing it to sail under the Chilean flag; and in such case the crew may consist entirely of alien seamen.

Article 21. A vessel built in a Chilean shipyard for sale at a Chilean or foreign port may proceed from the port where it was built to the port where it is to be sold without papers other than a pass issued by the Governor of the province and a clearance certificate, incorporating the crew list, issued by the shipping authority.

A vessel of the kind referred to in this or the preceding article may travel in ballast or with cargo.

Article 22. The documents mentioned in the preceding article shall be delivered to the shipping authority of the port of destination of the ship if that port is in Chile, or to the consular agent of the Republic if it is abroad, and shall be forwarded by that authority or agent to the Office of the General Commandant of Shipping and there filed.

If there is no consular agent at the port, delivery shall be made to the nearest consular agent.

Article 23. The master or owner of a Chilean ship who sells, lends, transfers, or uses otherwise than for the purposes of the ship or in the manner prescribed by this Act any document evidencing the ship's nationality shall be liable to a fine of ten pesos multiplied by the ship's tonnage as recorded in the certificate of registration.

If fraud is proved, the owner and the master shall be liable to imprisonment or restriction of residence of medium severity.

Article 24. Where a Chilean ship becomes disabled, or is destroyed, or is captured by the enemy, or ceases to belong to the Chilean merchant marine through sailing under another flag, or otherwise ceases to be a Chilean ship, the owner or master shall report the circumstances to the General Commandant of Shipping and shall, unless unavoidably prevented from so doing, return to the Commandant within a period of twenty days the certificate of registration, the ship's certificate and the crew list of the ship, in default whereof he shall be liable to a fine of five pesos per register ton, unless he proves to the Commandant's satisfaction that the documents were not lost through his fault.

If one of the events described in the preceding paragraph occurs elsewhere than at the seat of the Department of Marine, the owner or master shall make a precise report of the facts and shall deliver the aforesaid documents within the same time-limit and under pain of the same fine to the nearest Chilean shipping authority or to a consular agent, who shall forward the documents to the Office of the General Commandant of Shipping.

The General Commandant of Shipping shall be empowered to receive evidence justifying the loss of the aforesaid documents. Such evidence shall be submitted within four months if the loss occurred in Chile or within nine months if outside Chile.

Article 25. A certificate of registration or a ship's certificate which is lost shall be re-issued on the application of the persons concerned, and the new certificate shall contain all particulars of the registry entry relating

to the vessel. Such re-issue shall be conditional upon sufficient and satisfactory evidence of the loss of the documents being produced to the General Maritime Officer. If the report of the loss is proved to be false, the owners of the vessel as shown in the registry entry shall be liable to a fine of ten pesos per register ton.

Article 26. A certificate of registry or a navigating licence which has become unserviceable through use may likewise be renewed if the unserviceable document is produced.

Article 27. No ship other than a ship intended for inland traffic at ports or on rivers, canals or lakes of the Republic shall be registered in the Chilean merchant marine unless its capacity exceeds 25 tons.

2. Lapse of registration

Article 30. A seagoing ship shall cease to be registered if—

- (1) The requirements of articles 2, 3 and 4 of this Act relating to the owner of a ship are not satisfied;
- (2) Its name is changed;
- (3) It is wilfully destroyed, even if it is rebuilt with the same materials;
- (4) It becomes a total loss or is declared unseaworthy in conformity with this Act;
- (5) It disappears and there is no news of its existence for two years;
- (6) Its flag or registration is changed;
- (7) It is captured;
- (8) It becomes a privateer, pirate or slaver;
- (9) Its hull is so altered that its tonnage increases or decreases, or the type of its rigging is changed.

Article 31. In any of the cases specified in the preceding article the ship shall be erased from the register and shall cease to belong to the Chilean merchant marine.

(c) ACT No. 6415 OF 4 OCTOBER 1939, TO RESERVE THE COASTAL TRADE TO SHIPS OF THE MERCHANT MARINE. ¹

Article 1. The coastal trade, that is to say the carriage of goods by sea between ports situated on the coast of the Republic, shall, subject to the conditions laid down in this Act, be reserved to Chilean ships:

Provided that the President of the Republic shall be empowered, subject to reciprocity, to admit to the coastwise trade, on the same terms as Chilean ships, ships of Latin-American countries owned, each in its own country, by individuals or bodies corporate satisfying the requirements of nationality laid down in article 3 of this Act.

If the coastwise trading firms of Chile cannot meet the needs of the country, the President of the Republic may admit foreign ships to the coastwise trade on the same terms as Chilean ships or on such special terms as may be laid down in each particular case.

Article 3. For the purposes of this Act a ship owned by a Chilean national resident in Chile, and commanded by a Chilean master and Chilean

¹ *Ibid.*, pp. 605-606. Translation by the Secretariat of the United Nations.

officers, and manned by a crew consisting as to three-quarters of its members of Chilean nationals shall be classed as a Chilean ship.

Notwithstanding the provisions of the preceding paragraph, a Chilean ship operator (*armador*) may in case of need engage once only, for a term not exceeding three years, not more than two alien engineers for each ship to have charge of internal combustion engines propelling the ship or to instal new machinery in the ship.

A ship owned by a company or partnership shall be classed as a Chilean ship if three-quarters of the registered capital or of the shares in the partnership are owned by Chilean nationals or Chilean bodies corporate.

An operator who charges a ship in favour of aliens to secure a sum exceeding 40 per cent of the capital invested in the ship shall cease to be entitled to the benefits of this Act in respect of that ship.

The complement of every ship shall be determined in accordance with regulations to be made by the President of the Republic.

The provisions of this article shall not affect the operation of article 7 of the General Shipping Act of 3 July 1878.

. . .

10. China

(a) MARITIME COMMERCE ACT OF 30 DECEMBER 1929.

CHAPTER I. GENERAL PRINCIPLES

Article 1. The expression "ship" in this Act means any sea-going vessel, or any vessel navigating in waters accessible to the sea and navigable by sea-going vessels.

Article 2. The provisions of this Act, except in cases of collision between ships, shall not apply to the following ships:

(a) Ships of less than 20 tons gross tonnage, or having a (deadweight) capacity of less than 200 piculs.

(b) Ships engaged exclusively on public business.

(c) Ships principally propelled by sculls or oars.

Article 3. The following ships are Chinese ships:

(a) Ships belonging to Chinese authorities.

(b) Ships belonging to Chinese citizens.

(c) Ships owned by companies of the following constitution, established under Chinese law and having their head offices in China:

(i) Companies with unlimited liability the members of which are all Chinese citizens;

(ii) Mixed companies, or mixed share companies, in which all the members whose liability is unlimited are Chinese citizens;

(iii) Limited-liability companies of which two-thirds of the directors and two-thirds of the capital are Chinese.

. . .

Article 5. A ship not duly registered and not holding a nationality certificate may not put to sea except as otherwise permitted by law.

. . .

¹ Translation by the Secretariat of the United Nations.

(b) SHIPPING ACT OF 4 DECEMBER 1930. ¹

CHAPTER I. GENERAL PROVISIONS

Article 1. The term "ship" in the present Act has the meaning assigned to it in the Maritime Commerce Act. ²

Article 2. Ships which are not Chinese shall not wear the national flag of the Republic of China.

Article 3. Ships which are not Chinese may not lie at anchor in ports, bays or estuaries or along the coasts of the Republic of China except—

- (a) In accordance with a special provision of law;
- (b) By permission of the Government of the Republic of China;
- (c) For the purpose of taking shelter.

Article 4. A ship which has not obtained a nationality certificate or a temporary nationality certificate may not put to sea except, by permission of the competent shipping office—

- (a) To run trials;
- (b) To be surveyed for determination of tonnage;
- (c) For other good and sufficient reason.

Article 5. A ship which has not obtained a nationality certificate or a temporary nationality certificate may wear the national flag of the Republic of China only—

- (a) On the national holiday or other day of commemoration of the Republic of China;
- (b) When anchored in a foreign port on the national holiday of the country;
- (c) On other occasions when the national flag is to be worn for ceremonial or saluting purposes;
- (d) At the ceremony of launching the ship;
- (e) When the ship is authorized to put to sea under the provisions of the preceding article.

Article 6. A ship shall bear the following marks:

- (a) Its name;
- (b) The name of its home port;
- (c) Its registered tonnage;
- (d) Its registration number;
- (e) Its draught in feet.

These marks may not be destroyed or effaced except for the purpose of evading capture.

Alterations of the marks necessitated by changes in the registration of the ship shall be effected without delay.

CHAPTER IV. NATIONALITY CERTIFICATE OF SHIP

Article 24. The owner of a ship, after obtaining the certificate of tonnage of the ship, shall himself choose a home port and register his title in accordance with the Shipping Registration Act.

¹ Entered into force on 1 July 1931. Translation by the Secretariat of the United Nations.

² *Supra.*

Article 25. After a ship has been registered in accordance with the provisions of the preceding article, the competent shipping office shall issue a registration certificate in accordance with the provisions of the Shipping Registration Act and shall request the Ministry of Communications to issue a nationality certificate for the ship.

Article 26. If the nationality certificate of a ship is lost or mutilated or any change occurs in the registered particulars, the owner of the ship shall within thirty days after the date on which such fact comes to his knowledge apply to the shipping office of the home port of the ship to issue a duplicate or new certificate.

Article 27. If one of the events mentioned in the preceding article occurs while the ship is lying at anchor in a Chinese port other than its home port, or in a foreign port, the master of the ship shall apply to the shipping office or the Chinese consulate, as the case may be, of that port to issue a temporary nationality certificate for the ship.

If one of the events mentioned in the preceding article occurs during a voyage, the master of the ship may submit the application mentioned in the preceding paragraph to the shipping office or the Chinese consulate, as the case may be, of the port of destination.

Article 28. In a case to which the preceding article applies the owner of the ship shall, within ten days after its return to its home port, surrender the temporary nationality certificate to the competent shipping office and receive in return the nationality certificate of the ship.

Article 29. If a registered ship is destroyed, sunk or captured or loses its nationality, for more than six months, its owner shall within thirty days after the date on which such fact comes to his knowledge apply to the shipping office of the home port of the ship to cancel the registration, and shall surrender the nationality certificate unless it is proved to have been lost.

If in a case to which the preceding paragraph applies the owner of the ship does not apply for cancellation of the registration and surrender the certificate within the prescribed time-limit, the competent shipping office may require him to apply for such cancellation and surrender the certificate within a period not exceeding one month; and if the owner fails without good reason to comply with the order within the new time-limit, the shipping office shall have power to cancel the registration and the certificate.

Article 30. Any person who has acquired a ship in one Chinese port or in a foreign port and has chosen another Chinese port as its home port shall apply to the shipping office or the Chinese consulate of the port where the ship is situated to issue a temporary nationality certificate; and after the arrival of the ship in the home port he shall apply for registration in accordance with the provisions of article 24 and shall surrender the temporary nationality certificate.

Article 31. The temporary nationality certificate of a ship shall be valid for not more than one year if issued abroad, or not more than six months if issued within the country; provided that in unavoidable circumstances application may be made for an extension when the period of validity expires.

Article 32. Whether the period of validity has expired or not, a temporary nationality certificate shall cease to have effect as soon as the ship arrives at its home port.

(c) SHIPPING REGISTRATION ACT OF 5 DECEMBER 1930. ¹

General provisions

Article 1. The term "ship" in the present Act has the meaning assigned to it in the Maritime Commerce Act. ²

Article 2. A ship shall be registered by the shipping office of its home port.

Article 3. All matters relating to the preservation, creation, transfer, variation, limitation, disposal or extinction of the following interests in ships shall be registered:

- (a) Ownership;
- (b) Charges;
- (c) Charter.

Article 4. A registrable claim relating to a ship shall not lie against a third party unless it has been registered.

Article 20. When the shipping office has completed the registration, it shall issue to the applicant a registration certificate.

The registration certificate shall indicate that the registration has been completed, shall bear the seal of the shipping office, and shall contain the following particulars:

Article 23. Temporary registration may be effected where for any of the following reasons regular registration is not possible:

- (a) The requirements in respect of the application for registration have not been satisfied;
- (b) A claim relating to the creation, transfer, variation or extinction of an interest in a ship is reserved;
- (c) A claim is subject to a time-limit or condition or cannot be determined until a future date.

CHAPTER II. REGISTRATION OF TITLE

Article 46. In any of the following contingencies the person registered as the owner of the ship shall apply for cancellation of the registration, and shall state the reasons for the application and secure and produce the necessary documentary evidence:

- (a) The ship has been lost or been sunk;
- (b) The hull of the ship has been dismantled;
- (c) The ship has been missing for more than six months;
- (d) The ship has lost Chinese nationality.

¹ Entered into force on 1 July 1931; amended on 2 August 1946 and 29 September 1947. Text of Act provided by the Permanent Delegation of China. Translation by the Secretariat of the United Nations.

² *Supra.*

CHAPTER IV. CANCELLATION OF REGISTRATION

Article 60. Application for cancellation of temporary registration shall be made by the person who obtained the registration; provided that any interested party may make such an application if he attaches thereto the written consent of the person who obtained the temporary registration, or other documentary evidence.

(d) REGULATIONS OF 25 NOVEMBER 1930.¹

Article 3. Until the certificate of nationality referred to in article 4 of the Maritime Commerce Act² is issued, the licence issued to the vessel by the Ministry of Communications shall be carried in lieu thereof.

II. Colombia

(a) MARITIME COMMERCIAL CODE, 1870-1887.³

SECTION II. MERCHANT SHIPS; THEIR OWNERS AND JOINT OWNERS

Chapter I. Merchant ships

Article 5. The word "ship" includes the hull, keel, rigging and equipment of every independent vessel, of whatever category and size and whether propelled by sail, oars or steam.

Article 9. No ship shall have Colombian nationality unless registered under the statute relating to national merchant shipping.⁴

Article 15. Title to a Colombian ship sold outside the territory of the Union shall be transferred in accordance with the laws or usages in force in the place of contract.

Chapter II. Owners and co-owners of ships

Article 37. An alien domiciled in the territory of the Union in accordance with the Act of 21 June 1866 may own a Colombian ship.

Article 38. An alien owner of a Colombian ship shall be subject to the law governing shipping and to any security measures which the President of the Union may adopt in the event of war with the nation of which the alien is a national.

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

² *Supra.*

³ A. J. Uribe, *Derecho Mercantil Colombiano, Edición Especial*, p. 129. Passed on 11 July 1870, amended by Act No. 10 of 1873, and adopted by Act No. 57 of 1887. Translation by the Secretariat of the United Nations.

⁴ Fiscal Code, 1873-1905, *infra*.

(b) FISCAL CODE, 1873-1905. ¹

GRANT OF NATIONALITY TO AND TONNAGE OF MERCHANT SHIPS

Section I. Register

Article 361. A large vessel in respect of which its owner desires to have the rights and duties applying in respect of national merchant ships in virtue of statute or treaty shall be required—

- (1) To be registered in a port of the Republic having power to register;
- (2) To hold a certificate or other document attesting its nationality;
- (3) To wear the Colombian flag.

Article 362. There shall be kept in the custom house of each seaport empowered to carry on foreign trade a register of the grant of nationality to large ships whose owners desire that they shall belong to the merchant marine of the Republic.

Article 363. There shall be annexed to this Code a specimen or form of register for ships built in the territory of Colombia and making their first voyage and also for ships of other nationalities whose owners desire instead the grant to them of Colombian nationality.

Article 364. ² Before recording in the register mentioned in article 362 a grant of nationality to a ship, the collector of customs of the registering custom house shall ascertain—

- (1) That the ship belongs wholly or in part to one or more Colombian nationals resident in the national territory or resident abroad in the national service;
- (2) That it has been acquired lawfully; and
- (3) Its dimensions, tonnage, class, name, place of construction, the country to which it has belonged (unless it is making its first voyage), and the names of the owner and the master.

Section II. Ship's certificates (patentes)

Article 370. A ship's certificate in the form of the specimen annexed to this chapter shall be issued to every ship granted Colombian nationality. The Minister of the Interior and Foreign Affairs shall prepare and transmit to each collector of customs a sufficient supply of ship's certificate forms sealed with the seal of his department. Ship's certificates shall be completed, signed and sealed by registrars.

Article 371. Collectors of customs and other persons bound to register ships shall keep a register of ship's certificates and shall place therein a certified true copy of every ship's certificate issued by them.

Article 372. The Ministry of the Interior and Foreign Affairs shall be notified of the issue of each ship's certificate.

¹ A. J. Uribe, *Derecho Mercantil Colombiano, Edición Especial, Código de Comercio Marítimo, Leyes Complementarias*, section 4, p. 294. Act No. 106 of 1873, as amended to 1905. Translation by the Secretariat of the United Nations.

² *Act No. 79 of 1880.*

Article 1. In addition to the requirements laid down in article 364 of the Fiscal Code for the grant of nationality to a ship, the purser or supercargo and at least one-half of the crew shall be required to be Colombian nationals.

Article 2. No vessel to which nationality has been granted may leave port unless it complies with the requirement laid down in the preceding article.

Article 373. Each ship shall be registered at the registry nearest to the owner's place of residence or, if there is more than one owner, then to the place of residence of the operator (*armador*) or of the owner's agent.

Article 374. Any ship title to which is acquired by one or more Colombian citizens and which is registrable as a national vessel may, if it is at a port other than that where the owner or owners usually reside, be registered by the registrar of the port where it is at the time of acquisition; provided that, on the vessel's arrival at the port where the owner or owners reside, the certificate shall be delivered to the registrar, in default whereof the owner or owners and the master shall be liable to pay a fine of one hundred pesos. When the requirements for registration of the vessel have been complied with, the registrar shall issue a fresh certificate in lieu of that delivered to him, which shall be cancelled and returned without delay to the issuing officer.

(c) LEGISLATIVE DECREE NO. 3183, 1952, CONCERNING COLOMBIAN MERCHANT SHIPPING.¹

PART THREE

Chapter II. Vessels

Article 43. No vessel shall benefit by the rights and privileges of Colombian nationality unless registered (*matriculada*) in a Colombian port.

Article 44. A vessel which has been duly registered and to which a ship's certificate has been issued accordingly shall be entered in the Colombian Merchant Shipping Register (*registro*).

Paragraph 1. A vessel may not be entered in the register of the Colombian Merchant Shipping Department until security has been given for the proper use of the Colombian flag.

Paragraph 2. The security referred to in the preceding paragraph shall be determined by the Director of Colombian Merchant Shipping in an order stating the grounds on which it was made.

Article 45. "Certificate of registration" (*certificado de matrícula*) means a certificate evidencing the Colombian nationality of a vessel.

Article 46. "Ship's certificate" (*patente de navegación*) means a certificate authorizing a vessel to wear the Colombian flag for a period of five years.

Paragraph. The ship's certificate of any vessel exceeding five hundred tons shall be issued by the President of the Republic, and of any vessel of five hundred tons or less by the Colombian Merchant Shipping Department.

Article 47. Vessels not exceeding ten tons intended for fishing or recreation in Colombian bays, lakes or rivers, auxiliary craft of vessels carrying a ship's certificate, and naval craft need not carry the ship's certificate referred to in the foregoing articles but shall be required to obtain from the competent port office a certificate of registration and a special permit valid for one year.

Article 48. A vessel acquired abroad shall be provisionally registered with the competent Colombian consul, who shall issue a temporary pass

¹ Text of Decree provided by the Ministry of External Relations of Colombia. Translation by the Secretariat of the United Nations.

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

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

(a) *Registration:*

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

(b) *Ship's certificate:*

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

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

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

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

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

12. Costa Rica

ACT NO. 12 OF 21 OCTOBER 1941 GOVERNING THE OPERATION OF NATIONAL SHIPS.¹

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

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

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

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

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

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

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

(c) To wear the Costa Rican flag.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) When the method of propulsion is changed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13. Cuba

(a) COMMERCIAL CODE, 1886. ¹

BOOK I. TRADERS AND TRADE IN GENERAL

Title II. The mercantile register

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

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

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

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

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

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

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

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

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

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

Article 1. Every vessel belonging to a custom house ³ and engaged in any branch of trade shall be registered in that custom house. . . .

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

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

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

³ That is to say, to a port office.

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

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

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

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

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

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

(c) DECREE NO. 1444 OF 6 OCTOBER 1932. ¹

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

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

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

CHAPTER VII. ENTRIES IN THE SHIPPING REGISTER

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

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

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

14. Czechoslovakia

(a) SHIPPING ACT OF 29 OCTOBER 1952.¹

Article 5. Application of Act. (1) The provisions of this Act shall apply to ships wearing the Czechoslovak flag.

CHAPTER II. SEA-GOING SHIPS

Section 1. Right to wear Czechoslovak flag

Article 6. Czechoslovak seagoing ships. (1) A Czechoslovak sea-going ship is a ship entitled to wear the Czechoslovak flag and registered in the Czechoslovak shipping register, or a ship for which a provisional pass has been issued (article 8).

(2) The right to wear the Czechoslovak flag may be granted only to ships owned or operated by—

- (a) The Czechoslovak State,
- (b) A Czechoslovak body corporate, or
- (c) A Czechoslovak citizen.

Article 7. Ship's certificate. The right to wear the Czechoslovak flag shall be granted by the Ministry of Transport to each ship by a special permit (ship's certificate).

Article 8. Provisional pass. (1) A ship for which a provisional pass has been issued may wear the Czechoslovak flag pending the issue of a ship's certificate and registration in the Czechoslovak shipping register.

(2) In a case of urgency where the requirements of article 6 (2) are satisfied a provisional pass may be issued by a Czechoslovak consular agency.

(3) A provisional pass shall have effect for a period not exceeding one year.

Article 9. Withdrawal and forfeiture of right to wear Czechoslovak flag. (1) The right to wear the Czechoslovak flag shall expire if the requirements of article 6 (2) cease to be satisfied.

(2) The Ministry of Transport may at any time revoke the right to wear the Czechoslovak flag.

CHAPTER III. GENERAL PROVISIONS

Section 1. Ship's crew

Article 26. (1) A Czechoslovak citizen may be engaged as a member of the crew of a Czechoslovak ship to perform duties for which he is physically and mentally able and professionally qualified. The Ministry of Transport may make exceptions relating to the nationality of members of a ship's crew.

(2) The Ministry of Transport, in agreement with the competent Government departments and the federation of trade unions, shall make regulations governing—

¹ *Sbírka Zákonů*, 17 November 1952, No. 34, p. 278. Translation by the Secretariat of the United Nations.

- (a) The conditions on which citizens of other States may be engaged as members of the crew of a Czechoslovak sea-going ship during a voyage;
- (b) The conditions of engagement, dismissal and employment of members of a ship's crew;
- (c) The professional qualifications required of members of a ship's crew;
- (d) Service in Czechoslovak sea-going ships.

(b) ORDER OF 25 AUGUST 1953, MADE UNDER THE SHIPPING ACT OF
29 OCTOBER 1952.¹

Article 1. Preliminary provisions. Sea-going ships to which the Act applies (hereinafter referred to as "ships") means all vessels other than warships intended for and regularly employed in shipping for any purpose whatsoever.

Section 1. Right to wear Czechoslovak flag

Article 2. (1) The right to wear the Czechoslovak flag may not be granted to a ship registered in a foreign shipping register. The manager of a ship not previously registered in any shipping register shall be required to make a solemn declaration that he does not intend to have the ship registered in a foreign shipping register. If the ship has at any time been registered in such a register, evidence of cancellation of that registration must be produced.

(2) The right to wear the Czechoslovak flag may be granted to a ship owned jointly by Czechoslovak citizens and foreign nationals only if there is satisfactory evidence that the ship is to be employed for the purpose recited in article 1 of the Act.²

Article 3. (1) The term "Czechoslovak flag" means the Czechoslovak State flag.

(2) Czechoslovak ships shall wear the Czechoslovak flag on a flagstaff at the stern, or at the aftermost mast, or in any other usual manner. No other flag or signal of any kind may at any time be hoisted in the place reserved for the Czechoslovak flag.

Article 4. (1) The right to wear the Czechoslovak flag imports a duty to use the flag loyally and honourably, to hoist it wherever international law or custom so requires, and to observe that law and custom on the high seas, in coastal waters and in port.

(2) The right to wear the Czechoslovak flag shall be evidenced by a valid ship's certificate or by a temporary permit.

(3) The consulates of the Czechoslovak Republic established at seaports shall supervise the observance of these provisions.

Article 5. (1) An application for the issue of a ship's certificate shall be accompanied by an application for the registration of the ship in the Czechoslovak shipping register (hereinafter referred to as "the register"), unless the ship is exempt from registration therein.

¹ *Sbírka Zákonů*, 14 September 1953, No. 44, p. 311. Translation by the Secretariat of the United Nations.

² "The principal purpose of Czechoslovak shipping is to promote the planned development of the Czechoslovak economy and to raise the standard of living of the Czechoslovak people . . ."

Article 6. (1) A temporary permit may be issued only where a ship which otherwise satisfies the requirements for grant of the right to wear the Czechoslovak flag is unable for urgent reasons to await the issue of a ship's certificate.

(2) Application for the issue of a temporary permit or for the recording of a change in any particular entered therein shall be made to the consulate of the Czechoslovak Republic in whose area of jurisdiction the vessel has arrived or is to arrive.

. . .

(4) If the ship receives a ship's certificate, or its right to wear the Czechoslovak flag expires or is revoked, or the temporary permit expires, the temporary permit shall be returned forthwith to the office which issued it.

Article 7. (1) The Ministry of Transport may revoke the right to wear the Czechoslovak flag for economic reasons or in the general public interest, or if the manager of the ship—

(a) Fails to comply with the conditions and requirements laid down at the time of issue of the ship's certificate or temporary permit;

(b) Navigates the ship in a manner contravening any provision of law;

(c) Fails to perform a duty which under article 4 (1) is imported by the right to wear the Czechoslovak flag;

(d) Has made an incorrect statement in the application for issue of a ship's certificate or temporary permit, or for registration of the ship, or has neglected to notify a change in any material particular or legal incident entered in the register;

(e) Permanently ceases to use the ship for sea traffic.

(2) If the right to wear the Czechoslovak flag expires or is withdrawn from the ship, its manager shall return the ship's certificate to the Ministry of Transport.

Section 2. Registration of ship

Article 8. A ship may not be entered in the register unless—

(a) It has a ship's certificate;

(b) It has a certificate of seaworthiness in accordance with article 13 of the Act;

(c) It has been surveyed and its measurements can be given in the survey certificate issued under article 14 of the Act.

. . .

Article 12. (1) Every ship, whether registered or not, shall bear its name on each side of the bow, and its name and that of its home port at the stern.

. . .

Article 14. A change in the particulars or legal incidents entered in the register shall also be recorded without delay in the ship's papers.

. . .

15. Denmark

(a) SHIPPING ACT NO. 319 OF 7 MAY 1937.¹

CHAPTER I. SHIPS

Article 1. A ship may wear the Danish flag only if not less than two-thirds of the shares in it are held by persons of Danish nationality who have not become citizens of a foreign State or by persons who have resided in the Danish State for not less than five years and continue to be resident therein, or if it is owned by a joint-stock corporation having its head office in the Danish State and consisting of shareholding members who satisfy the afore-mentioned requirements.

Article 2. A public register shall be maintained in which shall be registered all ships of twenty tons or over gross register tonnage having their home port in the Kingdom of Denmark. . . .

Article 5. A ship registered in the Kingdom of Denmark which is transferred to alien ownership shall be erased from the Shipping Register. Where, however, a share in a ship is transferred to alien ownership because the holder becomes an alien or by devolution or marriage and the ship ceases thereby to be entitled to wear the Danish flag in accordance with article 1, the ship shall not be erased from the Register if within four months thereafter notice is received that the ratio of shareholdings has been so adjusted that the ship does not cease to be entitled to wear the Danish flag or that arrangements have been made for the sale of the share outright by auction within one month. In the latter case the result of the sale shall be awaited.

(b) SHIPPING REGISTRATION ACT OF 1 APRIL 1892, AS AMENDED 4 MAY 1927 AND 28 MARCH 1951.²

CHAPTER I. MARKS OF NATIONALITY OF DANISH SHIPS

Article 1. A Danish ship may bear no mark of nationality other than the Danish flag, which shall be the general Danish merchant flag as defined in article 1 of the Decree of 11 July 1748.

Article 2. Ships sailing to ports overseas may be authorized by Royal Resolution to fly as their mark of nationality the Danish pennant bearing a prescribed special sign. Such authorization may be revoked at any time. Ships carrying mail for the State may also be authorized, subject to special regulations promulgated by Royal Resolution, to fly a special mail flag.

CHAPTER II. AUTHORITIES COMPETENT TO REGISTER SHIPS; SHIP'S REGISTERS AND CERTIFICATES

Article 7.

A ship shall be deemed to have its home port in Denmark and shall therefore be registered in the General Shipping Register only if its owner

¹ *Danmarks Love*, 1665-1946, p. 1737. Translation by the Secretariat of the United Nations.

² *Danmarks Love*, 1665-1946, p. 886; Lovtidende for Kongeriget Danmark, 1951, Afdeling A, p. 330 (Nr. 121). Translation by the Secretariat of the United Nations.

or owners satisfy the conditions prescribed in article 1 of the Shipping Act under which the ship is authorized to wear the Danish flag. A single owner shall either be domiciled in Denmark or have an agent domiciled in Denmark, nominated to the registration authorities and authorized to act before them on his behalf. If the ship has joint owners, at least one shall be domiciled in Denmark or be represented as aforesaid by an agent domiciled in Denmark.

A manager (*reder*) appointed by, and all the members of a managing board elected for, a shipping undertaking, whether a shipping partnership or a joint-stock company, shall in all circumstances be domiciled in Denmark; provided that the Minister of Industry, Trade and Shipping may authorize a ship owned by a joint-stock company to be registered in the Shipping Register if the majority of the members of the governing board are domiciled in Denmark.

The home port designated for the ship shall be situated in Denmark (article 4, Shipping Act).

A ship registered in the General Shipping Register shall receive a certificate of nationality and registration entitling it to wear the Danish flag.

. . .
Article 8.
. . .

A ship which has been surveyed and registered in the list of vessels shall receive a certificate of nationality (tonnage certificate) entitling it to wear the Danish flag. . . .

. . .
Article 10. Certificates of nationality and registration shall be issued by the Shipping Registry at Copenhagen. Provisional certificates of nationality may, however, be issued by Danish consuls, and in the Faroe Islands by the chief officer of police, in accordance with the provisions of chapter III, articles 12 and 31, cf. article 45, and subject to such conditions as may be further prescribed by the Minister of Industry, Trade and Shipping in special circumstances.

Certificates of nationality shall be issued by district registry offices and, for the Copenhagen district, by the Copenhagen Shipping Registry.

Certificates of special registration shall be issued by the authorities designated for that purpose by the Minister of Industry, Trade and Shipping.

For voyages in Danish waters and single voyages between a Danish port and a close foreign port the Minister of Industry, Trade and Shipping may in special circumstances issue to a ship a pass or permit which, for a period of not more than three months or for the particular voyage, as the case may be, shall have the same effect as a certificate of nationality and registration. The Minister may also in special circumstances empower a custom house to furnish a ship with a customs certificate which, for a single voyage in Danish waters, shall have the same effect as a certificate of nationality.

CHAPTER III. FURTHER PROVISIONS CONCERNING THE GENERAL REGISTER OF SHIPPING

Article 12. A ship built or bought abroad for use in Denmark may likewise be registered provisionally before it arrives in a Danish registration

district if a Danish consul abroad has issued a provisional certificate of nationality entitling the ship to wear the Danish flag until it can be provisionally registered but not beyond the period of validity of the certificate as hereinafter specified.

The certificate may ordinarily be issued by the competent consul on receipt of the documents enumerated in article 14, paragraphs I, II and III and of a Danish navigational certificate as provided in the Supervision of Shipping Act, or of any other certificate of seaworthiness prescribed by the Minister of Industry, Trade and Shipping.

The certificate shall state—

- (i) The name and category of the ship;
- (ii) The most accurate particulars which in the circumstances are available respecting its type, build and register tonnage;
- (iii) The place and time of purchase or construction and the name or names of its Danish owner or owners as recorded in the builder's certificate or title deed presented;
- (iv) The name of the master;
- (v) The period of validity of the certificate.

Such a provisional certificate, if not previously invalidated by a refusal of the Shipping Registry at Copenhagen to register it, shall be valid until the ship's first arrival in a Danish port, on which occasion it shall be surrendered to the local registry office; but in no circumstances shall it remain valid for more than two years from the date of issue except by special leave of the Minister of Industry, Trade and Shipping.

A copy of the aforesaid certificate together with attested copies of the aforesaid supporting documents shall, when the certificate is issued, be forwarded through the appropriate Ministry to the Shipping Registry at Copenhagen, which, if it considers that the certificate has not been issued in due form, shall refuse to register the ship and shall require the shipping undertaking to surrender the certificate as soon as possible.

If, however, the documents are in order, the ship shall be provisionally registered and shall in consequence thereof be entitled to wear the Danish flag during the period of validity of the registered certificate as aforesaid, and the provisions concerning the acquisition of interests in Danish registered ships shall apply.

CHAPTER IV. ERASURE FROM REGISTER OF SHIPPING; SURRENDER OF CERTIFICATE

Article 57. If a ship registered in Denmark is transferred to the ownership of a person who does not satisfy the requirements prescribed in article 7 of this Act for registration of a ship in the General Shipping Register, or if the former owner ceases to satisfy those requirements, the ship shall forthwith be erased from the Shipping Register.

Where, however, the joint owner of a ship wearing the Danish flag ceases to be entitled to own a share therein, or a share passes by devolution or marriage to a person not qualified to own it, and the ship ceases thereby to be entitled to wear the Danish flag in accordance with article 1 of the Shipping Act, the ship shall not be erased from the Register if the Shipping Registry at Copenhagen receives notice, within four months after the event causing the disqualification or after the devolution or marriage, either that the share has been so disposed of that the ship does not cease to be

entitled to wear the Danish flag, or that arrangements have been made for the sale of the share outright by auction within one month. In the latter case the result of the sale shall be awaited.

16. Dominican Republic

(a) PORT AUTHORITIES ACT NO. 1084 OF 12 JANUARY 1946.¹

NATIONALITY OF SHIPS

Article 69. A ship shall be a national ship if—

(a) It is so registered in a port office;

(b) It has been captured from an enemy in wartime or confiscated by judicial order.

Article 70. A ship may not be granted Dominican nationality unless its foreign registration has been cancelled.

Article 71. A Dominican consul may, in case of need, issue a provisional ship's certificate in respect of a vessel which has been acquired abroad by a Dominican national and for which grant of the flag is desired. For this purpose the consul shall require compliance with the following conditions:

(a) The owner shall submit a written application for grant of the flag and shall append thereto a certified declaration that the ship is in Dominican ownership;

(b) The application shall specify the route which it is proposed that the ship shall take and which must end at an approved port of the Republic for the purpose of survey, registration and enrolment.

Article 72. The Secretary of State for War and Shipping shall keep a register of all ships which have acquired nationality and shall record therein the name of the owner, the tonnage, the particulars required by the later provisions of this chapter, and the date on which the certificate was issued. On the entry into force of this Act all registers at present kept by other departments shall be delivered up to the Secretary of State for War and Shipping.

Article 73. The provisional ship's certificate shall indicate the port of destination of the vessel and the contract concluded by the owner, and shall state that it is valid only for the voyage specified.

(b) CONTROL OF PORTS AND COASTS ACT, NO. 3003 OF 12 JULY 1951.²

Article 56. All tugs, launches, boats and other vessels, irrespective of class and tonnage, intended for towing, carriage of passengers, loading and discharging ships in port, or river traffic within the Republic shall be national vessels.

Paragraph 1. Only national vessels may engage in the coastwise trade.

¹ Text from *Gaceta Oficial*, No. 6387, 26 January 1946, pp. 3-34. Translation by the Secretariat of the United Nations.

² Text of Act provided by the Secretariat of State for External Relations of the Dominican Republic. Translation by the Secretariat of the United Nations.

Article 70. A Dominican corporate body or individual owning a ship which is duly registered or listed as entitled to wear the national flag may not sell the ship to an alien corporate body or individual, or exchange the national flag for the flag of another country, unless—

(a) The owner proves by certified documents that the ship is not the subject of a charge and that no official proceedings are pending;

(b) The ship's papers are in order;

(c) Documents permitting the sale of the ship and showing whether the ship belongs to a corporate body or to more than one person shall be exhibited.

Article 71. After the requirements of the preceding article have been complied with, the change of flag shall be permitted.

17. Ecuador

SHIPPING CODE, 1945.¹

SECTION II. NATIONALITY OF VESSELS

Article 122. The nationality of an Ecuadorian vessel shall be evidenced by its ship's certificate or pass (*patente, pasavante*), and its port of register by its registry certificate (*matricula*); and these two documents shall together constitute its obligatory certificate of registration of nationality.

SECTION III. REGISTRY CERTIFICATE OF VESSEL

Paragraph 1. Registry certificate

Article 123. No national vessel, irrespective of tonnage and class, may wear the Ecuadorian flag or benefit by the protection of the laws of the Republic unless it is registered in a port of the Republic, or engage in any traffic in national or foreign waters unless it carries a proper ship's certificate or pass.

Article 124. The registry certificate of a vessel is a certificate issued to it by the port officer in virtue of this Code and attesting that the vessel has been entered on a specified page of one of the registers of the national merchant marine kept by port offices of the Republic for that purpose.

Article 125. Any vessel found in jurisdictional waters of the Republic without a registry certificate or without a ship's certificate shall be seized and its company arrested; and on proof that no registry certificate or ship's certificate has been issued in respect of the vessel, or that either certificate has not been renewed within the time allowed by statute, the port officer shall order the master and operator (*armador*) of the vessel to pay severally a fine of 1,000 to 10,000 sucres according to the tonnage of the vessel, and shall oblige the operator to obtain a ship's certificate and a registry certificate therefor.

Article 126. A vessel found plying with an Ecuadorian registry certificate and also a registry certificate of another nationality shall be seized and its master arrested, and he shall be ordered to pay a fine of 500 sucres and

¹ *Registro Oficial*, No. 342, 25 July 1945. Text of Code provided by the Permanent Delegation of Ecuador. Translation by the Secretariat of the United Nations.

to be imprisoned in the public jail for 30 to 120 days, and shall not be entitled to appeal against such order. . . .

Paragraph 2. Registration procedure

Article 128. The owner of a vessel of whatever tonnage or class which is to be registered for the first time shall submit to the port officer his documents of title thereto . . . and a certificate of his own nationality and the other documents required by the Commercial Code for the granting of nationality to a vessel. . . . If the port officer finds the application in order, he shall forward it by the ordinary channel to the proper authority for issue of a ship's certificate, and on the issue thereof he shall proceed to register the vessel . . . and shall issue to the vessel a certificate in the prescribed form attesting such registration.

Article 129. A vessel of 50 tons or more may, pending the issue of its ship's certificate, be registered provisionally and ply in virtue of a pass which shall be obtained from the governor of the province and on presentation of which the vessel shall be registered for a period of three months in a register of the port office.

18. Egypte

a) LOI N° 84 DU 14 JUILLET 1949 RELATIVE À L'ENREGISTREMENT DES BATEAUX DE COMMERCE. ¹

Article 1. Aucun bateau battant pavillon égyptien n'est autorisé à naviguer s'il n'est immatriculé au préalable, conformément aux dispositions qui suivent. — En sont exemptés les bateaux à voile affectés à la pêche ² et les yachts de plaisance jaugeant dix tonnes au maximum et qui ne s'éloignent pas ordinairement des côtes de plus de trois milles marins; il en est de même des mahonnes, canots, remorqueurs, barques, grues, dragues, scaphandres et autres engins flottants qui opèrent généralement à l'intérieur du port. — Il est cependant permis d'immatriculer ces bateaux et floteurs si leur propriétaire le requiert.

Article 2. Le Service d'inspection maritime à l'Administration des transports est chargé de l'immatriculation des bateaux. Le bureau principal d'immatriculation est institué à Alexandrie. Le Ministre des communications désignera par arrêté les autres ports où des bureaux similaires pourront être installés.

Article 3. Il sera tenu dans les dits bureaux un registre spécial dénommé: « Matricule des bateaux ». Un exemplaire en sera conservé au bureau principal d'Alexandrie.

Article 4. Aucun bateau ne sera immatriculé s'il n'est préalablement mesuré par le Service d'inspection maritime pour en évaluer le tonnage. Les règles de ce mesurage et les taxes y relatives seront fixées par décret.

Article 5. Avant l'immatriculation, le propriétaire du bateau obtiendra de l'Administration des transports l'approbation du nom qu'il entend lui donner.

¹ Répertoire permanent de Législation égyptienne, Marine marchande, 1949, p. 37.

² Les bateaux de pêche à moteur sont assujettis à cette loi.

Article 6. Le propriétaire qui désire faire immatriculer son bateau présentera une requête à cet effet à l'administration précitée, contenant les indications suivantes: 1° le nom actuel et les noms précédents du bateau; 2° le port où il doit être immatriculé; 3° la date et le lieu de construction du bateau; 4° l'adresse du chantier maritime où il a été construit; 5° l'espèce de bateau, à voile ou à moteur; 6° le tonnage; 7° les nom, prénoms, profession, domicile du ou des propriétaires par indivis, avec mention de la part de chacun d'eux; 8° le nom du capitaine et le numéro de son certificat; 9° l'hypothèque, s'il en existe, sa date, les nom et prénoms du créancier hypothécaire, sa profession et son domicile; 10° les saisies éventuelles pratiquées sur le bateau, et tout renseignement y relatif.

Le propriétaire joindra à sa demande d'immatriculation toute pièce et tout document, particulièrement ceux relatifs à la propriété du bateau et à sa nationalité égyptienne, ainsi qu'un certificat authentique de la radiation de son immatriculation à l'étranger. — L'Administration des transports conservera les originaux des pièces et documents présentés, ou leur copie authentique ou photographique.

Article 7. Toutes les indications mentionnées à l'article précédent seront inscrites au registre des bateaux, ainsi que le matricule du bateau.

Article 9. L'Administration des transports remettra au propriétaire du bateau, après son enregistrement, un certificat d'immatriculation égyptienne, contenant toutes les indications inscrites au registre des bateaux. — Ce certificat sera conservé au bateau même, pour être présenté à l'Administration des transports ou au bureau d'immatriculation à son arrivée dans un port égyptien.

Article 10. L'Administration des transports procédera à la radiation de l'immatriculation du bateau en cas d'inobservance des prescriptions relatives à la nationalité égyptienne des marins, des officiers, ingénieurs et capitaine de l'équipage, ou celles relatives aux cadets maritimes. — Ces prescriptions seront fixées par arrêté du Ministre des communications.

Article 11. Le certificat d'immatriculation ne peut être utilisé que pour la navigation maritime licite. Il est interdit de le céder, de le saisir ou de le retenir sous aucun prétexte ou pour n'importe quelle créance.

Article 12. Le propriétaire, l'armateur ou le capitaine du bateau informeront immédiatement l'Administration des transports ou le bureau d'immatriculation, par écrit, de toute modification survenue dans les déclarations relatives à son enregistrement. Cette modification sera transcrite à la matricule des bateaux. Mention en sera faite également au certificat d'immatriculation que le propriétaire, l'armateur ou le capitaine doivent présenter spontanément si le bateau se trouve dans un port où existe un bureau d'immatriculation, ou lors de son arrivée à l'un de ces ports. — Le bureau d'immatriculation qui aura procédé à cette mention — s'il est autre que le bureau d'immatriculation du bateau — informera celui-ci de la modification pour l'annoter dans la matricule des bateaux.

Article 13. Il n'est pas permis de changer le nom du bateau sans l'approbation de l'Administration des transports.

Article 14. Si le bateau a fait naufrage, ou a été incendié ou démoli, ou si l'ennemi s'en est emparé, ou s'il a été détruit, le propriétaire, l'armateur ou le capitaine en informeront immédiatement l'Administration des transports ou le bureau d'immatriculation et lui retourneront le certificat

d'immatriculation si possible. — Si la propriété du bateau a été transférée à un étranger, la dite administration en sera informée et le certificat d'immatriculation lui sera retourné. — Si le transfert a eu lieu à l'étranger, le dit certificat sera consigné au consulat égyptien le plus proche. Dans les cas précités, l'Administration des transports procédera à la radiation du nom du bateau du registre d'immatriculation.

Article 15. Si le bateau a été acquis à l'étranger, le propriétaire requerra du consulat égyptien un certificat provisoire d'immatriculation, qui lui sera délivré après examen des documents par lui produits et dont la validité expirera au bout de six mois. Dès son arrivée dans un port égyptien où se trouve un bureau d'immatriculation, le certificat provisoire sera considéré comme nul.

Article 16. L'Administration des transports peut délivrer un certificat d'immatriculation provisoire valable pour un seul voyage et pour une période maximum de six mois, si elle estime que les documents requis pourront être présentés ou complétés par la suite. — Le certificat provisoire n'est renouvelable que par autorisation spéciale du Ministre des communications.

Article 17. Si le certificat d'immatriculation est égaré ou détruit, l'Administration des transports en délivrera un double, après s'être assurée de la sincérité des déclarations et tout en maintenant l'observance des prescriptions de la loi. — Si le certificat a été égaré ou détruit à l'étranger, le propriétaire peut obtenir du consulat égyptien un certificat d'immatriculation provisoire, conformément aux dispositions de l'article 15.

Article 18. Si le certificat d'immatriculation est rayé, les documents y relatifs seront conservés à l'Administration des transports pour une période de 25 ans de la date de la radiation. Quant aux matricules, elles seront conservées indéfiniment.

Article 19. Toute personne peut requérir un extrait du registre d'immatriculation des bateaux.

(b) ARRÊTÉ N° 12 DU 1^{ER} JUILLET 1950 INTERDISANT LA VENTE DE NAVIRES BATTANT PAVILLON ÉGYPTIEN SANS L'AUTORISATION PRÉALABLE DU MINISTRE DES COMMUNICATIONS [J. O. 69.]¹

1. La vente de tout navire de mer battant pavillon égyptien sera préalablement annoncée, à deux reprises et pendant deux semaines consécutives, dans deux quotidiens arabes et deux quotidiens d'expression européenne à large diffusion, paraissant dans le Royaume d'Egypte. L'annonce désignera et décrira le navire, en indiquera le tonnage et le prix de base. Elle aura pour objet de porter la vente à la connaissance des acheteurs éventuels égyptiens, qui pourront présenter leur offre soit directement à la compagnie de navigation, soit en manifestant leur désir au Ministère des communications (Administration des transports).

2. Le requérant informera l'Administration des transports de son intention de vendre le navire. Il joindra à sa demande de permis trois exem-

¹ Répertoire permanent de Législation égyptienne, Marine marchande, 1950, p. 47.

plaires de chaque journal où la vente a été annoncée. Il y mentionnera le nom de l'acheteur éventuel, la nationalité de celui-ci, sa résidence et son adresse.

3. L'Administration des transports prendra l'avis de l'Union des chambres de commerce et des compagnies égyptiennes de navigation, toutes les fois qu'un gouvernement étranger se portera acquéreur, ou bien une personne physique ou morale étrangère.

4. Les pièces et documents justifiant de l'exécution des formalités prescrites par les articles 1, 2 et 3 seront soumis au Ministre des communications, en vue de l'octroi ou du refus du permis de vente du navire.

(c) LOI N° 61 DU 18 JUILLET 1940 RELATIVE AUX CAPITAINES, OFFICIERS DE PONT ET INGÉNIEURS MARITIMES DE LA MARINE MARCHANDE ¹.

Article 4. Les capitaines, officiers de pont et ingénieurs maritimes doivent être titulaires de brevets égyptiens les rendant aptes à remplir ces fonctions, ou être munis de certificats étrangers considérés comme équivalents par le Ministre des communications. . .

19. Ethiopia

MARITIME PROCLAMATION No. 137 OF 25 SEPTEMBER 1953. ²

B. MERCANTILE MARINE PROVISIONS

I. Definitions

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

(a) Ships and vessels, with their accessories as defined in regulations to be issued by Our Ministry of National Defence, are movable property.

(b) A merchant ship is a ship of a net capacity of not less than ten tons which is or may be engaged in the transportation of persons or goods by sea or in fishing, towing, or any other maritime operation. A merchant vessel is a navigating craft of a net capacity of less than ten tons which is or may be engaged in the transportation of persons or goods or in fishing, towing, or any other maritime operation, by sea or in rivers or lakes.

(c) An Ethiopian merchant ship or vessel is a merchant ship or vessel duly registered as Ethiopian, in conformity with regulations issued under this law, upon proof that it—

(1) Is owned by Ethiopians exclusively or to the extent of thirty-five per cent of its value, provided that, in the latter case, recognition as an Ethiopian merchant ship or vessel is requested by the owners to the extent of more than fifty per cent of its value; or,

(2) Is owned by a person or persons, including juridical persons, who have established their principal office in Ethiopia; or

(3) Has been placed under the Ethiopian flag by agreement of the owner or owners, pursuant to regulations issued under this law, with an authorized representative of Our Government; or,

¹ *Répertoire permanent de Législation égyptienne, Marine marchande*, 1940, p. 19.

² English text from *Negarit Gazeta*, 13th year, No. 1, 25 September 1953.

- (4) Was built in Ethiopia; or,
 - (5) Has been sold or repaired in Our Empire after being wrecked on Our coast; or,
 - (6) Has been abandoned at sea and salvaged by Ethiopians; or
 - (7) Has been condemned for violation of Our laws.
- (d) The registration of a merchant ship or vessel as Ethiopian shall be cancelled, in conformity with regulations issued under this Proclamation, upon proof that the conditions of registration prescribed in sub-paragraphs (1) and (2) hereof have ceased to exist; or that the agreement required in sub-paragraph (3) hereof has been violated by the owner or owners; or, at any time after six months following the registration of any ship or vessel under sub-paragraph (4), (5), (6) or (7) hereof, that the ship or vessel is not entitled to registration under sub-paragraph (1), (2) or (3) hereof. All cancellations of registration shall be given due publicity in the ports of Our Empire.

(e) An industry or enterprise is a marine industry or enterprise to the extent that it is determined by Our Minister of National Defence in consultation with Our Ministers of Commerce and Industry and of Finance, to be engaged in the operation of ships or vessels for transportation of passengers or goods, for towing, or salvage, in the operation of shipyards or the construction, repair or cleaning of ships or their accessories; in port services, including lighterage, loading or unloading of ships, the transport of warehouse stores within a port area and the supply or furnishing of foodstuffs or other commodities to ships; in the representation of shipping companies; or in the processing of sea-water. All marine industries and enterprises established within Our Empire shall be registered in conformity with regulations issued by Our Ministry of Defence.

II. Registration

7. (a) The regulations issued by Our Ministry of National Defence with respect to the registration of merchant ships and vessels and of marine industries and enterprises established within Our Empire shall require *inter alia*, full disclosure, under oath, of all titles and claims including adverse titles, claims and incumbrances upon the said ships and vessels or upon the properties of the said industries and enterprises. They shall also establish the minimum proportion of Ethiopian seamen that shall be employed on any Ethiopian ship or vessel.

(b) Merchant ships and vessels duly registered in conformity with the said regulations shall be provided with such certificates and other documents as may be needed for their operations.

III. Transfers

8. (a) The right of owners of Ethiopian ships and vessels to sell the same in whole or in part or to mortgage them either to Ethiopians or to foreigners is hereby safeguarded; provided that no sale of any such ship or vessel, or of any interest therein, shall be recognized if the owners are in default in payments due by them to the Imperial Ethiopian Government or if it is proved that the owners have violated the provisions of article 32 (a) of this Proclamation.

(b) In case of declared war all sales to foreigners either as a whole or in part of Ethiopian ships or vessels which may be under requisition by

the Imperial Ethiopian Government and all mortgages of Ethiopian ships or vessels under such requisition shall be null and void unless the said sales and mortgages shall have been authorized by Our Ministry of National Defence upon satisfactory guarantee that the said ships or vessels shall not be transferred to an enemy flag or to the flag of a country which is favourable to the enemy and subject to the provision that such sales or mortgages shall not entail the discontinuance of the requisition.

(c) From the above prohibition shall be exempted such mortgages on Ethiopian ships and vessels as were contracted to guarantee loans made for obtaining these ships or vessels in whole or in part from foreigners.

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.

. . .

D. PROPERTY RIGHTS

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IV. *Succession*

53. Upon the death of a foreign national who is owner or part owner of an Ethiopian ship or vessel or who is a shareholder in such ship or vessel, his executor or administrator shall apply to the nearest division of Our Federal High Court sitting in Admiralty for a decree determining the successor or successors to the decedent's title to or interest in such ship or vessel. To that end, Our Federal High Court sitting in Admiralty shall apply the national law of the decedent except in cases in which the decedent was domiciled in Our Empire, in which cases the applicable law shall be that of the place of his domicile. The law applicable shall also apply to the determination of the validity, the interpretation and the application of any last will or testament, and shall include any duly authenticated decree, judgment, decision, or order concerning the estate of the decedent by any probate courts of the country whose law is applicable by virtue of the

provisions of the present article, having proper jurisdiction of the estate of the decedent.

F. FINAL PROVISIONS

101. All maritime laws, rules and regulations heretofore in force in Our Empire or in any part thereof, including the rules and regulations referred to in Article 4 of Our Proclamation No. 129 of 1952, are hereby revoked. This article is not to be construed as being inconsistent with the continuance of existing obligations under international law or under any international treaty or convention to which We are a party.

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.

20. Finland

(a) SHIPPING ACT NO. 167 OF 9 JUNE 1939.¹

CHAPTER 1. GENERAL PROVISIONS

Article 1. A vessel shall be Finnish if the owner or, where more than one person has a share therein, all the owners are Finnish citizens, or if it is owned by a general or limited partnership in which all the partners or all the partners with personal liability are Finnish citizens, or by a Finnish joint-stock company or co-operative or other association.

Article 2. A Finnish vessel which is used for commercial navigation shall be registered in the shipping register in accordance with the procedure specifically provided.

The expression "commercial navigation" includes the transport of goods and persons and also towing, ice-breaking, fishing, salvaging and any similar activity which for gain or payment is carried on by means of vessels.

Article 3. A merchant vessel shall when at sea carry a nationality certificate, if one has been issued, and such other certificates and ship's papers as are expressly prescribed for the particular class of vessel and voyage.

Article 4. The home port of a registered vessel shall be the port in Finland so designated in the shipping register in accordance with information furnished by the owner.

The home port of an unregistered vessel shall be the place of residence of the owner or, if he is not resident in Finland, the town of Helsinki.

CHAPTER 3. THE MASTER

Article 41. Except in cases to which article 47 applies, only a Finnish citizen may be engaged as master of a Finnish merchant vessel.

The other qualifications of a master or first mate shall be those prescribed by regulation.

¹ Text of Act provided by the Permanent Observer of Finland. Translation by the Secretariat of the United Nations.

Article 47. If the master is unable through sickness or any other urgent cause to perform his duties during a voyage, the owner shall be notified immediately. If instructions from the owner cannot be obtained without delay or loss, the master, if in a foreign port, shall, so far as possible after consultation with the owner's agent or a Finnish consul, give temporary command of the vessel to the first mate or some other capable and reliable person. If the master abandons the ship or if he is unable to perform his duties and cannot make arrangements for the continuation of the voyage, the owner's representative or the Finnish consul in a foreign port shall designate a master.

(b) SHIPPING REGISTER ACT, No. 211 OF 29 JULY 1927.¹

CHAPTER 1. KEEPING OF THE REGISTER AND ENTRIES THEREIN

Article 1. A register of shipping shall be kept for Finnish vessels used for commercial navigation and having a net tonnage of 19 or more register tons.

Article 2. A merchant vessel smaller than the limit prescribed in article 1 but not less than 10 register tons net may, if the owner so desires, likewise be entered in the register.

Article 3. The register of shipping shall be kept by a town or police court in respect of each register district.

In a town where a custom house is situated, the register district shall be coterminous with the customs district of the town, and in other towns it shall be determined by the Council of State.

The register and documents appertaining thereto shall be public and open to inspection. Extracts from the register and copies of documents appertaining thereto shall be issued on payment of a prescribed fee.

Article 4. A vessel shall be registered in the register of the district in which its home port is situated.

The home port shall be determined in accordance with the provisions of the Shipping Act.²

Article 6. The person obliged to register a vessel shall be the owner, or on behalf of a shipping firm the principal owner or, if no such principal owner has been designated, than any part-owner, or on behalf of the estate of a deceased person the administrator of the estate, or on behalf of a company or a co-operative or other association the person or persons authorized otherwise than by power of attorney to sign for the firm.

A notice for the purpose of registering a vessel shall be in writing and be signed. A signature not made before the registrar shall be attested by a notary public, a court clerk, a police clerk, or two trustworthy persons.

Unless otherwise hereinafter provided, the provisions of the first and second paragraphs shall also apply where the particulars in the register have undergone any change which ought to be notified to the registrar or, where any other notice ought to be given to the registrar.

¹ Text of Act provided by the Permanent Observer of Finland. Translation by the Secretariat of the United Nations.

² *Supra.*

Article 8. When a vessel has been registered in the register, the registrar shall issue for the vessel a nationality certificate identical in content with the entry in the register.

The certificate shall be produced to the proper authority on request.

No annotation shall be made on the certificate by the owner or master of the vessel or by any other private person.

Article 9. A vessel with a net tonnage of 19 or more register tons may not be used for commercial navigation until it has been registered and a nationality certificate issued.

If a vessel as referred to in the first paragraph has been built abroad, or has been transferred abroad from alien to Finnish ownership, it shall be notified for registration as soon as it arrives at a Finnish port. If before that time the vessel is to be used for commercial navigation without touching at a Finnish port, it shall be notified for registration as soon as possible and in any event before the expiry of the provisional nationality certificate issued for the vessel.

Article 10. If a vessel as referred to in article 9 has been built abroad for a Finnish shipping company or has been transferred abroad to Finnish ownership, the consular authority, after ascertaining that the new owner has a legal title to the vessel, shall issue a provisional nationality certificate according to the procedure prescribed for such cases.

For special reasons a provisional nationality certificate may, for such time and subject to such conditions as may be prescribed by the registrar in each case, be issued for a vessel abroad by the registrar himself or, even in cases to which the first paragraph does not apply, by a Finnish consular authority acting on the orders of the registrar.

For urgent reasons a provisional nationality certificate may, on conditions prescribed by the registrar, be likewise issued by him for a vessel in Finland which should have been but has not yet been registered.

A provisional nationality certificate shall during its period of validity confer the same rights as an ordinary nationality certificate.

Article 20. A registered vessel that founders, disappears or is wrecked or declared unseaworthy shall, unless it is the subject of a charge, be erased from the register. Such event shall be reported to the registrar by the owner of the vessel and be properly attested within 30 days after it has become known or, if no news of the vessel has been received, then within 30 days from the end of the period prescribed for special cases by article 224 of the Shipping Act.¹ If the vessel is the subject of a charge, the event shall merely be recorded in the register, and the vessel shall not be erased from the register until the charge has ceased to be effective.

If the registrar receives otherwise than from the owner of the vessel reliable information concerning an event referred to in the first paragraph, the vessel shall be erased from the register as provided in that paragraph, and the owner of the vessel shall be so notified.

If a registered vessel is transferred to an alien owner, or if the owner becomes a citizen of a foreign country, or if any other change occurs whereby the vessel ceases to be Finnish, the provisions of the first and second paragraphs shall likewise apply; provided that where a share in a vessel passes to an alien the vessel may remain registered for a period

¹ *Supra.*

of six months and may continue to be registered thereafter if the share is shown to have passed within that period to a Finnish citizen.

If a vessel is transferred to alien ownership, the former owner shall be obliged so to notify the registrar.

Article 21. Before a vessel is erased from the register, the nationality certificate issued for the vessel shall be delivered up to the registrar. If the certificate has been lost or for some other reason cannot be recovered, the registrar shall determine whether and to what extent the matter should be investigated before the vessel is erased from the register.

Article 22. The owner of a registered vessel shall during the month of January in each year notify the registrar whether the vessel is still in service and whether during the preceding year the particulars in the register have undergone any change that has not been notified. If no such notice in respect of a vessel is received for five consecutive years, the registrar may erase the vessel from the register in conformity with the provisions of article 20, first and second paragraphs.

The notice referred to in the first paragraph may, at the sender's risk, be sent to the registrar by prepaid post.

21. France

a) CODE DES DOUANES DU 8 DÉCEMBRE 1948 ¹.

TITRE IX. NAVIGATION

Chapitre 1^{er}. Régime administratif des navires

Section I. Francisation des navires

§ 1. — *Généralités*

Article 216. La francisation est l'acte administratif qui confère au navire le droit de porter le pavillon français, avec les privilèges qui s'y attachent.

Article 217. Tout navire français qui prend la mer doit avoir à bord son acte de francisation.

Article 218. Les navires frétés pour le compte de l'Etat sont dispensés de l'acte de francisation.

§ 2. — *Conditions requises pour obtenir la francisation*

Article 219. 1) Pour obtenir la francisation les navires doivent:

a) Appartenir pour moitié au moins à des Français;

b) Avoir été construits dans le territoire de l'Union française dans lequel ils doivent être francisés ou y avoir acquitté les droits et taxes d'importation exigibles, à moins qu'ils n'aient été déclarés de bonne prise faite sur l'ennemi, ou confisqués pour infraction aux lois françaises.

2) Les navires étrangers peuvent être également francisés dans un territoire de l'Union française lorsque, à la suite d'un naufrage sur les côtes de ce territoire, ils sont devenus entièrement propriété française et sont montés par des Français, après réparations s'élevant au quadruple au moins de leur prix d'achat.

¹ *Journal officiel*, 1949, n° 1, pp. 30-60.

Article 220. 1) Est interdite, la francisation de tout navire de pêche, à vapeur ou à moteur, de plus de 100 tonneaux de jauge brute et âgé de plus de cinq ans.

2) Toutefois, des dérogations à cette interdiction peuvent être accordées par le ministre chargé de la marine marchande.

Article 221. Les navires appartenant à des sociétés ne peuvent être francisés que sous les conditions suivantes:

a) La société propriétaire doit avoir son siège social dans l'un des territoires de l'Union française;

b) Le cas échéant, le conseil d'administration ou de surveillance doit comprendre une majorité de citoyens français et le président du conseil d'administration ou de surveillance, le directeur général, s'il y en a un, et le gérant doivent être français;

c) S'il s'agit d'une société en nom collectif, les apports des associés français doivent représenter au moins 50 p. 100 du capital social.

Article 222. 1) Les Français, propriétaires en totalité ou en partie de navires à franciser ou francisés, doivent résider dans l'un des territoires de l'Union française.

2) S'ils résident en pays étranger, ils doivent être associés d'une maison de commerce française faisant le commerce dans l'un des territoires de l'Union française et ils ont à prouver, par le certificat du consul de France dans l'Etat où ils résident, qu'ils n'ont point prêté serment de fidélité à cet Etat et qu'ils y sont soumis à la juridiction consulaire française.

Article 223. Les officiers, patrons et marins composant l'équipage des navires français de commerce, de pêche et de plaisance doivent, dans une proportion définie par arrêté du ministre chargé de la marine marchande, être de nationalité française.

§ 3. — *Jaugeage des navires*

Article 224. Le service des douanes procède au jaugeage des navires dont on demande la francisation et il établit le certificat de jauge.

§ 4. — *Droit de francisation*

Article 225. La francisation d'un navire donne lieu au paiement d'un droit de francisation fixé. . .

§ 5. — *Acte de francisation*

Article 226. L'administration des douanes délivre l'acte de francisation après accomplissement des formalités prévues par les articles qui précèdent et par l'article 243 ci-dessous.

Article 227. 1) En cas de perte de l'acte de francisation, le propriétaire peut en obtenir un nouveau, sous réserve du paiement du droit de francisation.

2) Lorsqu'un changement quelconque est apporté aux caractéristiques du navire, telles qu'elles sont mentionnées sur l'acte de francisation, le propriétaire de ce navire doit provoquer la délivrance d'un nouvel acte de francisation, à défaut de quoi le navire sera réputé étranger.

Article 228. Les noms sous lesquels les navires sont francisés ne peuvent être changés sans autorisation de l'administration des douanes.

§ 6. — *Réparations de navires français hors du territoire douanier*

Article 229. 1) S'il est procédé, hors du territoire douanier à la réparation d'un navire français, les matériaux et objets incorporés sont passibles des droits de douane, à moins que les frais de réparation n'excèdent pas 2.000 F par tonneau de jauge brute ou que la nécessité de frais plus élevés ne soit constatée par le rapport signé et affirmé par le capitaine et les autres officiers du navire, vérifié et approuvé;

Soit par le consul au vu, le cas échéant, des attestations d'un ou plusieurs experts désignés par lui;

Soit, à défaut, par deux négociants français résidant dans le pays où ont eu lieu les réparations.

2) En vue de la liquidation des droits et taxes éventuellement exigibles, une déclaration du détail et du coût des réparations effectuées hors de la partie du territoire douanier dans laquelle est situé le port d'attache doit être déposée, par le propriétaire du navire, au bureau de douane dudit port d'attache dans un délai de 15 ou 30 jours à compter de la sortie du port où ont été effectuées les réparations, selon que ce dernier port est ou non situé dans les limites du cabotage international. Toutefois, si avant l'expiration de ce délai, le navire vient à toucher un port de la partie du territoire douanier dans laquelle il est attaché, la déclaration doit être déposée au bureau de douane de ce port dans les trois jours de l'arrivée.

3) Le rapport prévu au paragraphe 1^{er} du présent article doit, le cas échéant, être annexé à la déclaration.

. . . .
Section II. Congés

Article 231. Tout navire français qui prend la mer doit avoir à bord un congé délivré par le service des douanes du port d'attache.

. . . .
Section III. Dispositions diverses relatives à la francisation et aux congés

Article 235. 1. — L'acte de francisation et le congé ne peuvent être utilisés que pour le service du navire pour lequel ils ont été délivrés. Il est interdit aux propriétaires de navires de vendre, donner, prêter ou autrement disposer de ces documents.

2. — Les propriétaires de navires sont tenus de rapporter l'acte de francisation et le congé au bureau de douane du port d'attache, dans un délai de trois mois, si le navire est perdu de quelque manière que ce soit ou si les conditions requises pour la francisation ne sont plus satisfaites.

. . . .
Section V. Hypothèques maritimes

. . . .
§ 2. — *Publicité de l'hypothèque maritime*

Article 243. 1. — Tout propriétaire d'un navire construit dans un territoire de l'Union française qui demande à le faire admettre à la francisation est tenu de joindre aux pièces requises à cet effet un état des inscriptions prises sur le navire en construction ou un certificat qu'il n'en existe aucune.

2. — Les inscriptions non rayées sont reportées d'office à leurs dates respectives, par le receveur principal des douanes, sur le registre du lieu de francisation si celui-ci est autre que celui de la construction.

3. — Si le navire change de port d'immatricule, les inscriptions non rayées sont pareillement reportées d'office par le receveur principal des douanes du nouveau port où il est immatriculé sur son registre et avec mention de leurs dates respectives.

b) DÉCRET DU 24 JUILLET 1923 RELATIF AUX AUTORISATIONS DE VENTE ET D'ACHAT DE NAVIRES ¹.

Article 1^{er}. — Sont supprimées:

A) Les demandes d'autorisation d'achat de navires étrangers (construits ou à construire) prescrites par les décrets des 8 mai 1917 et 4 avril 1918;

B) Les demandes d'autorisation de vente de navires entre Français: décrets du 12 novembre 1917.

Article 2. — Tous les contrats d'achat de navires étrangers, de construction de navires à l'étranger ainsi que les contrats de vente de navires entre Français doivent obligatoirement être soumis au visa du Sous-Secrétaire d'Etat des ports, de la marine marchande et des pêches.

Article 3. — Les services des douanes ne procéderont aux francisations de navires et aux mutations de propriété que sur la production de contrats revêtus du visa indiqué à l'article précédent.

c) DÉCRET DU 9 MAI 1940 AUTORISANT L'OCTROI DE DÉROGATIONS À L'INTERDICTION DE FRANCISER TOUT NAVIRE DE PÊCHE DE PLUS DE 100 TONNEAUX DE JAUGE BRUTE ET DE PLUS DE CINQ ANS D'ÂGE ².

Article 1^{er}. — Pendant la durée des hostilités, des dérogations pourront être accordées par le ministre de la marine marchande à l'interdiction édictée par la loi du 5 juillet 1935 (Code des douanes, art. 335 ³, 2^e alinéa) de franciser tout navire de pêche à vapeur ou à moteur de plus de 100 tonneaux de jauge brute et de plus de cinq ans d'âge.

Article 2. — Un décret rendu sur la proposition du ministre de la marine marchande et du ministre des finances fixera la date à partir de laquelle les dispositions de l'article 1^{er} ci-dessus cesseront d'être applicables.

d) ARRÊTÉ DU 22 DÉCEMBRE 1940 ⁴.

Article 1^{er}. — Les officiers, patrons et les marins composant l'équipage des navires français de commerce, de pêche ou de plaisance pour le service du pont, de la machine et de la radiotélégraphie doivent être Français.

¹ *Journal officiel*, 2 août 1923.

² *Journal officiel*, 15 mai 1940.

³ Actuellement 220, voir *supra*.

⁴ *Journal officiel*, 27 décembre 1940.

Article 2. — Des dérogations provisoires ou permanentes peuvent être accordées par le Ministre Secrétaire d'Etat à la marine, soit pour les navires de commerce assurant les services de certaines lignes ou les navires attachés aux colonies ou ayant leur port d'attache à l'étranger, soit pour les bateaux de pêche. Peuvent seuls bénéficier des dérogations accordées aux navires de commerce autres que les navires ayant leur port d'attache à l'étranger, les sujets ou protégés français.

Toutefois, dans les ports étrangers, en cas d'insuffisance des ressources locales pour pourvoir aux emplois vacants, le consul peut autoriser l'embarquement d'étrangers, le capitaine devant présenter à l'arrivée, à l'autorité du port métropolitain, toutes justifications utiles.

e) LOI DU 22 OCTOBRE 1941 SUBORDONNANT À UNE AUTORISATION LA MISE EN CHANTIER POUR COMPTE PRIVÉ DES BÂTIMENTS DESTINÉS À NAVIGUER DANS LES EAUX MARITIMES ¹.

Article 1er. — Aucun bâtiment destiné à une navigation dans les eaux maritimes, pour lequel la déclaration de mise en chantier est prévue par le décret du 1^{er} septembre 1934 ou le décret du 3 mars 1937, ne peut, à compter de la date de la présente loi, être mis en chantier pour compte privé sans une autorisation préalable du Ministre Secrétaire d'Etat à la marine.

Article 2. — Le Ministre Secrétaire d'Etat à la marine peut, par arrêté, déléguer à l'autorité maritime locale son pouvoir d'autorisation, ou dispenser d'autorisation certaines catégories de bâtiments.

f) DÉCRET N° 47-1351 DU 28 JUIN 1947 PORTANT EXTENSION À LA GUADELOUPE, À LA GUYANE FRANÇAISE, À LA MARTINIQUE ET À LA RÉUNION DE LA LÉGISLATION MÉTROPOLITAINE EN MATIÈRE DE MARINE MARCHANDE ET DE PÊCHE MARITIME ².

Article 2. — Sont rendus applicables à la Guadeloupe, à la Guyane française, à la Martinique et à la Réunion:

Les lois du 21 septembre 1793 et 27 vendémiaire an II sur la francisation des navires et les textes qui les ont complétées ou modifiées;

g) DÉCRET N° 47-2390 DU 27 DÉCEMBRE 1947 ³.

Article 8. — Jusqu'à une date qui sera fixée par décret, ne sont pas applicables dans le département de la Guadeloupe.

2°) Nonobstant les dispositions du décret n° 47-1351 du 28 juin 1947, le régime de la francisation prévu aux articles 333 et suivants ⁴ du Code

¹ *Journal officiel*, 10-11 novembre 1941.

² *Journal officiel*, 22 juillet 1947.

³ *Journal officiel*, 30 décembre 1947.

⁴ Actuellement 216 et suivants, voir supra.

des douanes en ce qui concerne les navires de moins de 30 tonneaux ayant leur port d'attache à la Guadeloupe.

Note: Les décrets nos 47-2391, 47-2392 et 47-2393, du 27 décembre 1947, comportent une disposition identique (art. 8) en ce qui concerne respectivement la Guyane, la Martinique et la Réunion.

Maroc

a) CODE DE COMMERCE MARITIME, 1919-1953 ¹.

LIVRE PREMIER. DU RÉGIME DE LA NAVIGATION MARITIME

Titre premier. De la navigation maritime

Chapitre premier. Définitions

Article 2. — Le navire est le bâtiment qui pratique habituellement cette navigation.

Article 3. (D. du 18 mai 1930). — Les bateaux de tout tonnage pourront être nationalisés marocains à la condition:

a) D'avoir leur port d'attache dans la zone française de l'Empire chérifien;

b) (*D. du 2 mai 1933*). — D'effectuer ordinairement une navigation qui intéresse d'une façon directe et principale le trafic des ports de la zone française ou, s'il s'agit de bateaux de pêche, de débarquer habituellement le produit de leur pêche dans la zone française.

c) (*D. du 18 mai 1930*). — D'appartenir pour les trois quarts au moins à des nationaux marocains ou français; lorsque les bateaux sont la propriété de sociétés anonymes ou de sociétés en commandite, cette condition est considérée comme remplie lorsque la majorité des membres du conseil d'administration ou du conseil de surveillance sont citoyens français ou sujets marocains et que, en outre, le président du conseil d'administration, le directeur ou l'administrateur-délégué sont français ou marocains.

d) (*D. du 7 avril 1934*). — D'avoir leur équipage composé avec des marins de nationalité marocaine dans une proportion fixée, pour les différents genres de navigation, par arrêté viziriel.

Toutefois, quand il s'agit de bateaux (navires et embarcations) appelés à pratiquer le cabotage marocain, le bornage et la pêche, dans les conditions de l'article 52 ci-après, et pour lesquels la condition ci-dessus n'est pas réalisée, l'autorisation de les faire naviguer sous pavillon chérifien peut être spécialement accordée à leurs propriétaires, lorsque ceux-ci sont fixés au Maroc depuis un an au moins ou, dans le cas où ces embarcations appartiennent à une société, lorsque celle-ci a son siège social au Maroc.

Chapitre deuxième. Des droits auxquels est subordonné l'armement

Article 4. — Les bateaux (navires et embarcations de toutes sortes) indiqués à l'article précédent ne pourront battre pavillon chérifien qu'après le paiement des droits ci-dessous désignés:

¹ *Les Codes marocains*, par J. Bonan, décembre 1953, Casablanca, Le Droit Maritime, pp. 7 et seq.

Article 6. — Sont exemptés des droits fixés à l'article 4:

1° Les bateaux dispensés de l'obligation du congé dit de police, conformément à l'article 11 ci-après;

2° Les bateaux appartenant aux administrations publiques;

3° Les bateaux dragueurs et leurs annexes et ceux employés au service des ports et chenaux.

L'acte délivré aux bateaux dragueurs et leurs annexes devra spécifier la nature et la durée de leur mission.

Chapitre quatrième. Des papiers de bord

Section I. De l'acte de nationalité

Article 12. — L'acte de nationalité est la pièce qui constate le droit du bateau à battre pavillon chérifien et qui lui assure les avantages et la protection dus à la navigation marocaine.

Il est établi sur parchemin au nom de S. M. chérifienne et porte la signature du secrétaire général du Protectorat ou de son délégué. Il est délivré par le service de la navigation du port d'attache.

L'acte de nationalité contient la description du bateau. Il affirme que le bateau a été jaugé, que l'attestation ou le serment a été reçu et que le cautionnement, dans le cas où il est prévu, a été versé. Il énonce en outre le port d'attache du bateau, son nom, son espèce, son numéro matricule, son tonnage officiel, le ou les noms de son ou de ses propriétaires, le lieu et l'année de sa construction ou les circonstances qui ont motivé sa naturalisation.

Article 13. — Le propriétaire doit, avant la délivrance de l'acte de nationalité, déclarer au secrétariat du tribunal de paix de la circonscription de son domicile ou du lieu où il a fait élection de domicile, sa nationalité, et, s'il y a lieu, fournir toutes indications relatives à ses copropriétaires ou à ceux possédant des droits réels sur le bateau, ou bien affirmer qu'il est seul et unique propriétaire.

Procès-verbal de cette déclaration, appuyée au besoin d'un serment, sera dressé par le secrétaire-greffier; le procès-verbal sera déposé aux minutes du secrétariat et copie en sera délivrée au déclarant, qui devra présenter le bateau au service de la navigation pour l'établissement du certificat de jauge.

Article 14. — Outre le procès-verbal de la déclaration dont il vient d'être parlé, le propriétaire d'un bateau de 20 tonneaux et au-dessus est tenu de donner au bureau du port, par acte régulier, soumission et caution sur son propre bateau et autres propriétés:

Article 15. — Le propriétaire est dans l'obligation de ne point vendre, donner ou prêter l'acte de nationalité du bateau; il doit n'en faire usage que pour le bateau auquel cet acte est accordé et le rapporter au service de la navigation d'un des ports de la zone française de l'Empire chérifien pour être annulé, si le bateau est soit vendu, soit pris par l'ennemi, soit brûlé ou perdu de quelque autre manière.

Cette remise devra être faite dans le délai d'un mois, si la perte ou la vente a eu lieu dans les eaux ou dans les ports de la zone française de

l'Empire chérifien; dans le délai de trois mois, si la vente ou la perte a eu lieu en dehors de ladite zone.

Outre les pénalités prévues pour toutes infractions aux prescriptions du présent article, lesdites infractions pourront donner ouverture à la saisie du navire, laquelle aura lieu conformément aux règles prévues en matière d'hypothèque maritime et à la requête de l'autorité maritime.

Article 16. — Si l'acte de nationalité d'un bateau est perdu, le propriétaire viendra en faire la déclaration au secrétariat du tribunal de paix de son domicile réel ou élu; il indiquera, à l'appui, les circonstances dans lesquelles la perte a eu lieu. Il sera dressé, de ces déclarations, procès-verbal dont le secrétaire-greffier délivrera expédition audit propriétaire.

Le propriétaire pourra obtenir un nouvel acte de nationalité, à condition d'observer les mêmes formalités et de s'astreindre aux mêmes cautionnement, soumission, déclaration et paiement des droits que pour l'obtention de l'acte qui a été perdu.

Quand il s'agira de rendre le pavillon chérifien à un ancien bateau marocain vendu à l'étranger, le propriétaire devra suivre les mêmes formalités et se soumettre aux mêmes obligations que pour l'obtention d'un premier acte de nationalité.

Article 18. — Si, après délivrance de l'acte de nationalité, le bateau est changé dans sa forme, dans son tonnage ou de toute autre manière, le propriétaire est tenu d'obtenir un nouvel acte de nationalité, faute de quoi le bateau sera réputé étranger.

Il en est de même pour le bateau qui, par mesure exceptionnelle, est autorisé à changer de nom.

Dans les deux cas, le renouvellement de l'acte ne donne lieu qu'à la perception du prix du nouveau parchemin.

Article 19. — On doit également justifier de l'impossibilité de ramener un bateau dans un port de la zone française de l'Empire chérifien par suite de force majeure, telle que capture, naufrage, échouement avec perte, condamnation par suite d'avaries, pour obtenir la radiation des soumissions lors de la délivrance de l'acte de nationalité.

Les pièces nécessaires à cette justification sont fournies par le propriétaire au service de la navigation du port, lequel service fait au besoin une enquête. Ces pièces sont les suivantes:

Si le bateau a fait naufrage, le rapport circonstancié du capitaine ou, à défaut, celui des gens de l'équipage échappés au naufrage;

Si le bateau est perdu corps et biens, un acte de notoriété publique attestant sa perte;

Et, dans tous les cas, des pièces officielles authentiques relatant en détail la destinée du bateau.

Article 20 bis (D. du 18 mai 1930). — « L'acte de nationalité peut être retiré dans le cas où les conditions requises par l'article 3, pour l'obtenir, cessent d'être réunies. »

Section II. Du congé

Article 21. — Le congé est l'acte délivré par le service de la navigation du port d'attache pour établir que le bateau est toujours en droit de battre

pavillon chérifien. Il affirme l'identité du bateau auquel il est délivré avec celui qui fait l'objet de l'acte de nationalité.

Les congés spéciaux délivrés par mesure de police pour certaines embarcations, conformément à l'article 11, sont établis dans la même forme que les autres, avec cette seule différence qu'ils portent en tête la mention « Congé de police ».

Article 22. — Sauf les exceptions prévues à l'article 11 ci-dessus, aucun bateau, quelle que soit sa contenance, ne peut se livrer à la navigation maritime sans être muni d'un congé.

Article 26. — Le congé est assimilé à l'acte de nationalité pour la répression des fraudes auxquelles il pourrait donner lieu.

Les prescriptions de l'article 20 sont applicables en matière de congé.

Enfin, en cas de perte du congé, le propriétaire du bateau pourra en obtenir un nouveau en affirmant la sincérité de la perte par une attestation ou par un serment reçu et transmis comme il est dit à l'article 13.

Chapitre cinquième. Du pavillon chérifien

Article 41. (D. du 1^{er} septembre 1923). « Les bâtiments de mer inscrits dans la zone française de l'Empire chérifien arborent en mer, s'ils rencontrent un bâtiment de l'Etat, ou dans les ports, s'ils en sont requis par les autorités compétentes, le pavillon chérifien de commerce.

Article 42. — Nul bateau ne peut arborer le pavillon chérifien s'il ne possède un acte de nationalité marocaine et un congé de police.

Titre deuxième. De l'immatriculation des navires

Chapitre deuxième. Des immatriculations et du registre matricule. Du port d'attache, du nom et des marques des navires

Article 45. — Tout bateau admis à battre pavillon chérifien devra, pour obtenir un registre d'équipage, être immatriculé, au choix du propriétaire, au chef-lieu d'un quartier maritime ou sous-quartier maritime, qui devient le port d'attache du navire.

Article 46. — Le service de la navigation du port de chaque chef-lieu de quartier ou sous-quartier tient un registre matricule qui signale: le nom de chaque bateau pourvu d'un acte de nationalité, son caractère, ses jauges brute et nette, le nom de son propriétaire, ses lieu et date de construction, les mutations dont il est l'objet et enfin la cause de sa radiation, disparition, destruction ou vente notifiée par pièces régulières. Il tient également un registre spécial sur lequel sont inscrits, comme ci-dessus, les bateaux munis d'un simple congé de police en vertu des dispositions de l'article 11 ci-dessus. Des registres similaires sont tenus à la direction générale des travaux publics. Ils reproduisent les indications portées sur les registres matricules des quartiers et sous-quartiers.

b) ARRÊTÉ VIZIRIEL DU 7 AVRIL 1934 (22 HIJA 1352) FIXANT LA PROPORTION DES MARINS DE NATIONALITÉ MAROCAINE QUI DOIVENT ÊTRE EMBARQUÉS À BORD DES NAVIRES ARMÉS SOUS PAVILLON CHÉRIFIEN ¹.

Vu l'article 3 de l'annexe I du dahir du 31 mars 1919 (28 jourmada II 1337) formant code de commerce maritime, et les dahirs qui l'ont modifié ou complété.

Article premier. — La proportion des marins de nationalité marocaine qui doivent être embarqués à bord des navires, battant pavillon chérifien, en application des dispositions du paragraphe d de l'article 3 de l'annexe I du dahir susvisé du 31 mars 1919 (28 jourmada II 1337), est fixée ainsi qu'il suit:

a) Pour les navires de commerce: au tiers de l'équipage, y compris le capitaine et les officiers;

b) (*Parag. 1° et 3° mod., A. V. 23 nov. 1943 - Rectif. B. O. 7 janv. 1944, p. 9.*) — 1° Pour les bateaux sardiniens: aux deux tiers de l'équipage, y compris le patron ou le capitaine et les officiers, s'il y en a;

2° (*Mod., A. V. 11 juil. 1948.*) — Pour les chalutiers: aux deux cinquièmes de l'équipage, y compris le patron ou le capitaine et les officiers, s'il y en a;

3° Pour les bateaux de pêche autres que ceux visés ci-dessus: à la moitié de l'équipage, y compris le patron ou le capitaine et les officiers, s'il y en a.

c) Pour les remorqueurs et autres bâtiments de servitude: à la moitié de l'équipage, y compris le patron ou le capitaine et les officiers, s'il y en a.

Pour la détermination de la proportion à observer, le personnel des différents services du bord (pont, machine et, s'il y a lieu, service général) sera considéré globalement.

Article 2. — Les dispositions de l'article premier ne sont pas applicables aux bateaux munis d'un congé dit de police, dont l'équipage est inférieur à cinq hommes, ni aux bateaux de plaisance.

Article 3. — Des dérogations aux règles fixées à l'article premier du présent arrêté pourront être accordées en cas de pénurie dûment constatée de marins marocains susceptibles d'occuper les emplois vacants.

Tunisie

DÉCRET DU 15 DÉCEMBRE 1906 (MODIFIÉ) ².

TITRE PREMIER. DE L'ARMEMENT DES BATEAUX EN TUNISIE

§ 1. — *Conditions à remplir*

Article 1^{er}. — *Définition de la nationalité.* — Sont réputés tunisiens les bateaux (navires et embarcations) de tout tonnage construits en Tunisie, commandés par des capitaines tunisiens ou français et appartenant au moins pour 51 pour 100 de leur valeur à des Tunisiens ou à des Français (*ainsi modifié, D. 30 sept. 1931*).

Lorsque les bateaux sont la propriété de sociétés anonymes ou en commandite, la condition ci-dessus est considérée comme remplie lorsque la moitié au moins des membres du Conseil d'administration et du Conseil

¹ *Les Codes marocains*, par J. Bonan, décembre 1953, Casablanca, Textes annexes, p. 166.

² *Recueil général et pratique de législation tunisienne*, volume deuxième (du 23 janvier 1846 au 31 décembre 1926).

de surveillance sont citoyens français ou sujets tunisiens. En outre, le Président du Conseil d'administration dont la voix est prépondérante, le Directeur et l'Administrateur Délégué seront français ou tunisiens.

Les bateaux construits hors de Tunisie pourront être nationalisés tunisiens à la condition de payer au préalable les droits de douane en vigueur dans la Régence au moment considéré (*ainsi modifié, D. 17 juillet 1924*).

Sont considérés comme étant de construction tunisienne :

- 1) Les bateaux trouvés en mer par des navires tunisiens;
- 2) Ceux qui, naufragés sur les côtes de la Régence, sont devenus par suite de vente la propriété de sujets tunisiens ou français;
- 3) Ceux qui seront confisqués pour contravention aux lois de douane ou de police du pays.

§ 4. — *Acte de nationalité*

Article 11. — Acte de nationalité. — L'acte de nationalité est la pièce qui constate le droit du bateau de battre pavillon tunisien et qui lui assure les avantages et la protection dus à la navigation tunisienne.

Il est établi sur parchemin au nom de S.A. le Bey et porte la signature du Directeur général des travaux publics ou de ses délégués et est délivré par le bureau de port auquel appartient le bateau.

Il contient la description du bateau, atteste que ce bateau a été jaugeé, que l'attestation ou le serment a été reçu, et que le cautionnement, dans le cas où il est prévu, a été fourni. Il énonce, en outre, le port d'attache du bateau, son nom, son espèce, son numéro matricule, son tonnage officiel, le ou les noms du ou des propriétaires, le lieu et l'année de sa construction ou les circonstances qui ont motivé sa naturalisation.

Article 12. — Affirmation de propriété du bateau. — Pour les bateaux de 20 tonneaux de jauge nette et au-dessus, le propriétaire doit, avant la délivrance de l'acte de nationalité, affirmer sa légitime propriété par un serment écrit prêté devant le Juge de paix. Ce serment peut être également reçu par les tribunaux de première instance ou de commerce. Le tribunal qui le reçoit en délivre acte et cet acte est remis par le propriétaire au bureau du port de sa résidence . . . (*Ainsi modifié, D. 30 septembre 1931*).

Article 16. — Renouvellement de l'acte de nationalité en cas de perte. — Si l'acte de nationalité d'un bateau est perdu, le propriétaire en affirmant, par attestation pour les bateaux de moins de vingt tonneaux et par serment écrit pour les autres, la sincérité de la perte, en obtiendra un nouveau. Toutefois, ce propriétaire sera tenu d'observer les mêmes formalités et de se soumettre aux mêmes cautionnements, soumissions, déclarations et paiements de droits que pour l'obtention du premier acte de nationalité. L'attestation ou le serment sera reçu et transmis comme il est dit à l'article 12; il suffira, dans tous les cas, d'un seul acte pour affirmer la sincérité de la perte et la nouvelle déclaration de légitime propriété.

Quand il s'agira de rendre le pavillon tunisien à un ancien bateau tunisien vendu à un étranger, le propriétaire devra également suivre les mêmes formalités et se soumettre aux mêmes obligations que pour l'obtention d'un premier acte de nationalité.

§ 5. — *Du congé*

Article 21. — Congé. — Le congé est l'acte délivré par le Service de la navigation pour établir que le bateau est toujours en droit de battre pavillon tunisien. Il affirme l'identité du bateau auquel il est délivré avec celui qui fait l'objet de l'acte de nationalité.

22. Germany, Federal Republic of

(a) ORDER OF 7 JUNE 1950¹ RESPECTING THE USE OF THE GERMAN FLAG.

Article II. . . . Federal official buildings and public service vessels may fly the Federal flag or the Federal service flag.

(b) ACT OF 8 FEBRUARY 1951² RESPECTING THE RIGHT TO USE THE FLAG ON SEA-GOING SHIPS.

PART I. USE OF FLAGS BY SEA-GOING SHIPS

1. *Right to fly the Federal flag*

Article 1. (1) The Federal flag shall be carried by all merchant ships and other ships intended for sea traffic (sea-going ships) which are owned by German nationals domiciled in the territory to which the Constitution applies.

(2) The expression "German nationals" shall be construed as including commercial partnerships, limited partnerships and bodies corporate which have their seat of business in the said territory, if:

(a) In the case of a commercial partnership or limited partnership, the majority both of the partners who are personally liable and of the partners who are entitled to represent the partnership are German nationals and, in addition, the German partners have a voting majority in pursuance of the articles of association;

(b) In the case of a body corporate, German nationals constitute a majority of the board of directors or of the board of management.

Article 2. (1) The Federal flag may be carried by any sea-going ship which is owned by a German national or by German nationals not having his or their domicile in the territory to which the Constitution applies.

(2) The foregoing provision shall also apply to any sea-going ship which is owned by a shipowning partnership (*Partenreederei*) or by a community of heirs if:

(a) In the case of a shipowning partnership, the majority of the partnership shares is vested in German nationals and the managing owners (*Korrespondentreeder*) are German nationals having their domicile or seat of business in the territory to which the Constitution applies;

(b) In the case of a community of heirs, the interest vested in German nationals exceeds one-half of the estate and all the persons authorized to

¹ *Bundesgesetzblatt*, 14 June 1950, No. 24, p. 205. Translation by the Secretariat of the United Nations.

² *Flaggenrechtsgesetz*, *Bundesgesetzblatt*, 9 February 1951, No. 6, p. 79. Translation by the Secretariat of the United Nations.

represent the said community, are German nationals having their domicile or seat of business in the territory to which the Constitution applies.

2. Proof of the right to carry the Federal flag

Article 3. (1) The ship's certificate (*Schiffszertifikat*) shall be deemed to be proof of the right to use the Federal flag (articles 1 and 2). The flag shall not be used before the certificate has been issued.

(2) The ship's certificate or an extract therefrom attested by the shipping registry court shall be carried by the ship throughout each voyage.

(3) If a sea-going ship while abroad becomes entitled to use the Federal flag, a flag certificate (*Flaggenzeugnis*) instead of the ship's certificate may be issued. The flag certificate, shall be valid for one year only from the date of its issue; beyond that period it shall be valid only for the duration of a voyage which is prolonged by act of God. The Federal Government shall make regulations governing the issue and use of the flag certificate.

Article 4. (1) A sea-going ship which is the property of and is engaged in public service in the Federation or one of its constituent *Länder*, or which is owned and employed in the public service by a statutory corporation or institution having its seat of business in the territory to which the Constitution applies, shall prove its identity by a flag attestation (*Flaggenbescheinigung*).

Article 5. A sea-going ship of gross capacity not exceeding 50 cubic metres shall not be required to produce evidence of the right to use the Federal flag unless it is a ship to which article 2 applies.

3. Other national flags not to be used: exceptions

Article 6. (1) A sea-going ship which is required to use the Federal flag shall not fly any other flag as its national flag. This provision shall apply also to a sea-going ship which is allowed to use the Federal flag under article 2 and for which a ship's certificate has been issued under article 3 (1) or a flag certificate under article 3 (3).

(2) Nothing herein contained shall affect the provisions relating to the use of service flags instead of or with the Federal flag by sea-going ships in the public service.

Article 7. (1) If a sea-going ship is chartered for a period of not less than one year by a charterer (*Ausrüster*) who is not a German national or whose domicile or seat of business is not situated in the territory to which the Constitution applies, to be operated by him in his own name, then the Federal Minister of Transport may on an application by the owner permit the ship for a specified period not exceeding two years to use instead of the Federal flag some other national flag the use of which is allowed by the foreign law applicable.

(2) The aforesaid permission shall be withdrawn on application or if the conditions under which it was given cease to exist. The cessation of such conditions shall be notified forthwith to the Federal Minister of Transport by the beneficial owner and, if the ship is owned by a shipowning partnership, also by the managing owner.

(3) Where a ship's certificate or a flag certificate has been issued for a sea-going ship, the aforesaid permission or its withdrawal shall not have effect until the relevant mention has been made or cancelled, as the case may be, in the ship's certificate or flag certificate.

(4) The right to use the Federal flag shall not be exercised while the aforesaid permission is in effect.

5. Authorization to use Federal flag

Article 10. If a sea-going ship which has been built in the territory to which the Constitution applies is not either required or authorized to use the Federal flag under articles 1 to 5 above, then the Federal Minister of Transport may grant authority to use that flag for the occasion of that ship's first voyage to another port.

Article 11. (1) If a sea-going ship which does not carry the Federal flag under articles 1 to 10 is chartered by a charterer, then the Federal Minister of Transport may authorize the said charterer to use the Federal flag for a specified period (which must not in any case exceed two years) if:

- (a) The charterer is one of the class of persons mentioned in article 1;
- (b) The ship is chartered, to be operated in the charterer's own name, for a period of not less than one year;
- (c) The ship is manned by a master and officers in accordance with Federal law;
- (d) The owner agrees to the change of flag;
- (e) The use of the Federal flag is not inconsistent with foreign law.

(2) The authorization shall be withdrawn on application or if the conditions under which it was granted cease to exist. The cessation of such conditions shall be notified forthwith to the Federal Minister of Transport by the charterer.

Article 12. (1) In the cases to which article 10 or article 11 applies, a flag pass (*Flaggenschein*), which shall indicate the principal distinguishing features of the ship, the name of the owner or, in a case to which article 11 applies, the name of the charterer and the term of the charter-party, shall be deemed to be sufficient proof of the authorisation to use the Federal flag.

(2) A sea-going ship for which a flag pass has been issued under article 11 shall be entered, for so long as the authority to use the Federal flag is valid, in the register of chartered ships.

(3) The Federal Minister of Transport shall make regulations governing the keeping of the register and the delivery and withdrawal of the flag passes.

Article 13. The provisions of article 3, second sentence of paragraph (1), and paragraph (2), respecting the duty to produce proof, and of article 6, which prohibits the use of other national flags, . . . shall apply as appropriate to sea-going ships in respect of which authorisation to use the Federal flag has been granted under article 10 or article 11. The name of the home port designated by the owner shall also be displayed on the stern.

(c) EXECUTIVE ORDER OF 23 FEBRUARY 1951¹ UNDER THE ACT RESPECTING THE RIGHT TO USE THE FLAG.

Article 1. A flag certificate may be issued instead of a ship's certificate to a sea-going ship which is authorised while in foreign waters to use the Federal flag.

¹ First Order, made under article 3 (3) of the Act of 8 February 1951 (*supra*). *Bundesgesetzblatt*, 6 March 1951, No. 3, p. 19. Translation by the Secretariat of the United Nations.

Article 2. (1) A flag certificate shall be issued on the application of the owner.

(2) If the applicant is one of the class of persons on whose sea-going ships the use of the Federal flag is prescribed by article 1 of the Act, then the flag certificate shall be issued by the consul competent for the territory in which the ship is physically present when it becomes entitled to the said flag, or by the shipping registry court competent to register the ship under article 4 of the Shipping Registration Order, 19 December 1940.¹

(3) If the applicant is one of the class of persons on whose sea-going ships the Federal flag may be used pursuant to article 2 of the Act, then the flag certificate shall be issued by the shipping registry court competent to register the ship. In this case the application must be made (if made at all) in conjunction with the application for the registration of the ship in the sea-going ships register.

Article 4. (1) A flag certificate shall not be issued unless the seaworthiness of the ship is attested by a navigation permit delivered by the Mariners' Accident Insurance Institution (*See-Berufsgenossenschaft*) of Hamburg. The said Institution may also deliver the permit if it is satisfied of the ship's seaworthiness by an examination made by examiners of a recognized firm of surveyors.

(2) If application is made to a consulate for the issue of a flag certificate under article 2 (2), then, in case of urgency, a satisfactory report by a recognized firm of surveyors may be accepted as evidence of seaworthiness. In any such case, the conditions which the report considers necessary must be fulfilled before the flag certificate is issued and its issue shall be declared to be subject to the discharge of the obligations and to the observance of the restrictions as to time and place imposed by the said report.

(3) A flag certificate shall not be issued to a ship equipped to carry more than twelve passengers until the safety certificate prescribed by article 8 of the Safety Precautions and Certificates (Passenger Ships) Order, 25 December 1932,² has been given.

Article 5. Flag certificates shall be issued for a specified period not exceeding one year from the date of issue, or for a single voyage of the ship to a port in Federal territory.

Article 9. The owner shall forthwith return the flag certificate for cancellation to the shipping registry court competent to register the ship if—

1. A ship's certificate is issued,
2. The ship ceases to be entitled to the Federal flag, or
3. The application for registration of the ship in the sea-going ships register is withdrawn.

¹ *Reichsgesetzblatt* I, p. 1591.

² *Reichsgesetzblatt* II, p. 243.

(d) SECOND EXECUTIVE ORDER OF 31 MARCH 1951¹ UNDER THE ACT RESPECTING THE RIGHT TO USE THE FLAG.

Article 1. Application for authorisation to use the Federal flag shall be made—

1. In the case of a sea-going ship built in the territory to which the Constitution applies (article 10 of the Act), by the owner of the shipyard or of the ship;

2. In the case of a sea-going ship chartered by a German charterer (article 11 of the Act), by the said charterer.

Article 6. (1) An applicant who is authorised to use the Federal flag shall receive a flag pass as documentary evidence. The shipping authority shall make out the flag pass according to the model annexed hereto, shall allot an identifying signal to the ship, and shall, in a case to which article 1, item 2, applies, enter the ship in the register of chartered ships.

Article 7. (1) In a case to which article 1, item 1, applies the period of validity of the flag pass shall be the duration of the ship's first voyage to another port, and, in a case to which article 1, item 2, applies the period of validity of the authority to use the Federal flag.

(2) If the period of validity of the authority to use the Federal flag is subsequently extended, on application, the extension may be endorsed on the flag pass. In this case a new flag pass shall not be necessary.

Article 9. (3) If the ship sinks and must be regarded as a total loss, or if it cannot be repaired, the charterer must notify the shipping authority promptly.

(e) ADMINISTRATIVE ORDER RESPECTING FLAG ATTESTATIONS (*Flaggenbescheinigungen*) FOR SEA-GOING SHIPS IN THE PUBLIC SERVICE, 27 APRIL 1951.²

Article 1. (1) The body competent to deliver the flag attestation in respect of a sea-going ship which is the property of and is engaged in the public service in the Federation, or which is owned and employed in the public service by a Federal Departmental corporation or institution in public law, shall be the competent local subsidiary authority of the Federal Waterways and Shipping Department.

23. Greece

(a) DECREE OF 14 NOVEMBER 1836 CONCERNING MERCHANT SHIPPING.³

Article 1. All Greek merchant ships shall use the national flag.

Article 2. Only the following ships shall be recognized as Greek merchant ships:

¹ Second Order, made under article 12 (3) of the Act of 8 February 1951 (*supra*) *Bundesgesetzblatt* II, 11 April 1951, No. 6, p. 65. Translation by the Secretariat of the United Nations.

² *Bundesanzeiger*, 2 May 1951, No. 83, p. 3. Translation by the Secretariat of the United Nations.

³ Text of Decree provided by the Permanent Delegation of Greece. Translation by the Secretariat of the United Nations.

- (a) Ships built in Greece;
- (b) Ships captured by Greek mariners in war for the fatherland or in action against pirates, and adjudicated as prize;
- (c) Ships confiscated in consequence of a violation of Greek law;
- (d) Ships which, having been wrecked on the Greek coast and sold as unseaworthy, are repaired in Greece;
- (e) Ships belonging to Greeks immigrating into Greece and bringing the ships with them to their new domicile;
- (f) Ships other than those in the foregoing categories which, on the date of promulgation of the Decree of 15/27 October 1833, belonged to Greek subjects;
- (g) Foreign ships bought in Greece or elsewhere by Greeks for the purpose of gain.

Article 3. Greek ships only may carry domestic products in Greek coastal traffic, save as otherwise provided or to be provided by treaty concluded by the Government on a basis of reciprocity.

Article 4. Aliens may not own more than a half share in a Greek ship; but We may amend this provision where Greeks are prohibited by a foreign State from owning any interest in its merchant ships.

Article 5. All the officers and at least three-fourths of the crew of a ship shall be Greek subjects.

Article 6. Every Greek owner of a merchant ship shall apply to the shipping authorities of the port at which he desires to register his ship to recognize it as a national ship and register it, and shall submit with his application a description of the ship and the official document proving his title. He shall also state the category under article 2 to which his ship belongs and shall submit: for a ship in category (a) a certificate from the local authorities of the place in which the ship was built; in category (b) the original or certified copy of the decision of the competent court adjudicating the ship as prize; in category (c) the original or certified copy of the confiscation order; in category (d) a certificate of the local authorities of the place at which the ship was wrecked, and evidence of its repair certified by the chief local officer of the place in which it was repaired; in category (e) a certificate of the local authorities of his place of permanent residence; in category (f) a certificate from the competent authorities, together with the document of title, attesting that the ship was in Greek ownership on the date of promulgation of the Decree of 15/27 October 1833; and in category (g) the original or certified copy of a document issued by the competent Greek consulate or the competent Greek authorities attesting that the purchase was made in due legal form and more particularly for the purpose of gain. The owner shall declare on oath before the local magistrate of his place of permanent or temporary residence that the ship is wholly his property or that he has Greek or alien partners (in either case each partner must be identified and the amount of his share indicated) and that no other person is part owner of or has any interest whatever in the ship.

Note: Under Act No. 2517 of 6 March 1898 concerning the recovery of the Greek flag by merchant ships flying foreign flags during the war these requirements may be dispensed with.

. . .

Article 9. A ship shall not fly the Greek flag or assume the privileges and duties appertaining thereto unless it is recognized as Greek and registered in a Greek port.

Article 12. As soon as a ship is registered and recognized as Greek the owner shall give a written undertaking supported by adequate security—

(a) To observe strictly and fully the laws governing merchant shipping;

(b) To use his ship's nationality certificate and navigation certificate only for the ship for which they were issued and, if he sells all or part of the ship to an alien or if the ship is lost or captured by the enemy or by pirates, to return both documents forthwith to the issuing authorities or, if the event occurs outside Greece, to the competent Greek consul to be forwarded to the National Shipping Board; and, if the document of title or certificate is lost, to notify the competent authorities forthwith.

Article 15. After security has been given the ship's owner shall receive a certificate ... attesting that the ship is recognized as having Greek nationality.

The certificate shall be signed by the secretary of the National Shipping Board and sealed with the ministerial seal, and shall contain word for word all the particulars entered in the register in accordance with article 11.

Article 18. If the structure, capacity or other characteristic of a ship is altered after a certificate of nationality has been issued, the owner shall apply forthwith for a new certificate, in default of which he shall forfeit his security.

Article 19. If all or part of a ship of Greek nationality is sold to another Greek person, the shipping authorities with whom the ship is registered shall be notified of the sale. They shall record the sale in the shipping register and endorse the nationality certificate accordingly. . . .

Article 23. Every master or owner of a Greek merchant ship shall at all times carry the ship's nationality certificate and navigation certificate on board and shall strictly observe all existing and future provisions governing merchant shipping and all obligations under the civil code. . . .

(b) COMMERCIAL CODE (AMENDMENT) ACT NO. 3717 OF 1910¹

BOOK II. MARINE COMMERCE

Section I. Ships; interests in ships; marine credit

Chapter I. Ships; interests in ships

Article 1. For the purposes of this Act the term "ship" means any vessel of burden ten tons or more which ordinarily conveys or is intended to

¹ This Act consists of a single article enacting an amended version of Book II of the Code, entitled Marine Commerce, from which these extracts are taken. *Ephemeris*, 1910, Part A, No. 153, p. 817. Translation by the Secretariat of the United Nations.

carry persons and goods by sea, or to be used for fishing or towing or in any other gainful occupation afloat.

Article 3. Greek ships shall be registered in the State register.

The entry in the register shall record the surname, first name and nationality of the owner, the means of acquisition of title, whether the ownership is changed or limited, the name of the ship, the nature of its motive power, the tonnage and dimensions ascertained by official survey, the international mark and, if the ship is mechanically propelled, the engine power.

The entry in the register shall be dated and signed by the registrar or in his absence by the port officer.

A certified copy of the document of title or, if this is a private deed, the original document shall be delivered to and kept by the registration authority.

Article 4. A ship under construction may also be registered in the State register.

The entry in the register shall record the surname, first name and nationality of the person at whose expense the vessel is being constructed, the place and shipyard of construction, the contract between the owner and the builder, the name of the ship, the nature of its motive power, the material, the proposed dimensions and tonnage and, if the ship is mechanically propelled, the engine power.

Article 5. Contracts for the construction of ships, variations and rescissions thereof, and declarations of joint ownership or of transfer to joint ownership of a ship under construction made by the owner or by the builder, undertaking the construction at the owner's expense, shall be in writing and shall not bind a third party at law unless recorded in the register.

. . .

Article 7. A contract for the sale of a ship shall be in writing.

Such a contract may be made either in Greece or abroad and may relate to the whole ship, which may be in port or at sea, or to a share in the ship; the contract shall not bind a third party unless the instrument purporting to do so is abstracted in the register in which the ship is registered, in which case the provisions of the last two paragraphs of article 3 shall apply.

Title to a ship may be transferred without physical delivery of the ship.

. . .

Section II. Owners' liability; joint ownership

Chapter II. Joint ownership

. . .

Article 78. Any partner may at any time sell all or part of his interest in a ship without the consent of the other partners.

Provided that disposal by a partner of so large an interest that the ship would cease to be entitled to wear the Greek flag shall be void unless made with the consent of the Greek partners.

. . .

24. Guatemala

(a) COMMERCIAL CODE OF 1942.¹

BOOK III. MARITIME COMMERCE

Section I. Merchant ships; owners and joint owners

Chapter I. Merchant ships

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

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

Chapter II. Owners and joint owners of ships

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

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

(b) PORTS REGULATIONS OF 21 APRIL 1939.²

Chapter XII. Registration of ships and vessels

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

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

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

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

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

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

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

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

Chapter XIII. Grant of flag

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25. Haïti

LOI SUR LES DOUANES DU 4 SEPTEMBRE 1905, MODIFIÉE PAR DÉCRET DU
30 OCTOBRE 1950¹.

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

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

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

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

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

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

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

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

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

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

l'ancien au Département du commerce à défaut de quoi le navire ne peut voyager sous pavillon haïtien.

Le droit de voyage sous pavillon haïtien sera suspendu: s'agissant de tout navire, naturalisé ou non, qui ne se sera pas rendu dans un port haïtien dans un délai s'étendant du 1^{er} octobre au 15 janvier de chaque exercice pour le renouvellement de sa patente.

Article 145. Le Président de la République pourra, par arrêté, définir la proportion des officiers et marins haïtiens devant faire partie de l'équipage des navires haïtiens.

26. Honduras

ORGANIC ACT OF THE NATIONAL MERCHANT MARINE No. 55 OF
2 MARCH 1943.¹

SECTION I. NATIONAL MERCHANT MARINE

Article 1. Merchant ships registered in the shipping register shall be part of the National Merchant Marine.

Only ships duly registered in the shipping register and carrying a proper certificate of registry may use and wear the Honduran flag and sail under its protection. . .

Article 2. The provisions of this Act shall apply only to ships of more than one ton net register, including pontoons, boats, launches, dredgers, floating docks and other floating structures of more than one ton net register employed for maritime transport or for any other use or service connected with maritime commerce.

Article 3. The home port of a national merchant ship shall be its port of register.

SECTION II. SHIPPING REGISTER

Article 4. Port officers of approved ports of the Republic shall keep under their care and direction a register book to be known as the shipping register in which shall be entered the particulars specified in article 7 of this Act regarding privately owned ships for which it is necessary or desired to obtain Honduran nationality. This register shall consist of the following sections:

1. Large ships;
2. Small ships.

Large ships are ships of gross burden twenty tons or more, and small ships are ships of gross burden less than twenty tons. All ships, irrespective of tonnage, belonging to individuals or bodies corporate resident in Honduras, whether of Honduran or alien nationality, shall be required to obtain Honduran nationality and to be registered in the shipping register if they ply regularly in Honduran waters or if it is desired that they should have their home port in any place, port or roads in Honduras.

¹ Text of Act provided by the Secretariat of External Relations of Honduras. Translation by the Secretariat of the United Nations.

SECTION III. ACQUISITION OF NATIONALITY BY SHIPS

Article 5. Any person, whether a Honduran national or an alien, who owns a merchant ship and wishes to register it as a Honduran ship under the Honduran flag shall apply in writing to the Executive through the Department of War, Marine and Aviation and shall forward the following documents with his application:

(a) The document of title to the ship, duly certified by a consul of the Republic if issued abroad;

(b) The survey certificate, or record of the measurements of the ship; or, if the ship was built or surveyed abroad, the survey certificate issued by the authorities of the foreign country. In the absence thereof the ship shall be gauged by a surveyor appointed in accordance with article 8;

(c) The written authority of the agent if the owner does not appear in person; such authority may be conferred by power of attorney.

Article 6. If the application is in order, the Executive shall make an order authorizing the particular officer, on payment of the registration fee, to register the ship in the shipping register and to issue a final registry certificate.

Article 8. If the ship has no survey certificate the captain of the port shall appoint a surveyor to gauge the ship at the expense of the owner. . .

Article 9. After registration has been completed the port officer shall issue to the ship its final registry certificate in the form laid down by the Department of War, Marine and Aviation; a certified copy of the certificate shall be retained in the files of the port office and a copy of the registration entry shall be sent to the Departments of the Treasury, Public Credit and Commerce and of War, Marine and Aviation.

Where the ship registered is of burden under one ton and may therefore be employed only in local waters, the port officer shall issue a certified copy of the registration entry on ordinary paper instead of a registry certificate.

If the ownership or name of the ship is changed after the certificate has been issued or there is any substantial modification or transformation of its capacity or structure, re-registration shall be unnecessary but a new final registry certificate shall be obtained. When the changes have been verified and the original certificate has been presented for cancellation, the port officer shall make the necessary annotations in the original entry in the shipping register and shall issue to the ship another final registry certificate. . .

Article 10. Registry certificates issued under this Act shall remain in force indefinitely or until cancelled for one of the reasons set forth in articles 14, 16 and 17.

SECTION V. CANCELLATION OF REGISTRATION AND REGISTRY CERTIFICATE

Article 14. The registration and certificate of registry of a national merchant ship may be cancelled summarily if—

1. The ship enters the naval service of a belligerent nation or a nation with which the Republic of Honduras is at war; or

2. The ship is regularly engaged in smuggling, illicit or clandestine traffic, or piracy; or

3. The ship acquires the nationality of another country.

Any person having knowledge of the existence of any of such grounds may make a report thereof, supported by adequate evidence, to the Department of War, Marine and Aviation. The Department shall inform the owner, agent or master of the ship of the charges, in order to permit him to refute them within a period of sixty days. If he is unable or unwilling to refute them, the Executive shall declare that the ship has lost its Honduran nationality and shall cause its registration and registry certificate to be cancelled. The Department shall send one copy of the declaration to the owner, agent or master of the ship and another to the port officer of the port of register for entry in the shipping register.

Article 15. Any owner of a national merchant ship may at any time sell it to any other person, whether of Honduran or alien nationality, or transfer it to the flag and registration of another country; provided that if Honduras is at war it shall be necessary to obtain the prior consent of the Executive.

Article 16. The owner of a national merchant ship desiring to cancel its Honduran registration shall present to the port officer of the port of register the registry certificate, a certificate attesting that no money is owing to the National Treasury in respect of the ship, a written application for cancellation, and the cancellation fees prescribed in article 19 (b) of the present Act.

On presentation of these documents the port officer shall cancel the certificate and place it in the archives of the port office, and shall enter the cancellation of registration in the shipping register, and shall provide the owner of the ship with a certified copy of the cancellation entry; he shall report his action to the Departments of the Treasury, of Public Credit and Commerce, and of War, Marine and Aviation with a view to the extinction of the ship's liabilities.

Article 17. If a national merchant ship is permanently withdrawn from service, sold for scrap, or lost by foundering or otherwise, its owner, agent or master shall record the fact in a notarized deed and shall request the port officer to cancel the registration and certificate with a view to the extinction of the ship's liabilities at law.

27. Hungary

(a) MERCHANT SHIPS REGISTRATION DECREE, 1922.¹

Article 1. A ship shall be recognized as a Hungarian merchant ship, that is to say as a ship entitled and obliged to wear the flag prescribed for Hungarian merchant ships, if it is registered in accordance with the provisions of this Order or provided with a temporary pass in the circumstances referred to in article 16.

The said flag is that defined in Order No. 8397 M.E. of 13 October 1921 of this Ministry.

¹ Text of Decree provided by the Ministry of Foreign Affairs of Hungary. Translation by the Secretariat of the United Nations.

Article 2. A ship shall be registered only if owned as to at least one-half by Hungarian nationals.

A joint stock corporation domiciled in Hungary shall be deemed to be a Hungarian national.

Article 3. The register of Hungarian merchant ships shall be kept by the Shipping Office of the Ministry of Commerce.

. . .

Article 12. The master of the ship and at least one-half of the deck- and engine-room officers shall be Hungarian nationals. In engaging the crew preference shall be given to Hungarian nationals over aliens.

The Minister of Commerce may, if he sees fit in a particular case, dispense with the provisions of the preceding paragraph. In a suitable case, as for instance where a ship fitted out abroad makes its first voyage, the consulate in whose jurisdiction the ship is lying may permit the voyage by way of exception even if the composition of the ship's crew does not comply with the foregoing provisions.

. . .

Article 16. Where a Hungarian national acquires title to a foreign ship or to not less than a half-share therein, as mentioned in article 2, and a certificate of registration cannot be issued to the ship before it first sails after being so acquired, a provisional pass shall be issued instead of a certificate of registration.

A provisional pass shall likewise be issued where a certificate of registration has been lost and it has not been possible to issue a new copy thereof.

. . .

Article 17. No ship shall wear the flag prescribed for Hungarian merchant ships until it has a certificate of registration, or a provisional pass issued in the first case provided for in article 16.

. . .

Article 19. A ship shall be erased from the register if it is permanently withdrawn from seaborne trade, or is lost without trace, or ceases to comply with the requirements of article 2.

. . .

Article 21. Every ship shall at all times be furnished with a certificate of registration or a provisional pass.

. . .

(b) ORDER OF THE MINISTER OF COMMERCE, No. 53,081 OF 1922, TO GIVE EFFECT TO THE MERCHANT SHIPS REGISTRATION DECREE, 1922.¹

To Article 1. The Decree shall apply to sea-going fishing vessels, tugs, pilot vessels and salvage vessels in private ownership and navigating for gain.

¹ Text of Order provided by the Ministry of Foreign Affairs of Hungary. Translation by the Secretariat of the United Nations.

28. Iceland

SHIPPING REGISTRATION ACT NO. 17 OF 18 MARCH 1948.¹

Article 1. A ship may not be registered in Iceland or wear the Icelandic flag unless the following requirements are satisfied:

1. If the ship is owned by an individual, he shall either have Icelandic nationality and have been continuously domiciled in Iceland for at least the preceding year, or have been domiciled in Iceland for at least the preceding five years.

2. If the ship is the property of a company for the debts of which each partner is liable in full, two-thirds of the partners shall satisfy the requirements of paragraph 1 regarding domicile and nationality.

3. If the ship is the property of a company for the debts of which some partners are liable in full, those partners shall satisfy the requirements of paragraph 2, and the domicile of the company and of the court having jurisdiction over it shall be in Iceland, and each of the company's directors shall hold shares in the company and satisfy the requirements of paragraph 1 regarding domicile and nationality.

4. If the ship is the property of a company with limited liability or of an institution, the domicile of that company or institution and of the court having jurisdiction over it shall be in Iceland, and the directors shall satisfy the requirements of paragraph 1 regarding domicile and nationality and, in the case of a company, shall each hold a share therein.

Article 7. The chief constable shall register each ship in his register. Ships of more than 30 tons burden shall be registered in the district in which the port of register chosen by the owner is situated; a smaller ship shall be registered in the district in which the owner resides. If there is more than one owner (paragraphs 2 and 3 of article 1) and they are not all resident in the same district, the ship shall be registered in the district of residence of that owner whom they shall designate for the purpose.

Article 9. If, after the investigation referred to in article 8, the chief constable is satisfied that in the circumstances the applicant satisfies all the requirements of law, he shall register the ship. . .

Article 10. When the chief constable registers a ship he shall forthwith send to the Registry all the documents which he has received in accordance with articles 8 and 9, and also the survey report of the ship and any other material information thereon which he may lawfully give.

Article 12. If the Registry is satisfied that the ship is duly registered, it shall enter the ship in the main shipping register. The Shipping Registrar shall issue a nationality and registration certificate for a ship of burden over 30 tons gross and for a smaller ship a survey certificate. If a ship of burden less than 30 tons gross sails between Iceland and another country, a nationality and registration certificate shall be issued for it.

¹ Iceland, *Stjórnartíðindi*, Part A, p. 21. Translation by the Secretariat of the United Nations.

In the nationality certificate shall be entered the survey certificate and all particulars required by article 6 to be specified in the shipping register. The certificate shall then be sent immediately, together with the accompanying documents, to the chief constable, who shall make the necessary entry in the shipping register, correct the figure of the ship's tonnage, if necessary, enter the name of the ship's master, with particulars of his qualifications for command, in the nationality certificate, and deliver the certificate to the applicant.

. . .

Article 14. A ship built or otherwise acquired abroad for a person entitled to have the ship registered in Iceland may not be registered in Iceland before it has entered an Iceland registration district.

In such circumstances a representative of Iceland abroad shall, if he has received the documents mentioned in article 8, issue a temporary nationality certificate which shall have the effect of an ordinary nationality certificate, but only until the ship first enters an Iceland port, where the certificate shall be surrendered to the chief constable for the district, and never, except with the consent of the Shipping Registrar, for longer than two years.

. . .

As soon as a representative of Iceland abroad has issued a nationality certificate, he shall send to the Registry a copy thereof and certified copies of the documents which the applicant for registration has exhibited to him in accordance with article 8. The Registry shall examine those documents and, if the temporary nationality certificate appears to have been unlawfully issued, order the managing owner of the ship to return it.

. . .

Article 15. A nationality and registration certificate or a survey certificate shall always accompany a ship and shall be produced for the customs clearance of the ship as required by the authorities or by the masters of coast-guard vessels or by representatives of Iceland abroad. Nothing may be written or altered in the certificate except by the Registry, or by the chief constable at the place where the ship is registered, or by a representative of Iceland abroad.

. . .

Article 18. A ship shall be erased from the register and its nationality certificate returned forthwith, if possible, to the chief constable together with a written report of the occurrence if—

1. The ship is lost, broken up or otherwise rendered unseaworthy. If the ship is abroad its nationality or survey certificate shall be delivered to the local representative of Iceland, who shall send the same to the Registry with a report of the occurrence;

2. The ship, through transfer of the whole or part thereof to an individual, a company or an institution, ceases to be entitled to wear the Icelandic flag. . . ;

3. The ship is declared beyond repair abroad.

If the nationality certificate is not returned and the ship is still in existence, the certificate shall be cancelled by a notice published in the Official Gazette.

. . .

Article 20. If the owner for a special reason so desires, the Shipping Registrar may issue to a ship domiciled in Iceland a pass to ply between Icelandic ports before registration, and such a pass shall have in Iceland the effect of a nationality and registration certificate.

Where the Registry has received documents submitted for the registration of a ship required to proceed abroad immediately but, because of some defect therein, the ship cannot be registered immediately, the Shipping Registrar may issue for the ship a provisional nationality certificate which shall contain all the particulars mentioned in article 4, paragraphs 1-5. Such a certificate shall be valid for a period not exceeding two years, which the Registrar may extend if special circumstances prevent registration of the ship. . .

29. India

(a) MERCHANT SHIPPING ACT, 1894.¹

(b) ACT NO. X OF 5 JULY 1841.²

An Act for prescribing the rules to be observed in order that ships or vessels belonging to ports within the territories [of India], may become entitled to the privileges of British ships under a proclamation of the Governor General of India in Council made in pursuance of the Statute 3rd and 4th Victoria, Ch. 56.

[As modified up to the *1st January, 1951.*]

* * * * *

Ships to be registered. It is hereby enacted that no ship or vessel shall be deemed a British ship under [the Proclamation of the Governor General of India in Council made in pursuance of the Statute 3rd and 4th Victoria, Ch. 56] (except as regards ships or vessels registered before the passing of this Act, or having a pass at the time of passing thereof) unless the person or persons claiming property therein shall have caused the same to have been registered at some one of the ports hereinafter mentioned * * * and shall have obtained a certificate of such registry from the person or persons authorized to make such registry and grant such certificate as hereinafter directed, the form of which certificate shall be as follows—

2. *Ports of registry.* * * * The ports at which registration shall be made shall be the ports of Calcutta, Madras, Bombay and such other places [in (India) as the Central Government] may, from time to time, declare to be registering ports under this Act:

Provided that ships or vessels built at any place other than any of such ports shall be allowed to make their first voyage to any of such ports, being the ports at which it is intended they shall be registered under a certificate to be granted by the [officer authorised by the Central Government in this behalf] at the place where the ship is built, or if there be no [such

¹ Part I of this Act is applicable in India, according to information received by the Secretariat in a letter from the Ministry for External Affairs of India dated 11 October 1954. For the text of this Act see *infra* under United Kingdom.

² Text of Act provided by the Ministry for External Affairs of India.

officer] there, then by three merchants of such place, which certificate shall contain all the particulars with regard to the ownership and description of the ships or vessels contained in a certificate of registry, and shall specify the ports at which it is intended that they shall respectively be registered, and which certificate shall have all the effect of a certificate of registry under this Act, during the first voyage from the place of building to the ports at which the ships or vessels respectively shall be afterwards registered:

Provided that such ships or vessels so proceeding on their first voyage as aforesaid shall be deemed British ships only whilst duly prosecuting such first voyage for the purpose of registry, and, if they be not registered within a reasonable time after their arrival at the port of registry, the owner or owners, or master or other person having or taking the command or charge of such ship or vessel, shall be liable, [on conviction before a Presidency Magistrate or a Magistrate of the first class,] to a penalty not exceeding five thousand rupees.

3. *Registrars.* * * * The persons authorized to make such registry, and to grant such certificate as aforesaid, shall be [such persons] as the [Central Government] may, from time to time, appoint * * *.

4. *Book of registry.* * * * At every port where registry shall be made in pursuance of this Act a book shall be kept by the registering-officer, in which all the particulars contained in the form of the certificate of the registry hereinbefore directed to be used shall be duly entered; and every registry shall be numbered in progression, beginning such progressive numeration at the commencement of each and every year. And such registering-officer shall forthwith, or within one month at the furthest, send to [the Central Government] a true and exact copy, together with the number of every certificate which shall be by him so granted.

21. *Registration de novo.* * * If any ship or vessel, after she shall have been registered pursuant to the directions of this Act, shall in any manner whatever be altered so as not to correspond with all the particulars contained in the certificate of her registry, or if any alteration shall take place in the ownership of any ship or vessel, or of any share or shares thereof, in such cases such ship or vessel shall be registered *de novo* in manner hereinbefore required as soon as she returns to the port to which she belongs, or to any other port within [India] on failure whereof such ship or vessel shall be deemed to be a ship or vessel not duly registered, and any person making use of a certificate for the purposes of any ship or vessel which has been granted in respect of the same, after the same ought to have been registered *de novo*, shall be liable on conviction before any Justice to a penalty not exceeding five thousand rupees recoverable as aforesaid.

26. *Ports to which ships belong.* * * * All ships or vessels registered under this Act shall be deemed to belong to the ports at which they shall be respectively registered. And all ships or vessels being registered or in respect of which passes may have been granted which are unexpired at the time of passing this Act shall for the purpose of being deemed British ships be deemed to belong to the ports at which they may have been registered, or, when passes shall have been granted which are unexpired, at which such passes may have been respectively granted. And such ships or vessels built

and owned as required by the Statute 3 and 4, Vict., Ch. 56, shall continue subject to all the rules in force at the respective Presidencies before the passing of this Act touching the registering, measurement, granting passes or other requisitions in respect of the same, and shall not be subject to the provisions of this Act, or any provisions of the Statute law, a compliance with which may heretofore have been necessary in order that ships or vessels built and owned as aforesaid might be deemed British ships for the purposes of trade.

27. [*Definition of "Local Government"*]. *Rep. by the A. O.* 1937.

PROCLAMATION

The Governor General of India in Council hereby declares that all ships and vessels built or to be built within the limits of the Charter of the East India Company (as those limits are defined by the Statute 3rd and 4th of Queen Victoria, Cap. 56 entitled "An Act further to regulate the trade of ships built and trading within the limits of the East India Company's Charter"), being owned by Her Majesty's subjects for whom the said Governor General in Council has power to legislate, and belonging, under the provisions of the Act passed by the Governor General in Council No. X of 1841, to any ports in the territories under the Government of the East India Company, shall be deemed to be British ships for all purposes of trade within the said limits, including the Cape of Good Hope and the territories and dependencies thereof.

. . .

(c) MERCHANT SHIPPING LAWS (EXTENSION TO ACCEDING STATES AMENDMENT) ACT, No. XVIII OF 1949. ¹

. . .

6. Proper national colours for ships registered in, or owned by persons domiciled in, or bodies corporate established in India.—(1) The Central Government may, by notification in the Official Gazette, declare what shall be proper national colours for all ships registered in India, and for all vessels which are not registered in any British possession but are owned exclusively by persons domiciled in India or by bodies corporate established in India, and thereupon the colours so declared shall, in relation to all such ships and vessels, be the proper national colours for the purposes of section 73 and 74 of the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60), and any person hoisting on board any such ship or vessel any distinctive national colours, other than the proper national colour hereby so declared, shall be punishable with the penalty prescribed in sub-section (2) of section 73 of that Act.

(2) The Central Government may, by notification in the Official Gazette, exempt any ship or vessel or any class of ships or vessels from the operation of this section.

. . .

(d) NOTIFICATION OF THE GOVERNMENT OF INDIA, 22 JANUARY 1952. ²

MERCHANT SHIPPING

No. 73-M.A. (2)/49.—In exercise of the powers conferred by section 6 of the Merchant Shipping Laws (Extension to Acceding States and Amend-

¹ Text of Act provided by the Ministry for External Affairs of India.

² Text of Notification provided by the Ministry for External Affairs of India.

ment) Act, 1949 (XVIII of 1949), the Central Government hereby declares that, except as hereinafter provided, a Red Ensign consisting of a red flag with a width one-half of its length and the National Flag of India superimposed in the top quarter next to the staff, shall, with effect from the 1st March 1952, be the proper national colours for all ships registered in India, and for all vessels which are not registered in any British Possession but are owned exclusively by persons domiciled in India or by bodies corporate established in India.

Provided that a Blue Ensign consisting of a royal blue flag, the width being one-half of the length and the National Flag of India superimposed in the top quarter next to the staff shall be the proper national colours for such ships and vessels as aforesaid which comply with the Regulations annexed hereto and which are authorised by the Commander-in-Chief, Indian Navy, by Warrant under his hand to wear such Blue Ensign.

2. The Notification of the Government of India in the late Ministry of Commerce, No. 73-MI(2) 47 dated the 24th December 1949, shall stand superseded with effect from the 1st March, 1952.

REGULATIONS

Indian Merchant Ships will be allowed to wear the Indian Blue Ensign, plain and undefaced, when the following conditions are fulfilled:

(a) The Officer commanding the ship must be an officer on the retired or emergency list of the Indian Navy or an Officer of the Indian Naval Reserve.

(b) The crew must include (in addition to the Commanding Officer) Officers and men of the Indian Naval Reserve, to the number specified from time to time by Naval Headquarters, but officers on their retired or emergency list of the Indian Navy may be included in the number specified.

(c) Before hoisting the Blue Ensign, the Officer commanding the ship must be provided with a Naval Headquarters Warrant.

(d) The fact that the Commanding Officer holds a Warrant authorising him to hoist the Blue Ensign must be noted on the ship's Articles of Agreement.

2. *Failure to fulfil conditions.* Commanding Officers failing to fulfil any of the above conditions, unless such failure is due to death or other circumstances over which they have no control, will no longer be entitled to fly the Blue Ensign.

3. *Subsidized merchant ships.* Indian merchant ships in receipt of Ministry of Defence (Navy) subvention and exclusively in their service will be allowed to wear the Blue Ensign under Naval Headquarters Warrant with any badge that may be prescribed in the Warrant.

4. In order to ascertain that the above conditions are strictly carried out, the Captain of one of the Indian Navy's ships meeting a ship wearing the Blue Ensign may send on board an officer not below the rank of Lieutenant at any convenient opportunity. This restriction as to the rank of the boarding officer in no way limits or otherwise affects the authority or the duties of Naval Officers under Merchant Shipping Acts or in time of war.

5. Applications for permission to wear the Blue Ensign in Indian merchant ships employed exclusively under the orders of the Ministry of Defence (Navy) should be made direct to the Naval Headquarters by the

owners, and for other Indian merchant ships applications should be made through the Director General of Shipping, Bombay.

30. Ireland

(a) MERCHANT SHIPPING ACT, 1894.¹

Note. This Act continues to be in force in the Republic of Ireland in conformity with Article 73 of the Constitution of 1922 and Article 50 of the Constitution of 1937.

(b) NATIONALITY AND CITIZENSHIP [No. 13] ACT, 1935.²

MUTUAL CITIZENSHIP RIGHTS BETWEEN SAORSTÁT EIREANN AND OTHER COUNTRIES

23... (5) Nothing in this section or any order made under this section shall operate—

(c) To entitle any person to become or be the owner of a ship or of a share in a ship registered in Saorstát Eireann and having the status of a ship registered under the Merchant Shipping Act, 1894, unless such person is a citizen of a country between which and Saorstát Eireann or between the Government of which and the Government of Saorstát Eireann a convention exists and is in force by virtue of which citizens of such country are entitled to own any such ship or a share in any such ship as aforesaid.

(c) MERCHANT SHIPPING ACT NO. 46 OF 23 DECEMBER 1947.³

An act to re-enact certain provisions relating to ships made by orders under the Emergency Powers Acts, 1939 to 1945, to provide for giving effect to certain international agreements or conventions relating to ships and to amend and extend the Merchant Shipping Acts, 1894 to 1939.

1.—In this Act—

the expression “Irish ship” means

(a) A ship which is registered in the State under the Principal Act, or

(b) A ship of which the owner is one or more than one Irish citizen and which is neither registered in the State under the Principal Act nor registered under the law of any other State;

the expression “the Minister” means the Minister for Industry and Commerce;

the expression “the Principal Act” means the Merchant Shipping Act, 1894.

¹ See *infra* under United Kingdom.

² Text of Act provided by the Ministry for External Affairs of Ireland.

³ *The Act of the Oireachtas passed in the year 1947*, p. 943.

4.—A ship which is not an Irish ship and which is taken on time or voyage charter by a charterer in the State may, if the Minister so approves, be registered in the State under the Principal Act and shall remain so registered during the period or voyage for which the ship is so taken on charter and no longer.

31. Israel

SHIPS (NATIONALITY AND FLAG) ORDINANCE, No. 3 OF 5708-1948.¹

An Ordinance determining what ships shall have the nationality of the State of Israel and what shall be the flag of such ships.

NATIONALITY

2. The nationality of every ship registered in the State of Israel shall be that of the State of Israel.

FLAG

3. (a) Every ship registered in the State of Israel shall have the right and the duty to fly the flag of the Merchant Marine of the State of Israel.

CONFIRMATION OF REGISTRATION

4. Every ship which is registered in any Palestinian port situated in the area of the State of Israel and the registration of which was in force on the 5th Iyar, 5708 (14th May, 1948) shall, with effect from that date, be deemed to be a ship registered in the State of Israel.

32. Italy

(a) SHIPPING CODE OF 30 MARCH 1942.²

SECTION II. NATIONALITY QUALIFICATIONS

Article 143. (Nationality of owners of Italian ships). The nationality qualifications requisite for enrolment in the registers or lists referred to in articles 146 and 148 shall be deemed to be fulfilled by a ship in which not less than 16 shares are owned by Italian citizens or public bodies or by authorized companies.

A company is authorized to own Italian ships if it is constituted and has its seat of management in Italy and can prove in conformity with regulation that Italian interests are predominant in its capital and in its executive board and board of directors.

Authorization shall be granted by the Minister of Communications, in agreement with the Minister of Finance and the Minister of Corporations, by entering the company in the appropriate list, one list being kept in the form prescribed by regulations for sea-going ships and another for ships engaged in inland water transport.

¹ Text provided by the Permanent Delegation of Israel to the United Nations.

² *Raccolta Ufficiale delle Leggi e dei Decreti del Regno d'Italia* (Official Collection of the Laws and Decrees of the Kingdom of Italy); 1942, vol. I, pp. 389-787. Translation by the Secretariat of the United Nations.

Article 144. (Assimilated aliens and companies) The Minister of Communications may, if to do so is in the national interest, issue a decree jointly with the Minister of Finance and the Minister of Corporations to treat on an equal footing with the citizens and companies referred to in the foregoing article aliens who have been domiciled or resident in Italy for not less than five years, companies which are constituted in Italy but which do not satisfy the requirements of the foregoing article, and companies which are constituted abroad but have their seat of management or principal business in Italy.

Article 145. (Ships in foreign registers) Ships registered in foreign registers may not be registered in Italian registers or lists.

SECTION III. REGISTRATION OF SHIPS; AUTHORIZATION TO NAVIGATE

Article 147. (Designation of representatives) The owner of a large ship who is not domiciled in the place in which the office of registration of the ship is situated shall designate a representative resident in that place, and the owner shall be deemed for the purposes of the shipping authorities to have the same domicile as the representative.

The shipping authorities and the inland navigation authorities may in similar circumstances order the owner of a small ship or vessel to designate a representative.

Article 148. (Registration of ships and vessels intended to ply in foreign waters) Ships and vessels fitted out abroad and intended to ply permanently in foreign waters shall be entered in the registers or lists kept by the consular authorities.

Article 149. (Authorization to navigate) Ships entered in the registers and ships and vessels entered in the lists shall be entitled to navigate if they hold respectively a certificate of nationality or a licence.

The certificate of nationality may for this purpose be temporarily replaced by a provisional pass and the licence by a provisional licence.

Article 150. (Certificate of nationality) The certificate of nationality shall be issued in the name of the King Emperor by the shipping director in whose district the large ship is registered, or, in the case referred to in article 148, by the consul with whom the ship is registered.

The certificate of nationality shall state the ship's name, class, principal characteristics and gross and net tonnage, the name of the owner and the office of registration.

Article 151. (Issue of new certificate of nationality) A new certificate of nationality shall be issued whenever the ship's name, tonnage, class or principal characteristics are changed.

Article 152. (Issue of provisional passes) Provisional passes shall be issued in case of emergency to newly built ships registered in Italy or abroad, or, before such registration, to ships formerly wearing a foreign flag, if such ships satisfy the nationality requirements for entry in registers. A pass shall likewise be issued to any vessel whose certificate of nationality has been lost or destroyed.

Provisional passes shall be issued in Italy by the shipping offices in which the registers are kept, and abroad by consular offices.

The aforesaid authorities shall specify the period of validity of each pass, which shall be determined according to the time necessary for issue of a

certificate of nationality, and may in no circumstances be longer than one year.

Article 153. (Licences for small ships and vessels) The licence shall be issued by the authority responsible for keeping the list in which the small ship or vessel is entered.

The licence must state the number, class, principal characteristics and gross and net tonnage of the small ship or vessel, the name of the owner and the office of registration, and in the case referred to in article 141, the ship's name.

In the circumstances described in the first paragraph of the foregoing article an interim licence shall be issued to small ships in accordance with the rules prescribed by the relevant regulations.

Article 154. (Replacement of licence) In any case of change in ownership, number, tonnage, class or principal characteristics of the ship or vessel a new licence shall be issued. Similarly a new licence shall be issued in case of change of name as described in article 141.

Article 155. (Use of flag) Ships authorized to navigate in conformity with the provisions of article 149 shall fly the Italian flag.

. . . .

SECTION IV. MASTERS OF SHIPS

. . . .

Article 294. (Engagement abroad of foreign master) In foreign ports, with the authorization of the consular authority, the command of a vessel may be entrusted, until the vessel reaches a port where replacement by an Italian citizen is possible, to a foreigner in possession of a qualification corresponding to that of the master to be replaced.

. . . .

SECTION V. CREW

. . . .

Article 318. (Nationality of members of crew) The crew of an Italian ship commissioned in a port of the Realm shall be composed exclusively of Italian citizens.

In cases of special necessity the Minister of Communications may give authorization for foreigners to form part of the crew below the rank of officers up to a number not exceeding one-third of the whole crew.

Article 319. (Engagement abroad of foreign personnel) In foreign sea or inland navigation ports where seamen or navigating personnel of Italian nationality are not available, foreigners may also be engaged up to a number not exceeding one-quarter of the whole crew and for no longer than the time required by the proposed voyage.

In cases of special urgency the consular authority may authorize the engagement of foreigners in number exceeding that laid down in the preceding paragraph.

(b) REGULATIONS NO. 328 OF 15 FEBRUARY 1952. ¹

. . . .

CHAPTER II. NATIONALITY QUALIFICATIONS

Article 310. (Companies authorized to own Italian ships) For the purposes of article 143, second paragraph, of the Code Italian interests shall be deemed

¹ *Official Gazette*, Ordinary Supplement No. 94, 21 April 1952, p. 77. Translation by the Secretariat of the United Nations.

to be predominant in the registered capital of a company if three-quarters of the shares are owned by Italian citizens.

Italian interests shall, for the purposes aforesaid, be deemed to be predominant in the management of a general partnership if the majority of the partners are Italian citizens, of a commandite partnership if the majority of the active and liable partners are Italian citizens, and of a joint-stock company, a limited-liability company or a co-operative or any private corporation as referred to in article 312 if the majority of the officers, including the president and the managing director, the majority of the directors (*sindaci*) and the general managers are Italian citizens.

CHAPTER III. REGISTRATION OF SHIPS AND AUTHORIZATION TO NAVIGATE

Article 324. (Application for the issue of a certificate of nationality) To obtain a certificate of nationality the owner of a ship shall submit an application to the office of registration, which shall transmit the same to the appropriate shipping department together with the documents referred to in article 315, an engine-power certificate issued by the proper authority as specifically provided by law, and a receipt for the payment of the fee required for the issue of a certificate of nationality.

Article 325. (Issue and delivery of certificate of nationality) The maritime directorate shall draw up the certificate of nationality as provided in article 150 of the Code and transmit the same to the office of registration of the ship.

The office of registration shall record the date and number of the certificate of nationality in the register, shall note on the certificate the number of the entry in the register and any particulars subsequently entered in the register, and shall then deliver the certificate of nationality together with the certificate of tonnage to the owner, manager or master of the ship.

Where a certificate of nationality relates to a ship formerly flying a foreign flag, the mercantile marine authority issuing the certificate shall notify such issue to the customs authority of the place of registration.

Article 333. (Contents of provisional passes) An interim pass shall be in the form approved by the Minister of Mercantile Marine and shall contain particulars concerning—

- (1) Authorization to wear the Italian flag;
- (2) Name, class and tonnage of the ship, and office of registration;
- (3) Name of owner and manager;
- (4) Period of validity;
- (5) Reason for issue.

If the ship does not carry a crew list, the provisional pass shall also contain a list of the crew showing for each crew member the type of hiring contract, his rating, qualifications and shipboard duties, and the wages stipulated in the contract.

Article 334. (Contents of provisional licence) The provisional licence shall be in the form approved by the Minister of Mercantile Marine and shall contain the particulars mentioned in sub-paragraphs (2), (3), (4) and (5) of the foregoing article together with a list of the crew showing the qualifications and wages of each crew member.

CHAPTER V. CHANGE OF FLAG AND CANCELLATION OF REGISTRATION

Article 342. (Sale by court order of ships and shares therein owned by aliens) Participation in the sale by court order of shares in a ship as provided in article 158, last paragraph, and article 159, last paragraph, of the Code shall be limited to Italian citizens, Italian public bodies, Italian companies or bodies authorized under article 143 of the Code, and aliens or companies granted equal status under article 144 of the Code.

Article 345. (Cancellation of registration) The registration of a large ship in a register or of a small ship or a vessel in a list shall be cancelled in a case of—

- (1) Actual or presumed loss, evidenced by a report drawn up by the mercantile marine authority or the consular authority;
- (2) Dismantling, evidenced by a report thereof;
- (3) Loss of the qualifications for nationality, confirmed by a change of flag certificate;
- (4) Transfer to another register or list, evidenced by a communication from the competent authority that a new registration has been effected.

33. Japan

(a) SHIPPING ACT OF 1899, AMENDED TO 1954.¹

Article 1. The following ships are Japanese ships:

- (1) Ships owned by the Japanese Government or a public office;
- (2) Ships owned by Japanese subjects;
- (3) Ships owned by commercial corporations with their head offices in Japan, where all the partners in the case of an unlimited partnership (Gomei-Kaisha), all the partners with unlimited liability in the case of a commandite partnership (Goshi-Kaisha), and all the directors in the case of a joint-stock company (Kabushiki-Kaisha) or a limited liability company (Yugen-Kaisha) are Japanese subjects;
- (4) Ships owned by a corporate body which has its head office in Japan and of which all representatives are Japanese subjects.

Article 2. Only a Japanese ship may wear the Japanese national flag.

Article 3. Only a Japanese ship may call at a non-open port or transport goods or passengers between Japanese ports, except as otherwise provided by statute or treaty, or to avoid shipwreck or capture, or by leave of the competent Minister.

Article 4. The owner of a Japanese ship shall designate its port of register in Japan and apply to the shipping authority for that port of register to gauge the ship.

3. An owner intending to navigate a ship acquired in a foreign port may apply to the Japanese consular or commercial authority to gauge the ship.

Article 5. The owner of a Japanese ship shall, after registering title to the ship, have an entry thereof made in the shipping register kept at the office of the shipping authority for its port of register.

¹ Act No. 46, 8 March 1899, as amended by successive Acts. Based on consolidated English text received from the Ministry of Transport of the Japanese Government, 1954.

2. When the said entry has been made, the shipping authority shall issue a certificate of nationality for the ship.

Article 5-(2). The owner of a Japanese ship shall, within the time limit determined by the competent Minister, submit the certificate of nationality of the ship to the shipping authority for its port of register (or, if it is urgently necessary for the ship to sail, then to the nearest shipping authority) for attestation.

Article 6. Unless otherwise provided by statute or regulation, no Japanese ship may wear the Japanese national flag or be operated before the certificate of nationality or the provisional certificate of nationality of the ship has been applied for and obtained.

Article 6-(2). Where title to a ship registered in accordance with the provisions of article 5, paragraph 1, is transferred, the new owner shall not operate the ship unless he has applied for the certificate of nationality of the ship to be re-issued; but this provision shall not apply until the expiry of two weeks after the date on which he received notice of the fact.

Article 7. Japanese ships shall wear the Japanese national flag and indicate their names, ports of register, numbers, tonnage, load-lines and other particulars in accordance with statute and regulation.

Article 8. The name of a Japanese ship shall not be altered without permission of the shipping authority for its port of registry.

Article 13. Where the certificate of nationality of a Japanese ship anchored in a foreign port has been lost or damaged, or any alteration has taken place in the particulars stated therein, the master of the ship may apply for and obtain in that port a provisional certificate of nationality for the ship.

2. If the event mentioned in the preceding paragraph has taken place during the voyage of a Japanese ship abroad, the master of the ship may apply for and obtain a provisional certificate of nationality at the first port of call.

3. Where a provisional certificate of nationality for the ship cannot be obtained in accordance with the provisions of the preceding two paragraphs, the master of the ship may apply for and obtain it at the next port of call.

Article 14. Where a Japanese ship has been lost, sunk or scrapped, or has lost Japanese nationality, . . . the owner shall, within two weeks from the day on which he receives notice of the fact, cause the ship's registration to be cancelled, and shall return the certificate of nationality of the ship without delay. The same shall apply where six months pass without news whether the ship exists or not.

Article 15. Where a person who has acquired a ship in Japan does not designate its port of register within the jurisdictional area of the shipping authority for the place of acquisition, he may apply for and obtain a provisional certificate of nationality for the ship at the place where the office of the authority is situated.

Article 16. A person who has acquired a ship abroad may apply for and obtain a provisional certificate of nationality for the ship at the place of acquisition.

The provisions of article 13, paragraph 3, shall apply as appropriate to the case mentioned in the preceding paragraph.

Article 22. The master of a ship other than a Japanese ship which wears the Japanese national flag with intent to misrepresent its nationality, or has been registered with a certificate of nationality or provisional certificate of nationality of a Japanese ship, shall be liable to penal servitude not exceeding two years or to a fine not exceeding one hundred thousand yen and, if he is also the owner, to confiscation of the ship.

2. The preceding paragraph shall not apply where a ship has worn the Japanese national flag for the purpose of evading capture.

3. The two preceding paragraphs shall apply where a Japanese ship wears a flag other than the Japanese national flag with intent to misrepresent its nationality.

Article 32. The functions of shipping authorities shall be exercised abroad by Japanese consular or commercial authorities.

Article 37. Where the owner of a ship which has obtained and is in possession of a vessel's registration certificate or licence at the entry of this Act into force is obliged to apply for and obtain a certificate of nationality for the ship in accordance with the provisions of this Act, he shall have an entry made in the register as provided for by Ordinance and may then apply for and obtain a certificate of nationality for the ship.

2. A vessel's registration certificate or licence shall have the same effect as a ship's certificate of nationality until a certificate of nationality is applied for and obtained for the ship in accordance with the provisions of the preceding paragraph.

Article 38. Where the owner of a vessel in possession of a vessel's provisional registration certificate at the entry into force of this Act is obliged to apply for and obtain a certificate of nationality for the ship in accordance with the provisions of this Act, the provisional registration certificate shall have the same effect as a provisional certificate of nationality until its expiry, but not after the ship has arrived at its port of register. After the provisional registration certificate has expired, the master of the ship may in case of necessity apply for and obtain a provisional certificate of nationality for the ship.

(b) ORDINANCE NO. 24 OF 12 JUNE 1899 (AS AMENDED).¹

Article 4. A ship may sail by leave of the nearest shipping authority before the issue of its certificate of nationality or provisional certificate of nationality—

¹ Based on English text received from the Ministry of Transport of the Japanese Government, 1954.

- (a) To run trials;
- (b) For survey;
- (c) For other good and sufficient reason.

Where a shipping authority gives leave as aforesaid, except in a case to which item (a) applies, it shall issue a navigation certificate [in the prescribed form].

Article 5. The national flag may be worn by a ship before the issue to it of a certificate of nationality or a provisional certificate of nationality—

- (a) On a national holiday or a festival; but, where the holiday or festival is that of a foreign country, only in a port of that country;
- (b) For other complimentary or saluting purposes;
- (c) On launching;
- (d) Where the ship sails in accordance with article 4.

34. Korea

(a) SHIPPING ORDINANCE OF 7 APRIL 1914.¹

Article 1. The following ships shall be ships of Korean nationality in accordance with this Ordinance:

- (a) Ships owned by the Government or a public office;
- (b) Ships owned by Korean nationals resident in Korea;
- (c) Ships owned by a firm of any of the following classes having its head office in Korea:
 - (1) An unlimited partnership of which all the partners are Korean nationals;
 - (2) A limited or commandite partnership of which all the partners with unlimited liability are Korean nationals;
 - (3) A joint-stock company or limited liability company of which all the directors are Korean nationals;
- (d) Ships owned by a corporate body which has its head office in Korea and of which all the representatives are Korean nationals.

(b) SHIPPING ACT OF 8 MARCH 1899.

Article 5. The owner of a Korean ship shall, after registering title to the ship, have an entry thereof made in the shipping register kept at the office of the shipping authority for its port of register.

When the said entry has been made, the shipping authority shall issue a certificate of nationality for the ship.

Article 6. Unless otherwise provided by statute or regulation no Korean ship may wear the national flag or be operated before the certificate of nationality or the provisional certificate of nationality has been issued.

Article 7. Korean ships shall wear the Korean national flag and indicate their names, ports of register, numbers, tonnage, load lines and other particulars in accordance with statute and regulation.

Article 15. Where a person who has acquired a ship in Korea does not designate its port of register within the jurisdictional area of the shipping

¹ This text and those of the other Korean enactments are based on English texts provided by the Ministry of Foreign Affairs of the Republic of Korea.

authority for the place of acquisition, he may apply for and obtain a provisional certificate of nationality for the ship at the place where the office of the authority is situated.

Article 16. A person who has acquired a ship abroad may apply for and obtain a provisional certificate of nationality for the ship at the place of acquisition. . .

(c) REGULATIONS OF 31 MAY 1914 FOR GIVING EFFECT TO THE SHIPPING ORDINANCE

Article 4. A ship may sail by leave of the nearest shipping authority before the issue of its certificate of nationality or provisional certificate of nationality—

- (a) To run trials;
- (b) For survey;
- (c) For other good and sufficient reason.

Article 5. The national flag may be worn by a ship before the issue to it of a certificate of nationality or a provisional certificate of nationality—

- (a) On a national holiday or a festival; but, where the holiday or festival is that of a foreign country, only in a port of that country;
- (b) For other complimentary or saluting purposes;
- (c) On launching;
- (d) Where the ship sails in accordance with article 4.

35. Liban

CODE MARITIME DU 18 FÉVRIER 1947¹.

TITRE PREMIER. DES NAVIRES

Chapitre II. Nationalité et individualisation du navire

Article 2. — Sont libanais, les navires de tout tonnage ayant un port libanais comme port d'attache et appartenant pour la moitié au moins à des citoyens libanais ou à des sociétés libanaises dont la majorité du Conseil d'administration et le Président du Conseil doivent être de nationalité libanaise.

Article 3. — Sont assimilés aux navires libanais:

1° — Les navires abandonnés en mer et recueillis par des navires battant pavillon libanais.

2° — Ceux qui seront confisqués pour infraction aux lois libanaises.

Tous les navires désignés au présent article et à l'article précédent, sans préjudice de la disposition du 2^e alinéa de l'article 16, naviguent sous pavillon libanais.

¹ Texte fourni par le Ministère des affaires étrangères de la République libanaise.

Chapitre III. L'immatriculation des navires et l'inscription des droits

Article 8. — Il sera ouvert un registre matricule dans chacun des ports de Sour, Saïda, Beyrouth et Tripoli.

Chacun des feuillets de ce registre sera numéroté et paraphé.

Le numéro du feuillet sera le numéro matricule du bâtiment auquel le feuillet sera exclusivement affecté.

. . .

Un navire est considéré comme appartenant au port dans lequel son propriétaire a son domicile réel ou élu.

Les navires appartenant à des services publics (douanes, police, services quaranténaires, pilotage, etc.) sont immatriculés à leur port de stationnement habituel.

. . .

Article 10. — Les navires appartenant à des étrangers domiciliés au Liban pourront y être immatriculés sur autorisation du Ministre des travaux publics, si ces navires sont destinés à la navigation de plaisance ou à la circulation à l'intérieur d'un port libanais, à l'exclusion de toute autre navigation.

L'autorisation pourra être retirée en cas d'infraction aux règlements ou en cas de changement du propriétaire du navire. Elle sera retirée obligatoirement si le navire est utilisé à un autre mode de navigation que celui pour lequel il aura été immatriculé.

Les navires étrangers immatriculés dans un port libanais battent le pavillon de la nationalité de leur propriétaire, ou, s'ils ont plusieurs propriétaires, le pavillon de la nationalité de l'un d'eux.

. . .

Article 16. — L'immatriculation des navires est obligatoire sous les peines prévues au dernier alinéa du présent article dans les quinze jours qui suivent leur construction ou leur acquisition et, s'ils sont construits ou achetés à l'étranger, dans les quinze jours qui suivent, après la construction ou l'acquisition, leur entrée dans les eaux libanaises.

Cependant en cas d'acquisition ou de construction d'un navire à l'étranger, ce navire, en attendant son immatriculation, peut naviguer et battre pavillon libanais, après autorisation, du représentant de l'Etat libanais au lieu de l'achat ou de la construction, sur la déclaration avec pièces à l'appui, de l'acquisition du navire.

. . .

TITRE V. DE LA RÉGLEMENTATION DU TRAVAIL MARITIME

. . .

Chapitre III. Obligations de l'armateur

Article 133. — Pour le cabotage de port libanais à port libanais et pour la pêche sur la côte libanaise l'armateur ne peut engager que des marins de nationalité libanaise.

Pour les voyages au long cours les deux tiers de l'équipage doivent être de nationalité libanaise.

En ce qui concerne le personnel technique l'armateur pourra en cas de nécessité engager des capitaines, officiers ou mécaniciens de nationalité étrangère justifiant de brevets ou certificats au moins équivalents à ceux

qui seront exigés des capitaines, officiers ou mécaniciens libanais par les services du ministère des travaux publics.

36. Liberia

(a) MARITIME CODE OF 18 DECEMBER 1948 AS AMENDED
22 DECEMBER 1949.¹

TITLE II. DOCUMENTATION OF VESSELS: IDENTIFICATION: TRANSFERS

Section 1. General provisions

No self-propelled or sailing vessel of 20 net tons or over engaged in trade exclusively between ports of the Republic of Liberia and no vessel engaged in foreign trade shall fly the flag of the Republic of Liberia or be accorded the rights and privileges of a Liberian vessel, unless such vessel shall be registered in accordance with this Maritime Code. The Home Port of every vessel so registered shall be Monrovia and the name of the Home Port shall be shown on the Certificate of Registry. (*Amended 22 December 1949.*)

Section 2. Vessels eligible to be documented

The following vessels are eligible to be documented: (1) A seagoing vessel wherever built, owned by a citizen or national of Liberia or of any foreign country. The term "citizen" and "national" shall include corporations, partnerships and associations of individuals. (2) Any vessel of twenty net tons or over engaged in trading on the inland waters of Liberia.

Section 4. Vessels not required to be documented

Any vessel of less than twenty net tons engaged solely in domestic commerce shall not be required to be documented.

Section 5.

The ship's document shall be called the "certificate of registry".

Section 14. Provisional registry certificates to vessels abroad

Consular and diplomatic officers of Liberia and other persons designated by the President may issue provisional registry certificates to vessels abroad which are to be documented under the flag of Liberia.

A provisional certificate shall entitle the vessel to the privileges of a vessel of Liberia in the foreign trade until the expiration of one year from its date, or until ten days after the vessel's arrival at a port of Liberia, whichever first happens. On the arrival at a port of Liberia the vessel shall become subject to all other provisions of this Act.

The Commissioner or his duly-authorized agent shall prescribe the conditions in accordance with which provisional certificates shall be issued and

¹ Text of Code provided by the Department of State of the Republic of Liberia.

renewed and the manner in which they shall be surrendered in exchange for permanent Certificates of Registry.

The Commissioner or his duly-authorized agent shall prescribe the form of provisional certificate and shall include the name of the ship and of the master, time and place of purchase and names of purchasers, and the best particulars respecting her tonnage, build, description, and inspection or survey which the issuing officer is able to obtain.

Copies of provisional certificates shall be forwarded as soon as practicable by the issuing officer to the Commissioner.

Section 17. Sale or transfer abroad

A registered vessel sold or transferred in whole or in part while without Liberia, but without change of flag, shall on her first arrival in Liberia thereafter, be entitled to all the privileges and benefits of a vessel of Liberia upon compliance with the provisions of this Act relating to the documentation of vessels. A new document shall be obtained within three days after such arrival.

The owner of a documented vessel who desires to transfer the vessel to foreign registry may do so. Before such transfer is accomplished the registered owner shall surrender the ship's document to the Commissioner or his duly-authorized agent, or to a consular or diplomatic officer of the Republic of Liberia.

Section 18. Surrender and cancellation of registry certificates

If a registered vessel is lost, taken by an enemy, burned, broken up, or otherwise prevented from returning to the port to which she may belong, the registry certificate, if preserved, shall be delivered up within eight days after the arrival of the master or person in command in any district, to the Commissioner or his duly-authorized agent.

When the application is made for new registry of a vessel, its former registry certificate shall be delivered up to the Commissioner or his duly authorized agent to whom such application is made.

A registry certificate granted in lieu of one lost or destroyed shall, within ten days after arrival in a port of Liberia, be delivered up to the Commissioner or his duly-authorized agent, who shall thereupon cancel it.

Section 19. New document

(a) Whenever a documented vessel is sold or transferred wholly or partly, without change of flag, or is altered in form or burden, by being lengthened or built upon, or from one denomination to another, by the mode or method of rigging or fitting, she shall be documented anew, by her former name. Every such sale or transfer shall be evidenced by a written instrument in the nature of a bill of sale reciting the entire certificate. Otherwise, the vessel shall not be documented anew.

(b) When the Commissioner or his duly-authorized agent determines that any vessel has been sold and transferred by process of law, and that her document is retained by the former owner, he may grant a new document, under such sale, upon the owners complying with the requirements of this Title, excepting only the delivering up of the former document. This subsection shall not remove the liability of any person to any penalty

for not surrendering the papers belonging to any vessel on a transfer or sale of the same.

(c) Any vessel required to be documented anew which is not so documented, shall not be deemed a vessel of Liberia. If a former document is not delivered up, except where it has been lost or destroyed, and the oath thereto has been taken, the owner of such vessel shall be liable to a penalty of not more than \$500.

. . .
Section 27. Foreign reciprocity

The Secretary of the Treasury or his duly-authorized agent is hereby empowered to accept for regulation, documentation or enrollment hereunder such vessels as shall have complied with appropriate standards by the American Bureau of Shipping, or such standards, as in the opinion of the Secretary of the Treasury, shall be equivalent thereto.

. . .
TITLE IX. SUBSTANTIVE PROVISION

In so far as it does not conflict with any other provisions of this Act, the non-statutory general Maritime Law of the United States of America is hereby declared to be and is hereby adopted as the General Maritime Law of the Republic of Liberia. (*Amended 22 December 1949.*)

. . .
(b) MARITIME REGULATIONS, TO AND INCLUDING 15 MAY 1953.¹

. . .
PART 2. DOCUMENTATION OF VESSELS

2.1. *Vessels eligible to be registered*

Vessels of the following classes shall be eligible to be documented under the laws of the Republic of Liberia:

(1) A sea-going vessel, regardless of tonnage, wherever built, owned by a citizen or national of Liberia or of any foreign country;

(2) Any vessel of twenty net tons or over engaged in trading between ports in Liberia. [Effective 28 February 1949. Amended 29 June 1949.]

2.2. *Documents: who may issue*

(a) A permanent Certificate of Registry may be issued by the Commissioner of Maritime Affairs or any Deputy Commissioner of Maritime Affairs upon compliance with the conditions set forth in Sections 2.3 (a) and 2.4 of this part.

(b) A Provisional Certificate of Registry may be issued by the Commissioner or any Deputy Commissioner of Maritime Affairs or, upon direction from the Commissioner or any such Deputy Commissioner, by a Liberian Consular or diplomatic officer or consular agent, upon compliance with the conditions set forth in Section 2.3 (b) of this part. Unless sooner invalidated such Provisional Certificate of Registry shall entitle the vessel to the privileges of a vessel of Liberia in the foreign trade until one year

¹ Promulgated by the Commissioner of Maritime Affairs under the Maritime Code. Text of Regulations provided by the Department of State of the Republic of Liberia.

from its date, or until ten days after the vessel's arrival at a port of Liberia, whichever first happens. [Effective 28 February 1949. Amended 29 June 1949.]

37. Libya

MARITIME CODE OF 28 NOVEMBER 1953.¹

PART 1. SHIPS

Section 1. General

Article 1. Definition of a ship. A ship is any vessel of any tonnage or description suitable for navigation, whether or not such navigation is for purposes of gain.

Article 2. Nationality of ships. Whatever its tonnage, a ship shall be deemed to be Libyan if its home port is a Libyan port and if it is owned to the extent of fifty per cent by Libyan nationals or Libyan companies.

If it is in the national interest to do so, the Minister of Communications may, after consultation with the Minister of Finance, place aliens and foreign companies on the same footing as Libyans and Libyan companies, provided that the aliens are domiciled or resident in Libya and that the foreign companies are established in Libya or have their principal place of business or activity in Libya.

Article 3. Ships treated as Libyan ships. The following shall be treated as Libyan ships:

1. Ships abandoned at sea and found by ships flying the Libyan flag;
2. Ships confiscated for having committed an offence under Libyan law.

All the ships specified in this article and in article 2 shall hoist the Libyan flag during a voyage, subject to the provisions of the second paragraph of article 15.

Section 2. Registration of ships

Article 8. The register book. A register book shall be opened in each of the Libyan ports which the competent authorities shall designate and delimit.

Each page of the said register book shall be initialled and numbered and shall be used for one ship only. Its number shall be the registration number of the ship.

A ship shall be deemed to belong to the port in which its owner has his real or elected domicile.

Ships belonging to public authorities, such as the customs, police or quarantine services, shall be registered at their usual port of anchorage.

Article 11. Registration procedure. Registration shall be effected at one of the ports specified in article 8 on the basis of a declaration to be submitted in writing by the owner of the ship to the Port Captain in the presence of not less than two witnesses, indicating his share of the ship and the circumstances of his acquisition thereof.

¹ *Libyan Maritime Code* (in Arabic), pp. 345 *et seq.* Translation by the Secretariat of the United Nations.

If the ship is the property of a company, the company's representative shall in his capacity as such make the declaration relating to the ship. In support of his declaration of ownership, the declarant shall produce all documents in proof and shall offer to bring witnesses to testify before the Port Captain.

A report of the foregoing proceedings shall be drawn up and shall be signed by the declarant, the witnesses and the Port Captain. The report shall include the particulars referred to in the preceding article.

Article 15. Time-limits for registration. Transfer of registry. A ship shall be registered within the fifteen days following the date on which it is built or acquired or, if built or acquired abroad, within the fifteen days following the date of its entry into Libyan waters.

Pending its registration, a ship built or acquired abroad may navigate under the Libyan flag by authorization of the representative of the Libyan State at the place in which the ship was acquired or built, such authorization to be given after verification of the ship's ownership.

If the ship is acquired in Libya from an owner domiciled in a port other than the port of the new owner, the latter shall apply to the ship's port of registry to have the registration transferred to his port of domicile. Such transfer shall be effected after the transfer of ownership has been entered on the page pertaining to the ship in the register book. A copy of the said page shall then be sent to the new port of registry, accompanied by a declaration by the Captain of the former port of registry that the transfer is necessary owing to change of domicile. A page shall be opened for the ship in the register book of the new port of registry and numbered according to its place in the book, and the particulars given on the page transmitted shall be entered on it.

The ship shall be removed from the register book of the former port.

Article 17. Cancellation of registration. If a ship is purchased by an alien or is taken by the enemy, destroyed by fire or lost in whatever manner, the owner in whose name the ship is registered shall return his certificate of ownership to the office of the port of registry for cancellation together with the page of the register book reserved for the ship.

The said certificate shall be returned within fifteen days if the loss or sale of the ship occurred in Libyan waters, and within three months if it occurred abroad.

Article 18. Arrest of unregistered Libyan ships. Any unregistered Libyan ship navigating otherwise than in transit from the port at which it was built or acquired to its port of registry shall be detained at the first Libyan port at which it calls or, if arrested at sea, shall be taken to the nearest Libyan port and seized by the Port Captain. The Port Captain shall draw up a report of the seizure.

The report shall be forwarded to the competent courts.

Article 19. Evasion of registration. If intent to evade registration for criminal purposes is proved, the court shall order the confiscation and sale of the seized ship.

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

38. Mexico

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

CHAPTER XIII

Registration: grant of flag

Article 275. A vessel shall have Mexican nationality if—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 282. A vessel shall lose Mexican nationality if—

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

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

III. It is confiscated abroad;

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

V. Its flag is surrendered.

Article 283. The flag may be surrendered—

I. At the request of the owner; or

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

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

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

GENERAL PROVISIONS

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

(a) Ships owned by Mexicans;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CLASSIFICATION

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

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

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

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

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

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

REGISTRATION AND ENROLMENT

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

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

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

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

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

(d) An undertaking to comply with the law.

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

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

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

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

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

PRESENTATION OF FLAG

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

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

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

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

SHIP'S CERTIFICATE

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

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

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

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

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

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

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

PROVISIONAL PASS

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

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

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

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

TRANSFER OF TITLE

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

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

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

ERASURE

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

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

LOSS OF NATIONALITY

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

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

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

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

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

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

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

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

(*c*) COMMERCIAL CODE OF 15 SEPTEMBER 1889.¹

BOOK THREE. MARITIME COMMERCE

Section One. Vessels

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

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

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

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

Mexico City, 12 March 1934.

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

“348. Mexican merchant vessels are —

“

“II. Those owned by Mexicans.

“

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

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

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

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

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

Mexico City, 5 June 1934

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

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

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

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

39. Monaco

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

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

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

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

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

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

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

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

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

Cette délivrance est soumise aux conditions suivantes:

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

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

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

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

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

2° Au cas où le navire est importé de l'étranger, il doit être justifié du paiement des droits de douane.

3° Le propriétaire du navire remettra au Service de la direction du port l'acte de prestation de serment, prévu à l'article 8 ci-dessous, avec la soumission cautionnée exigée à l'article 10 sous les sanctions édictées par la présente ordonnance.

Si le navire appartient à plusieurs propriétaires, les formalités ci-dessus spécifiées sont accomplies par l'un des propriétaires muni des pouvoirs nécessaires, ou par tout autre mandataire. Si le navire appartient à une société, elles sont accomplies par le représentant de celle-ci.

4° Le navire devra avoir été jaugé dans les conditions réglementaires.

5° Le paiement des droits de naturalisation monégasque sera établi par la production de la quittance.

Article 17. Lorsque le port d'attache d'un navire nationalisé monégasque à Monaco est transféré dans un port de France ou d'une colonie française, la soumission de nationalisation monégasque doit être annulée.

Si le bâtiment transfère son port d'attache d'un port de France ou de colonie française dans le port de Monaco, il doit faire l'objet d'une soumission de nationalité monégasque dans son nouveau port d'attache.

Article 18. Si l'acte de naturalisation monégasque est perdu, le propriétaire, en affirmant la sincérité de cette perte, en obtiendra un nouveau, en observant les mêmes formalités et à la charge des mêmes cautionnement, soumission, déclaration et droits que pour l'obtention du premier.

Article 19. Si, après la délivrance de l'acte de naturalisation monégasque, le bâtiment est changé dans la forme, le tonnage, ou de toute autre manière, on en obtiendra un nouveau; autrement le bâtiment sera réputé bâtiment étranger.

Article 22. Les bâtiments monégasques ne pourront, sous peine d'être réputés bâtiments étrangers, être radoubés ou réparés en pays étrangers autres que la France, ses colonies et pays de protectorat, si les frais de radoub ou de réparation excèdent quinze francs par tonneau de jauge brute, à moins que la nécessité de frais plus considérables ne soit constatée par le rapport, signé et affirmé par le capitaine et autres officiers du bâtiment, vérifié et approuvé par le Directeur du port ou par le Consul de Monaco dans le pays où le radoub a été effectué.

Article 23. Les équipages des navires de commerce monégasques doivent être composés de Monégasques ou de Français pour au moins les trois quarts du nombre de matelots.

Le capitaine et les officiers, dont le chef mécanicien s'il s'agit d'un vapeur, doivent être Monégasques ou Français.

Article 24. Sont dispensés de l'acte de naturalisation monégasque:

1° Les canots et chaloupes (quel qu'en soit le tonnage) qui dépendent des navires pourvus d'un acte de naturalisation et sont inscrits à ce titre à l'inventaire du mobilier;

2° Les bâtiments de tout tonnage appartenant aux administrations publiques;

3° Les bateaux dragueurs et les bateaux employés au transport des vases (également sans limitation de tonnage);

4° Les embarcations de tout tonnage qui naviguent dans l'intérieur du port;

5° Les embarcations de 2 tonneaux et au-dessus appartenant à des habitants de la Principauté qui ne s'en servent que pour leur usage et celui de leur famille, en s'abstenant de tout transport de marchandises;

6° Les embarcations de 2 tonneaux et au-dessous, employées à la pêche en vue des côtes ou à la récolte des varechs;

7° Les bateaux de plaisance de 10 tonneaux et au-dessous qui ne se livrent à aucune opération commerciale.

Les navires et embarcations visés aux numéros 3 et suivants sont toutefois tenus de se faire délivrer chaque année un congé.

Article 25. Les dispositions des articles 1 et 23 ci-dessus relatives à la propriété des navires et à la composition des équipages ne sont applicables ni aux navires appartenant au Prince ni aux navires qui ont été régulièrement autorisés à porter pavillon monégasque à la date du 1^{er} janvier 1912, ni aux bateaux de pêche qui ne comptent pas un équipage de plus de cinq hommes et vendent le produit de leur pêche à Monaco.

40. The Netherlands

(a) COMMERCIAL CODE,¹ AS AMENDED ON 22 DECEMBER 1924 AND 10 JUNE 1926

Article 311. The expression "Netherlands ship" includes any ship which belongs—

(a) To Netherlands;

(b) As to at least two-thirds to Netherlands and as to the remainder to residents in the Kingdom;² provided that the ship's husband, if any, is a Netherlander resident in the Netherlands.

In this article the expression "Netherlanders" includes—

(1) Partnerships and commandite partnerships which have their head offices in the Kingdom and of which all the partners with joint and several liability are Netherlanders;

(2) Limited liability companies which are incorporated under Netherlands law and have their head offices in the Kingdom, and of which either shares representing two-thirds at least of the issued capital are registered in the name of Netherlanders and the majority of the directors and of the supervisors are Netherlanders resident in the Kingdom; or of which all the directors are Netherlanders and three-quarters at least of the directors are resident in the Kingdom, and three-quarters at least of the supervisors are Netherlanders and two-thirds at least of the supervisors are Netherlanders resident in the Kingdom;

(3) Associations and foundations which are incorporated under Netherlands law and have their head offices in the Kingdom, and of which all the directors are Netherlanders and three-quarters at least of the directors are resident in the Kingdom, and three-quarters at least of the supervisors are Netherlanders and two-thirds at least of the supervisors are Netherlanders resident in the Kingdom.

¹ Translation by Dr. F. W. A. de Kock van Leeuwen (revised and adapted): *Maritime Code of the Netherlands*, ed. Zuid-Hollandse Boek en Handelsdrukkerij.

² Article 13 of the Act of 12 December 1892 as amended by the Act of 21 December 1951, A O D 593: Persons who have their residence within the Kingdom and have resided during the last eighteen months in the Realm, Indonesia, Surinam or the Netherlands West Indies are residents of the Kingdom.

In this article the expression "resident in the Kingdom" includes—

(1) Partnerships and commandite partnerships of which all the partners with joint and several liability are resident in the Kingdom;

(2) Limited liability companies which are incorporated under the law of the Netherlands and have their head offices in the Kingdom, and of which either shares representing two-thirds at least of the issued capital are registered in the name of residents in the Kingdom and the majority of the directors and of the supervisors are resident in the Kingdom, or all the directors and all the supervisors are resident in the Kingdom;

(3) Associations and foundations which are incorporated under Netherlands law, and have their head offices in the Kingdom, and of which all the directors and all the supervisors are resident in the Kingdom.

The head office of the shipping undertaking shall in every case be required to be in the Netherlands.

Article 312. A ship which is built or being built in this country shall be a Netherlands ship until the builder has delivered it to the person at whose expense it is built or being built, or has put it into commission at his own expense.

Article 313. The consent of all the co-owners shall be necessary for the total or partial transfer of a share in a ship whereby it would cease to be a Netherlands ship. Where the owner of a share in a ship loses his Netherlands citizenship or ceases to be resident in the Kingdom, or the ownership of a share in a ship passes otherwise than by transfer wholly or partly to a person who is not a Netherlander or resident in the Kingdom, and in consequence thereof the ship would cease to be a Netherlands ship, any of the co-owners may within six months move the court of the place where the ship is entered in the shipping register to order the sale of that share by public auction. The order shall not be made until all the members of the firm of shipowners have been heard or properly summoned by registered letter sent by the register of the court. The share may be awarded only to a bidder who by obtaining the share would cause the ship again to satisfy the requirements of a Netherlands ship. The ship shall then be deemed not to have ceased to be a Netherlands ship.

Article 314. A public register shall be kept for the registration of Netherlands ships of at least twenty cubic metres gross capacity.

Article 316. Registration shall be cancelled: (1) if the ship is lost or taken by pirates or the enemy: . . . (3) if the ship is broken up; or (4) if the ship has ceased to be a Netherlands ship.

Registration shall be cancelled on application or, by leave of the court, administratively.

Article 341 (a). Only a Netherlands subject may be appointed master of a Netherlands ship.

Article 347. The master on board a ship shall be provided with the ship's certificate of registry, the survey certificate, an extract from the shipping register containing all entries relating to the ship until the day of its last departure from a Netherlands port; the ship's articles, the manifest of the cargo, the charterparty and the bills of lading, or copies of those docu-

ments; the Netherlands statutes and regulations applying to the voyage, and all further necessary documents.

With respect to the charterparty and the bills of lading, this provision shall not apply in the circumstances to be laid down by Order in Council.

(b) NOTE OF 23 SEPTEMBER 1954 RECEIVED FROM THE PERMANENT REPRESENTATIVE OF THE NETHERLANDS TO THE UNITED NATIONS

The main principles of the Netherlands legislation concerning the nationality of sea-going vessels have been laid down in articles 311 through 317 of the *Commercial Code*.

Articles 311, 312 and 313 indicate which vessels are Netherlands ships by law and the way in which a sea-going ship may lose this nationality.

Articles 314 through 317 deal with the registration of Netherlands sea-going vessels.

A translation of the text of these articles has been annexed to this letter; see also Chapter 15 (b) of the Netherlands Consular Manual.

In order to give a more comprehensive picture of the Netherlands laws and regulations concerning the nationality of ships now in force in this country, a number of other legal provisions should be mentioned as well:

1. *Commercial Code* (Wetboek van Koophandel)

The master of a Netherlands sea-going vessel must be a Netherlands subject; under the transitional provisions of the Act of 14 June 1930, A.O.D. no. 240 (article IX b), a foreigner who was master of a Netherlands vessel on 1 November 1928, may continue to serve in that capacity. The ship's certificate of nationality must always be on board. For a translation of the text of these articles, see also Consular Manual, Chapter 15 (b).

2. *Recording of Ships Order* (Maatregel Schepen) (Royal Decree of 6 August 1948, A.O.D. No. I 359)

This Decree contains additional provisions concerning the registration of ships based on articles 315 through 317 of the Commercial Code. This Decree regulates *inter alia* the recording of ships that have already been registered abroad (article 10) and contains provisions as to what documents should be submitted to obtain a legally valid declaration that the ship is a Netherlands ship (article 11) (see article 315, Commercial Code).

3. *Ships' Certificates of Nationality Act* (Zeebrievenwet) (Act of 10 June 1926, A.O.D. no. 178)

A Netherlands certificate of nationality entitles a ship to carry the Netherlands flag. Barring the exceptions mentioned below, a certificate of nationality is issued only for recorded Netherlands sea-going vessels (article 4). The exceptions referred to above are:

I. The ship possesses Netherlands nationality (article 311, Commercial Code), but is not recorded; in that case a "provisional certificate of nationality" may be issued for a period not exceeding six months (barring extension) (article 11 Ships' Certificates of Nationality Act).

II. The ship does not possess Netherlands nationality, but has been built or purchased in the Netherlands; in that case an extraordinary certificate of nationality may be issued for the voyage direct and within a specified period to the country of destination (article 12).

The fact that a ship carries the Netherlands flag is no guarantee of its being a "Netherlands ship" in the sense of article 311 of the Commercial Code. Barring the case of unlawfully carrying the Netherlands flag, a ship may carry the Netherlands flag without being a "Netherlands ship" in the following cases:

1. One of the exceptions of article 2 Ships' Certificates of Nationality Act may be applicable.
2. The ship is used for public service (article 3 Ships' Certificates of Nationality Act).
3. A ship built in the Netherlands is making a trial trip (article 3 Ships' Certificates of Nationality Act).
4. The ship has been built or purchased in the Netherlands for foreign account and is taken to the country of destination (article 12 Ships' Certificates of Nationality Act).
5. The ship has a temporary permit to carry the Netherlands flag (article 13 Ships' Certificates of Nationality Act).
6. The ship is a New Guinea, Surinam or Netherlands Antillean ship; these ships are entitled to carry the Netherlands flag if they comply with the regulations in force in the Part of the Realm in question (Ships' Certificates of Nationality and Ships' Passports Decree 1934, Surinam Ships' Certificates of Nationality Decree 1933, Netherlands Antillean Ships' Certificates of Nationality Decree 1933).

For a translation of the Ships' Certificates of Nationality Act of 1926 and of the Decree of 13 April 1927, A.O.D. no. 84, containing regulations specifying how temporary permits to carry the Netherlands flag may be obtained, reference is made to the Consular Manual, Chapters 15-c (Annex A) and 15-d (Annex C).

4. *Penal Code* (Wetboek van Strafrecht)

The Netherlands Penal Code applies on board Netherlands ships (article 3 and article 86).

Article 389ter: Making untruthful statements as regards the Netherlands nationality of a ship is a punishable offence (sanction on Articles 315 and 318, third paragraph, Commercial Code).
(Consular Manual, Chapter 15-a, Annex B).

Article 409: Penal sanction on unlawfully carrying the Netherlands flag (Consular Manual, Chapter 15-a, Annex B).

Article 470: Penal sanction *inter alia* on not having the Ships' Certificate of Nationality on board.

The whole subject is more extensively dealt with in Chapter 15 of the Netherlands Consular Manual.

41. New Zealand

SHIPPING AND SEAMEN ACT NO. 49 OF 23 OCTOBER 1952.¹

An Act to consolidate and amend certain enactments of the General Assembly relating to shipping and seamen.

3. (1) Except where this Act or any Order in Council or rules or regulations made thereunder otherwise provide, this Act shall not apply to—

(a) Her Majesty's ships; or

(b) Ships of the naval forces of any Commonwealth country other than New Zealand, or ships which belong to the Government of any such Commonwealth country or are held by any person on behalf of or for the benefit of any person on behalf of or for the benefit of any such Government; or

(c) Her Majesty's aircraft; or

(d) Aircraft which belong to the Government of any Commonwealth country other than New Zealand or are employed in the service of any such Government.

(2) The provisions of this Act and of any Order in Council, rules, and regulations made thereunder shall have the same operation in relation to the Republic of Ireland and to the citizens thereof, and to ships and aircraft registered therein or belonging thereto, and to the owners of those ships and aircraft, and any other persons for the time being responsible for their navigation and management, and to the masters and persons in command and to the crew and other persons in the service of those ships and aircraft, and to all other persons who are or have been on board those ships or aircraft or connected therewith, in the same manner as if the Republic of Ireland were a Commonwealth country, and as if the citizens thereof were British subjects.

National flags

5. (1) The New Zealand Ensign shall be the blue ensign of the Royal Naval Reserve, having on the fly thereof the Southern Cross as represented by four five-pointed red stars with white borders.

(2) The New Zealand Ensign is hereby declared to be—

(a) The recognized flag of New Zealand for general use on shore within New Zealand; and

(b) The proper national colours to be worn by all New Zealand Government ships and by such other New Zealand ships as may for the time being be authorized to wear the New Zealand Ensign by or pursuant to regulations made under this section.

(3) 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 prescribing the circumstances in which and conditions subject to which New Zealand ships, other than New Zealand Government ships, are or may be authorized to wear the New Zealand Ensign; and, without prejudice to the generality of the foregoing provisions of this subsection, those regulations may establish a mode of application for such

¹ Text of Act provided by the Department of External Affairs of New Zealand.

authorization and may fix the fees (if any) which shall be payable in respect of each such application.

6. (1) The marine flag of New Zealand shall be the red ensign usually worn by merchant ships registered in the United Kingdom, with the addition on the fly thereof of the Southern Cross as represented by four five-pointed white stars.

(2) Except as is provided by the last preceding section, and except in the case of any ship for the time being allowed to wear any other national colours in pursuance of a Warrant of Her Majesty, the marine flag of New Zealand shall be the proper national colours to be worn by all New Zealand ships.

PART XII. REGISTRATION OF SHIPPING

Registrars of ships

383. (1) The Governor-General may from time to time appoint ports in New Zealand to be ports of registry for the registration of ships; and at each such port there may be appointed under the provisions of the Public Service Act 1912 some fit person to be the Registrar of Ships (hereinafter referred to as the Registrar).

384. (1) The Registrar shall keep a book, to be called the register book, . . .

Qualification for owning New Zealand ships

385. (1) Subject to the provisions of the next succeeding subsection and of any rules made thereunder, a ship shall not be registered in New Zealand under this Act unless she is owned wholly by persons of the following descriptions (in this Act referred to as persons qualified to own a registered New Zealand ship), namely:—

- (a) British subjects:
- (b) Corporate bodies established under and subject to the law of a Commonwealth country and having their principal place of business in a Commonwealth country.

(2) Without limiting the general power to make rules conferred by section five hundred and four of this Act, rules may be made under that section with respect to the manner in which New Zealand Government ships, or any class of those ships, may be registered under this Act; and, subject to any modifications which may be made by those rules either generally or in respect of any specified class of ships, this Act shall apply to New Zealand Government ships which are registered in accordance with the rules as if they were ships registered in the manner provided in section three hundred and eighty-seven of this Act.

(3) Where the Minister has reason to believe that there is some doubt as to the title of any ship registered in New Zealand under this Act to be so registered, he may direct the Registrar at the port of registry of the ship to require that evidence be given to his satisfaction that the ship is entitled to be so registered.

(4) If, within such time as may be determined by the Minister, not being less than thirty days, evidence to the satisfaction of the Registrar of

the title of the ship to be registered is not given, the ship shall be liable to forfeiture.

Obligation to register ships

386. (1) Whenever a ship is owned wholly by persons qualified to own a registered New Zealand ship, that ship shall be registered either in New Zealand in manner provided in this Part of this Act or in some other Commonwealth country in accordance with the law of that country, unless—

(a) The ship is recognized by the law of a Commonwealth country other than New Zealand as a ship of that country, and is by the law of that country exempted from registration; or

(b) The ship is, pursuant to the next succeeding subsection, exempted from registration under this Act.

(2) Ships not exceeding fifteen register tons employed solely on the coasts or inland waters of New Zealand are exempted from registration under this Act.

(3) If any ship does not comply with the requirements of subsection one of this section, that ship shall not be recognized as a New Zealand ship.

(4) If the master of any ship which is owned wholly by persons qualified to own a registered New Zealand ship fails, on demand, to produce a certificate of registration of the ship or such other evidence as satisfies the Minister that that ship complies with the requirements of subsection one of this section, that ship may be detained until that evidence is produced.

(5) A ship which is, at the commencement of this Part of this Act, registered at a port in New Zealand in accordance with the provisions of the United Kingdom Merchant Shipping Act shall be deemed to be registered in New Zealand under this Act in manner provided in this Part of this Act.

Procedure for registration

387. (1) An application for a ship to be registered in New Zealand under this Act shall be made to the Registrar at a port of registry in New Zealand in a form approved by the Minister.

(2) The application shall be made in the case of individuals by the person requiring to be registered as owner, or by some one or more of the persons so requiring if more than one, or by his or their agent, and in the case of a corporation by its agent; and the authority of the agent shall be testified by writing, if appointed by individuals, under the hands of the appointors, and, if appointed by a corporation, under the common seal of the corporation.

(3) The Registrar may demand proof of ownership to his satisfaction before proceeding with the registry of a ship.

388. (1) Whenever application for a ship to be registered is made under the last preceding section, the owner or other applicant shall, on or before making the application, cause the ship to be surveyed by a Surveyor of Ships and the tonnage of the ship to be ascertained in accordance with the tonnage regulations of this Act.

(2) The Surveyor shall, upon making the survey, deliver to the owner or applicant a certificate signed by him (hereinafter referred to as a Surveyor's tonnage certificate); and that certificate shall be delivered to the Registrar before the ship is registered.

(3) A Surveyor's tonnage certificate shall be in a form approved by the Minister, and shall specify the ship's tonnage and build, and such other particulars descriptive of the identity of the ship as the Minister may from time to time require.

390. (1) A person shall not be entitled to be registered as owner of a ship, or of a share therein, until he, or, in the case of a corporation, the person authorized by this Act to make declarations on behalf of the corporation, has made and signed a declaration of ownership referring to the ship as described in the Surveyor's tonnage certificate, and containing the following particulars:—

(a) A statement of his qualification to own a registered New Zealand ship, or, in the case of a corporation, of such circumstances of the constitution and business thereof as prove it to be qualified to own a registered New Zealand ship;

(b) A statement of the time when and the place where the ship was built, or if the ship was built in a foreign country and the time and place of building are unknown, a statement that she was built in a foreign country and that the declarant does not know the time and place of her building; and in addition, in the case of a foreign ship, a statement of her foreign name, or, in the case of a ship condemned, a statement of the time, place and Court at and by which she was condemned;

(c) Except in the case of a ship exempted by the Minister under subsection six of section three hundred and ninety-seven of this Act, but subject to the terms and conditions of any such exemption, a statement of the name of her master;

(d) A statement of the number of shares in the ship of which he or the corporation, as the case may be, is entitled to be registered as owner;

(e) A declaration that, to the best of his knowledge and belief, no unqualified person or body of persons is entitled as owner to any legal or beneficial interest in the ship or any share therein.

(2) A declaration of ownership by an individual owner and a declaration of ownership on behalf of a corporation as owner shall each be made in a form approved for the purpose by the Minister.

392. (1) As soon as the requirements of this Act preliminary to registry have been complied with the Registrar shall enter in the register book the following particulars respecting the ship—

(a) The name of the ship and the name of the port to which she belongs;

(b) The details comprised in the Surveyor's tonnage certificate;

(c) The particulars respecting her origin stated in the declaration of ownership; and

(d) The name, address, and occupation of her registered owner or owners, and if there are more owners than one, what share in the ship is held by each owner.

(2) On the registry of a ship the Registrar shall retain in his possession the following documents—

(a) The Surveyor's tonnage certificate;

(b) The builder's certificate (if any);

(c) All declarations of ownership:

- (d) Any bill of sale of the ship previously made;
- (e) The copy of the condemnation (if any).

Certificate of registry

396. (1) The Registrar at the port of registry of a ship registered in New Zealand may, with the approval of the Minister and on the delivery to him of the certificate of registry of the ship, grant a new certificate in lieu thereof.

(2) In the event of the certificate of registry of a ship registered in New Zealand being lost, mislaid or destroyed, the Registrar at her port of registry shall grant a new certificate of registry in lieu of her original certificate.

(3) If, in the case of a ship registered in New Zealand, the event referred to in the last preceding subsection occurs while the ship is at a port out of New Zealand, or if after the occurrence of that event the ship first arrives at a port out of New Zealand, the master of the ship, or some other person having knowledge of the facts of the case, shall furnish the proper officer at that port with a declaration stating the facts of the case and the names and descriptions of the registered owners of the ship, and the proper officer may thereupon grant a provisional certificate of registry, in a form approved by the Minister, containing a statement of the circumstances in which it is granted.

(4) Whenever a proper officer grants a provisional certificate in respect of any ship under the last preceding subsection, he shall transmit a copy of that certificate to the Registrar at the ship's port of registry.

(5) The master of a ship in respect of which a provisional certificate has been granted under subsection three of this section shall, within ten days after the first subsequent arrival of the ship at a port in New Zealand, deliver the provisional certificate to the Registrar at that port or, if there is no Registrar at that port, to the Registrar at the ship's port of registry, and if the master fails to comply with this subsection he commits an offence against this Act.

(6) If under the last preceding subsection a provisional certificate is delivered to a Registrar who is not himself the Registrar at the ship's port of registry, he shall forthwith forward the certificate to the Registrar at the ship's port of registry.

(7) Upon receipt of a provisional certificate granted under this section, the Registrar at the ship's port of registry shall grant a new certificate of registry.

401. (1) If at a port in a foreign country a ship becomes the property of persons qualified to own a registered New Zealand ship, and if some one or more of those persons declare to the proper officer at that port an intent to apply to have the ship registered in New Zealand, or if the master of the ship makes such a declaration and declares therein that he is authorized by some one or more of the owners of the ship to make the declaration, the proper officer may grant to the master of the ship, on application by him, a provisional certificate in a form approved by the Minister, or as near thereto as circumstances permit, stating—

- (a) The name of the ship;
- (b) The time and place of her purchase, and the names and addresses of the purchasers;

(c) The name of the master; and

(d) The best particulars respecting the tonnage, build, and description of the ship which he is able to obtain,—
and shall forthwith forward a copy of the certificate to the Secretary.

(2) A provisional certificate granted in accordance with the last preceding subsection shall be deemed to be a certificate of registry until the expiry of six months from the date on which it was granted, or until the arrival of the ship at a port in New Zealand, whichever is the earlier date, and shall thereafter have no effect.

(3) The master of every ship in respect of which a provisional certificate is granted under this section shall, within ten days of the ship's first arrival thereafter at a port in New Zealand, deliver the certificate to the Registrar at that port, or, if there is no Registrar at that port, to the Registrar at the ship's intended port of registry; and if any master fails to comply with this subsection he commits an offence against this Act.

402. (1) Where a ship is owned wholly by persons qualified to own a registered New Zealand ship, and that ship is not registered in New Zealand or in any other Commonwealth country and is not recognized by the law of that country as a ship of that country, and the Secretary is by reason of special circumstances satisfied that permission should be granted for that ship to pass, without being previously registered, from any port in New Zealand to any other port in a Commonwealth country, he may direct a Registrar to grant a pass in respect of that ship specifying the voyage which the ship is thereby authorized to make and specifying also the time for which and any limits within which the pass remains valid; and a Registrar, when so directed, shall grant the pass accordingly.

(2) A pass granted under this section shall be in a form approved by the Minister; and every such pass, and every pass granted under the corresponding provisions of the law of any Commonwealth country other than New Zealand, shall, for the time and within the limits therein mentioned, have the same effect as a certificate of registry.

Transfers and transmissions

415. (1) When the property in a ship registered in New Zealand or any share therein is transmitted to any person qualified to own a registered New Zealand ship on the death or bankruptcy of any registered owner, or by any lawful means other than by a transfer under this Act—

(a) That person shall authenticate the transmission by making in a form approved by the Minister and by signing a declaration (in this Part of this Act referred to as a declaration of transmission) identifying the ship and containing the several statements hereinbefore required to be contained in a declaration of transfer, or as near thereto as circumstances permit, and also a statement of the manner in which, and the person to whom, the property has been transmitted;

(b) If the transmission is consequent on death, the declaration of transmission shall be accompanied by a grant of probate or letters of administration in the estate of the deceased owner or, in the case of the death of a joint owner, by proof of survivorship to the satisfaction of the Registrar;

(c) If the transmission is consequent on bankruptcy, the declaration of transmission shall be accompanied by such evidence as is for the time being

receivable in any Court in New Zealand as proof of the title of persons claiming under a bankruptcy.

(2) The Registrar, on receipt of the declaration of transmission so accompanied, shall enter in the register book the name of the person so entitled under the transmission as owner of the ship or share the property in which has been transmitted, and, where there is more than one such person, shall enter the names of all those persons, but those persons however numerous shall, for the purpose of the provisions of section three hundred and eighty-four of this Act, be considered as one person.

416. (1) Where the property in a ship registered in New Zealand or a share therein is transmitted on death or bankruptcy or otherwise to persons not qualified to own a registered New Zealand ship, the Supreme Court may, on application by or on behalf of the unqualified persons, order a sale of the property so transmitted, and direct that the proceeds of the sale, after deducting the expenses thereof, be paid to the persons entitled under the transmission or otherwise as the Court directs.

(2) The Court may require any evidence it thinks requisite in support of the application and may make the order on any terms and conditions the Court thinks just, or may refuse to make the order, and generally may act in the case as the justice of the case requires.

(3) Every such application for sale shall be made within thirty days after the occurrence of the event on which the transmission has taken place, or within such further time (not exceeding in the whole one year from the date of the occurrence) as the Court allows.

(4) If the application is not made within the time aforesaid, or if the Court refuses an order for sale, the ship or share transmitted shall thereupon be liable to forfeiture under this Act.

National character of ships

437. (1) A Collector of Customs shall not grant a clearance for any ship until the master of the ship has declared to him the name of the country to which he claims the ship belongs, and the Collector shall thereupon inscribe that name on the clearance.

(2) If a ship attempts to proceed to sea without such a clearance, she may be detained by the Collector of Customs until the declaration is made.

438. (1) If a person—

(a) Uses the national colours and assumes the national character of New Zealand on board a foreign ship for the purpose of making that ship appear to be a New Zealand ship; or

(b) Uses the national colours and assumes the national character of any Commonwealth country other than New Zealand on board a foreign ship for the purpose of making that ship appear to be a ship of that country; or

(c) Otherwise uses without the authorization of a competent authority in a Commonwealth country and without the sanction of the law of any such country (and proof of such authorization or sanction shall lie on the person alleging the same) on board any foreign ship any distinctive flag, ensign, pendant, or marking for the purpose of falsely asserting that that ship is entitled to any benefits, privileges, advantages, or protection usually enjoyed by Commonwealth ships,—

the ship shall be liable to forfeiture under this Act, unless the assumption has been made or the distinctive flag, ensign, pendant, or marking has

been used for the purpose of escaping capture by the enemy, or by a ship of war in the exercise of some belligerent right.

(2) In any proceedings for enforcing any such forfeiture, the burden of proving a title to use any colours, flag, ensign, pendant, or marking referred to in subsection one of this section, or to assume any character referred to in that subsection, shall lie on the person alleging the same.

439. If the master or owner of a Commonwealth ship, or of a ship which is owned wholly by persons qualified to own a registered New Zealand ship, does anything or permits anything to be done, or carries or permits to be carried any papers or documents, with intent to conceal from any person who is, under the law of any Commonwealth country, entitled to inquire into the same the fact that that ship is a Commonwealth ship, or is a ship owned wholly by persons qualified to own a registered New Zealand ship, or with intent to assume a foreign character, or with intent to deceive any person so entitled as aforesaid, the ship shall be liable to forfeiture under this Act; and the master, if he commits or is privy to the commission of the offence, shall in respect of each offence be guilty of a crime.

440. (1) If any person who is not qualified to own a registered New Zealand ship acquires as owner any interest, either legal or beneficial,—

(a) Otherwise than by such transmission as is in this Part of this Act provided for, in a ship registered in New Zealand, or in a ship which is not a Commonwealth ship and which is owned wholly by persons qualified to own a registered New Zealand ship; or

(b) Otherwise than in accordance with the law of any Commonwealth country other than New Zealand, in a ship registered in or recognized as belonging to that country,—

and any such ship is a ship which uses the national colours and assumes the national character of New Zealand or of any other Commonwealth country, that interest shall be liable to forfeiture under this Act.

(2) Nothing in this section shall be deemed to prohibit New Zealand ships which are exempt from registration under this Act from using on the coasts of New Zealand the marine flag of New Zealand or any other national colours which any such ship is for the time being entitled to wear in accordance with sections five and six of this Act.

441. Where it is declared by this Act that a ship which is owned wholly by persons qualified to own a registered New Zealand ship shall not be recognized as a New Zealand ship, that ship shall not be entitled to any benefits, privileges, advantages, or protection usually enjoyed by New Zealand ships or by other Commonwealth ships, nor to use the national colours nor assume the national character of New Zealand or of any other Commonwealth country; but as far as regards the payment of dues, the liability to fines and forfeiture, and the punishment of offences committed on board that ship, or by any persons belonging to her, the ship shall be dealt with in the same manner in all respects as if she were registered in New Zealand and recognized as a New Zealand ship.

PART XVII. GENERAL

Miscellaneous

513. (1) As from the commencement of this Part of this Act, no provision of the United Kingdom Merchant Shipping Act shall have effect as part of the law of New Zealand:

Provided that, subject to the provisions of this Act, all Orders in Council, rules, and regulations under the United Kingdom Merchant Shipping Act which immediately before the commencement of this Part of this Act had effect as part of the law of New Zealand shall continue so to have effect as if they had been made under the corresponding provisions of this Act, but the Governor-General may, by Order in Council, declare that any such first mentioned Order in Council or any such rules or regulations shall cease to have effect as part of the law of New Zealand, and every such declaration by the Governor-General shall have effect accordingly.

42. NicaraguaLAWS RELATING TO CUSTOMS AND HARBOURS ¹

CHAPTER X. NICARAGUAN SHIPS

Article 193. A ship which is not a Nicaraguan ship and has not acquired Nicaraguan nationality shall not use the Nicaraguan flag. . .

Article 194. A Nicaraguan ship shall not sail without a proper certificate and articles.

Acquisition of Nicaraguan nationality by ships

Article 195. A ship shall not be deemed to be a Nicaraguan ship unless—

1. It was built in the Republic for the service of the State or of a private person;
2. Having been built abroad, it was purchased by the Government for service in the Nicaraguan navy;
3. It was seized from the enemy or confiscated in accordance with the law; or
4. It has acquired Nicaraguan nationality in accordance with the law.

Article 199. An alien desiring to acquire nationality for a ship owned by him shall submit to the collector of customs an application written on the appropriate stamped paper, and shall undertake in such application to comply with all the provisions of these laws; and he shall have no right of action whatsoever not open in similar circumstances to the owner or managing owner of a Nicaraguan ship. The collector of customs shall transmit

¹ The source of the following text is a compilation of the maritime law of Nicaragua entitled: *Leyes de Aduanas y Puertos. Comercio marítimo et buques de la República de Nicaragua*. Recopiladas por Clifford D. Ham, Recaudador General de Aduanas, Edición Managua, 1928. The Spanish text was provided by the Government of Nicaragua. Translation by the Secretariat of the United Nations.

the application to the Ministry of Marine together with the proper covering documents in due form.

Certificate of nationality or navigation

Article 201. The owner of the ship shall exhibit the title deed and survey certificate, and give security in the amount and on the conditions determined by the collector of customs for proper use of the flag, to the Ministry of Marine, which shall then deliver the required certificate.

Article 202. Before delivering a certificate of nationality for a ship, the Ministry of Marine shall ascertain—

1. The name and nationality of the owner;
2. That the ship has been acquired in accordance with law;
3. The measurements, tonnage, class, name and place of construction of the ship, the flag under which it has sailed if not sailing for the first time, and the names of the owner and the master.

Article 203. If after the certificate has been issued any change takes place in any particular mentioned in the certificate or in the register as relating to the ship, the collector of customs shall amend either or both of those documents accordingly.

Article 207. Where it appears to the Government on a report from a port officer or collector of customs that the flag has been wrongfully used, the certificate shall be revoked and proceedings shall be taken against the master or his deputy in accordance with law, and the order shall be published in the official gazette.

Article 211. If the ship is wrecked, destroyed by fire or captured, the certificate shall (if recovered) be surrendered, as hereinbefore stipulated, within a reasonable period which shall be fixed by the collector of customs; if the certificate is not recovered, evidence of its loss shall be produced.

Article 217. The master of a ship required to carry a certificate issued in accordance with these laws shall be a person who, in the opinion of the port officer, is of good repute, able to speak, read and write Spanish, and adequately qualified to discharge his duties; . . .

43. Norway

(a) SHIPPING ACT OF 20 JULY 1893.¹

Article 1. (1) A ship is Norwegian if owned exclusively by Norwegian nationals. The competent department may also recognize as Norwegian a ship owned as to at least six-tenths by Norwegian nationals. Such recognition may be given conditionally and may be withdrawn at any time if the requirements are not satisfied.

(2) A ship is Norwegian if owned by a joint stock company whose business is navigation only, or navigation combined with the forwarding of

¹ *Norges Lov*, 1682-1952, p. 303. Translation by the Secretariat of the United Nations.

goods (a joint stock shipping company), or navigation and salvage or deep-sea hunting or fishing as independent activities, and whose head office and the headquarters of whose board of directors is in Norway, and whose directors are Norwegian nationals domiciled in Norway and holding shares, and whose shares to the amount of not less than six-tenths of its share capital are owned by Norwegian nationals.

Shares in such a company may not be acquired by persons other than Norwegian nationals except with the consent of the board of directors. In January of each year the board of directors shall forward to the proper department a return of those of the company's shareholders who at the end of the preceding year were not, or were not deemed to be, Norwegian nationals, and of the number of shares owned by them, and of the amount of the shares and of the share capital.

(3) A ship is Norwegian if owned by a joint stock company whose business is of a nature other than that specified in paragraph (2) and whose head office and the headquarters of whose board of directors are in Norway and whose directors are Norwegian nationals domiciled in Norway and holding shares.

(4) The provisions of paragraphs (2) and (3) shall apply to a ship owned by a commandite partnership . . . as though the references therein to the board of directors and the share capital respectively were references to the partners with liability and the share capital of the partnership.

(5) For the purposes of this article the State, institutions and funds administered by the State, Norwegian communes, Norwegian savings banks, corporations and foundations whose objects are the public service and whose governing bodies are exclusively Norwegian and have their headquarters in Norway, and joint stock companies which satisfy the requirements of paragraph (2) hereof, shall be deemed to be Norwegian nationals.

Article 2. Subject to the limitations and rules to be prescribed in a special Act, there shall be kept a public register of Norwegian ships containing the particulars required for the determination of the identity of ships and complete information on their ownership and management.

Article 3. The home port of a ship registered in the Shipping Register shall be the port in Norway designated by the owner. The home port of an unregistered ship shall be the port of or nearest to the place of residence of the owner. If there is more than one owner, the home port of the ship shall be determined by the residence of the managing owner. If the owner resides abroad, Christiania (Oslo) shall be the home port of the ship.

Article 4. The obligation of a Norwegian ship to be provided with a certificate of nationality, a survey certificate, a manning or crew list and, where required, a Royal sea-brief shall be governed by the special enactments relating thereto.

(b) SHIPS REGISTRATION ACT OF 4 MAY 1901.¹

Article 1. Every decked sailing ship of not less than 50 tons gross register tonnage, and every steamship of not less than 25 tons gross register tonnage, shall be entered in the register referred to in the Shipping Act, 20 July

¹ *Norges Lov* 1682-1952, p. 475. Translation by the Secretariat of the United Nations.

1893, article 2, but not warships or ships which belong to other States and are not employed in the carriage of goods.

Article 5. An application [for registration] . . . shall be accompanied—

1. By the ship's tonnage certificate and nationality certificate, if issued. . .
2. If the ship has not been provisionally registered, . . . by a certificate to that effect from the proper government department if the ship was purchased abroad, and from the district registry of the place where it was built if it was built in Norway;
3. . . . if the ship has been transferred from foreign to Norwegian ownership, then only by the document attesting the transfer of title to Norwegians and, if possible, by any later documents of title. . . ;

5. Where the ship belongs to a joint stock company or other company without liability, one copy of the company's articles, if these have not already been sent in to the registry, and a written declaration in the prescribed form made by the management of the company on oath or solemn affirmation that the ship is Norwegian within the meaning of the Shipping Act, article 1, second paragraph, and that no agreement has been made with the object of concealing the facts relating to the ship's management or ownership;

7. A certificate in the prescribed form from the customs department stating that the ship is lying at a port of entry in Norway and bears no indication of being, or is not known to have been, previously registered in Norway and naming the place where the ship is to be registered. If the ship is abroad, then instead of the certificate of the customs department there shall be furnished a certificate from the competent Norwegian consul that the ship is lying in a foreign port, and a certificate from the proper Norwegian government department that the ship bears no indication of being, or is not known to have been, previously registered in Norway.

Where the circumstances so require, the registrar may call for further proof of the truth of the evidence adduced or for its attestation on oath or, where permissible, by such solemn affirmation as may lawfully be made instead thereof. Where a foreign ship is employed as the property of Norwegians, the case shall be governed by such special rules as the King may make in agreement with the foreign Power.

Article 7. As soon as the ship has been registered and entered in its home port register, the collector of customs shall forthwith make out for the ship a nationality certificate containing, in the form determined by the King, an extract from the register. Where according to the certificate referred to in article 5, item 7, the ship is lying in another port of entry or in a foreign port, the certificate shall be issued by the customs department or the consul at that port. Before it is issued the customs department or the consul shall ascertain that the ship bears the marks required by the Ships Gauging Act and its identifying letters and the special mark prescribed by the King for registered ships.

The survey certificate shall be issued together with the nationality certificate. As soon as the ship's papers have been issued, application may be

made to the registrar to return the original documents of title furnished for purposes of registration.

Article 10. It shall be the duty of the owner or of any person who . . . is bound to notify on behalf of the owner or, where there is more than one owner, the managing owner, and of the master, to ensure that a Norwegian ship subject to registration carries at sailing and at all times thereafter a valid Norwegian nationality certificate.

A ship of tonnage less than that specified in article 1 shall also, when sailing in foreign waters, carry a nationality certificate; but the King may exempt from this requirement ships fishing or hunting outside territorial waters.

The Crown may make regulations governing the issue of nationality certificates to ships not subject to registration.

44. Pakistan

(a) MERCHANT SHIPPING ACT, 1894. ¹

(b) THE REGISTRATION OF SHIPS ACT OF 5 JULY 1841. ²

It is hereby enacted that no ship or vessel shall be deemed a British ship under such Proclamation as aforesaid (except as regards ships or vessels registered before the passing of this Act, or having a pass at the time of passing thereof) unless the person or persons claiming property therein shall have caused the same to have been registered [at a place declared under section 2 to be a registering port], and shall have obtained a certificate of such registry from the person or persons authorized to make such registry and grant such certificate as hereinafter directed, the form of which certificate shall be as follows—

2. * * * The ports at which registration shall be made shall be [such ports or other places in the Provinces] as the Central Government may, from time to time, declare to be registering ports under this Act:

Provided that ships or vessels built at any place other than any of such ports shall be allowed to make their first voyage to any of such ports, being the ports at which it is intended they shall be registered under a certificate to be granted by the principal British officer at the place where the ship is built, or if there be no British officer in authority there, then by three merchants of such place, which certificate shall contain all the particulars with regard to the ownership and description of the ships or vessels contained in a certificate of registry, and shall specify the ports at which it is intended that they shall respectively be registered, and which certificate shall have all the effect of a certificate of registry under this Act, during the first voyage from the place of building to the ports at which the ships or vessels respectively shall be afterwards registered:

¹ This Act is applicable in Pakistan, according to information received by the Secretariat in a letter from the Ministry of Foreign Affairs of Pakistan dated 26 October 1954. For the text of this Act see *infra* under United Kingdom.

² Government of Pakistan, Ministry of Law, *The Unrepealed Central Acts*, 1952, Vol. I, p. 11.

Provided that such ships or vessels so proceeding on their first voyage as aforesaid shall be deemed British ships only whilst duly prosecuting such first voyage for the purpose of registry, and, if they be not registered within a reasonable time after their arrival at the port of registry, the owner or owners, or master or other person having or taking the command or charge of such ship or vessel, shall be liable, [on conviction before * * * a Magistrate of the first class,] to a penalty not exceeding five thousand rupees.

24. * * * When any ship or vessel duly registered under this Act, or sailing under the British Navigation Law, shall come to be owned by [an Acceding State or by the Ruler or any subject thereof], it shall be lawful [for the Central Government] to continue to such ship or vessel the privileges and advantages of a British ship for the purposes aforesaid by a pass to be subscribed by a Secretary to Government, stating the voyage, or voyages for which the same is to have effect, and the period for which it is to last; and it shall be lawful [for the Central Government] to issue a similar pass conferring the privileges and advantages of a British ship for the purposes aforesaid under this Act to any ship or vessel built within [any [Acceding State] and owned by that State or by the Ruler or any subject thereof]: Provided always that the ships belonging to [Acceding States or the Rulers or subjects thereof] in respect of which passes may be granted under this Act shall, during the voyage or voyages, or the period for which any such pass shall be granted, be commanded by [a British subject].

26. * * * All ships or vessels registered under this Act shall be deemed to belong to the ports at which they shall be respectively registered. And all ships or vessels being registered or in respect of which passes may have been granted which are unexpired at the time of passing this Act shall for the purpose of being deemed British ships be deemed to belong to the ports at which they may have been registered, or when passes shall have been granted which are unexpired, at which such passes may have been respectively granted. And such ships or vessels built and owned as required by the Statute 3 and 4 Vict., Cap. 56, shall continue subject to all the rules in force at the respective Presidencies before the passing of this Act, touching the registering, measurement, granting passes or other requisitions in respect of the same, and shall not be subject to the provisions of this Act; or any provisions of the Statute law, a compliance with which may heretofore have been necessary in order that ships or vessels built and owned as aforesaid might be deemed British ships for the purposes of trade.

27. [*Definition of "Local Government".*] *Rep. by the A. O., 1937.*

PROCLAMATION

The Governor General of India in Council hereby declares that all ships and vessels built or to be built within the limits of the Charter of the East India Company (as those limits are defined by the Statute 3rd and 4th of Queen Victoria, Cap. 56, entitled "An Act further to regulate the trade of ships built and trading within the limits of the East India Company's Charter"), being owned by Her Majesty's subjects for whom the said Governor General in Council has power to legislate, and belonging,

under the provisions of the Act passed by the Governor General in Council No. X of 1841, to any ports in the territories under the Government of the East India Company, shall be deemed to be British ships for all purposes of trade within the said limits including the Cape of Good Hope and the territories and dependencies thereof.

(c) REGISTRATION OF SHIPS AMENDMENT ACT NO. XI OF 15 MARCH 1850.¹

AN ACT TO AMEND ACT X OF 1841

For amendment of Act X of 1841, it is enacted as follows—

1. [*Repeal of s. 13 of Act X of 1841.*] *Rep. by Act XIV of 1870.*

2. The passes which, under section 24 of the said Act, may be issued for conferring the privileges and advantages of a British ship, in certain cases, to any ship or vessel built within [any Acceding State] may, after the passing of this Act, be issued in the like cases, and under the same restrictions, to any ship or vessel belonging to any [Acceding State or the Ruler or a subject thereof] wherever the same may have been built.

3. All ships or vessels, of whatever rig and of whatever tonnage, owned by British subjects, entitled to registry under Act X of 1841, or owned by [an Acceding State or the Ruler or a subject thereof] entitled to passes under Act X of 1841, as amended by this Act, employed only in coasting voyages, or between any port of * * * [Pakistan and India, the Island of Ceylon] [or Burma] may be registered and obtain passes, and the tonnage may be marked, according to such rules as shall be made from time to time, by [Central Government].

5. This Act shall be construed with and as part of Act X of 1841.

45. Panama

(a) COMMERCIAL CODE OF 22 AUGUST 1916.²

Article 1080. Merchant vessels which are wholly or partly the property of Panamanian citizens or of foreigners domiciled in the Republic with more than five years of residence therein, or of commercial societies having their headquarters in Panama shall be deemed to be Panamanian, provided that they are registered and enrolled as such and that the owners thereof submit expressly to the laws of the Republic concerning navigation.

In the case of partnership in the ownership of a vessel, this last circumstance must result from the unanimous and express declaration of the partners made before the official charged with the registration of vessels.

¹ *Ibid.*, p. 38.

² English text from C. Berguido and J. Fabrega: *Manual for Masters and Seamen on Ships Under the Panamanian Flag* (1949), p. 78.

(b) LAW NO. 8 OF 12 JANUARY 1925, ESTABLISHING PROCEDURE FOR THE NATIONALIZATION AND MEASUREMENT OF VESSELS, AND PRESCRIBING OTHER MEASURES.¹

Article 1. Owners or agents of vessels who desire to possess in regard to them the rights and obligations belonging to them as national merchant ships in accordance with laws and treaties, must observe the following requirements:

1. They shall have the vessel enrolled in one of the registries kept in the Inspectorates of the ports of entry of the Republic;
2. They shall provide themselves with the requisite register; and
3. They shall navigate under the Panamanian flag.

By merchant vessels shall be meant for the purpose of registry, in addition to craft intended for the transportation of passengers and cargo, any pontoon, dredge, floating dock or other hull constructed of wood, concrete, iron, steel, composite or any other material actually in use or which may be devoted to the service of maritime commerce.

Article 2. To obtain the nationalization of a vessel its owners or agents must apply in writing to the respective Inspector of the Port, requesting the enrollment of the ship and furnishing the following data for recording in the registry:

- (a) The full name of the ship, stating also those under which it might have been known before, in case of a change of name;
- (b) Its class, that is, whether steamship, sailing vessel, auxiliary motor, yacht or any other kind;
- (c) The name of the company or of its owner as well as the nationality thereof and address;
- (d) The nationality renounced by the vessel and those which it might have had before;
- (e) Its net and gross tonnage and capacity;
- (f) The material of which it is constructed, stating whether wood, concrete, iron, steel or composite;
- (g) Class of apparel;
- (h) Description of motive power, if steam, stating the number of cylinders of engine, the horse-power and the name of the manufacturers;
- (i) Principal dimensions, length over all, measured on main deck, from the stem to the stern post, along the under side; width or beam, depth, measured from bottom to main deck;
- (j) Number of bridges, decks, masts and funnels;
- (k) Nature of traffic in which engaged, whether passenger, cargo or both;
- (l) Place where constructed, the year and the company which built it;
- (m) Distinctive signal in the International Code of Signals; and
- (n) All other particulars serving for the full identification of the ship.

Article 3. The applicant shall forward with his application the document or documents tending to prove that according to law he is the owner of the vessel in question.

Article 4. In the case of vessels built at the cost of the applicants, the title to be submitted in support of the application shall be that issued

¹ *Ibid.*, pp. 67-73.

according to law, conforming to the requirements for proving ownership of buildings constructed on lands belonging to others.

Article 5. In the case of vessels of less than five tons capacity, ownership may be proved by means of declarations made by witnesses before the Inspector of the Port.

Article 6. The documents mentioned in articles 3 and 4 shall be accepted as proof even though they have not yet been entered in the Public Registry, but they must be recorded as soon as the Patent of Nationalization is entered in the Registry of Ships kept in the Public Registry Office.

Article 7. In the case of a vessel not yet registered in any other country, the Port Inspector shall appoint two experts for the purpose of measuring and surveying the ship. These experts shall issue a sworn certificate describing minutely the structure of the ship, its condition, apparel, length, beam, depth, tonnage capacity and every other particular contributing to the description of the class or identity of the ship and, if a steamship, that it is provided with the proper equipment and every device requisite for its proper steering and navigation.

In the case of vessels registered in other countries the data referred to in this article shall be obtained through a sworn certificate of the applicant verified by the Port Inspector after examination of the ship's papers.

Article 8. On submission of the data prescribed in the foregoing articles, an entry will be made in the Ship Registry kept in each inspectorate. This entry shall consist of a record of the registration of the vessel under its proper number and shall include the data contained in the application and in the report of the surveyors or admeasurers, or in the certificate mentioned in the preceding article, where such is presented, after which the vessel shall be declared duly incorporated in the National Merchant Marine. The entry shall be signed by the Port Inspector and an attested copy thereof shall be transmitted to the Secretariat of Finance and the Treasury and another to that of Foreign Relations.

Article 9. On the requirements laid down in the preceding article being fulfilled and the proper voucher presented to the Port Inspector proving that the registration fees have been paid into the National Treasury at the rate of one balboa for each net ton or fraction thereof register when the vessel exceeds five tons in capacity, and of fifty cents (\$0.50 U. S. Cy.) when of less capacity, or in the case of any pontoon, dredge, floating dock or any other such craft, the Port Inspector shall issue the Patent of Navigation conforming to the model adopted by the Secretariat of Finance and the Treasury.

Of every patent so issued a report shall be made to the Secretary of Finance and the Treasury and to the Director General of Posts and Telegraphs.

Article 10. After completing the registration of the vessel and before executing the Patent of Navigation, the Inspector of the Port and the surveyors appointed for making the examination and admeasurement of the vessel shall see to the following requisites:

1. That the ship has its name and port of registry plainly marked on each bow and on its stern in white or yellow letters on a dark or black ground or in dark letters on a light ground. The letters must have a minimum height of sixteen (16) centimeters and a proportional breadth;

2. That each side of the stem and also the stern shall show a scale marked in Roman numerals, in white, yellow or black, according to the background, of not less than sixteen (16) centimeters in height, the numeration beginning from the normal draft line of the ship.

3. That the hull, keel, stem, boilers, engines, or motors, propellers, boats, decks, interior structure, bulkheads, safety valves and other sections of the ship are in perfect condition and the equipment in good working order; and

4. That the vessel is provided with modern life-saving equipment sufficient for all the passengers and crew of the vessel and that she carries aboard full sets of rescue signals and rockets such as are required in case of accident.

The Port Inspector in Panama and the Panamanian Consuls abroad shall prohibit the departure of any vessel which fails to show that its hull is staunch and seaworthy and its machinery and tackle in perfect working order.

Article 11. No instrument of sale, transfer or assignment of a vessel shall be recorded in the Public Registry unless and until the Patent of Nationalization be presented at the Port Inspectorate for cancellation and substitution by another issued in favor of the new owner of the vessel.

Article 12. In cases where it is intended to alienate or encumber a vessel belonging to any natural or juridical person not established in the country or engaged in commerce therein and which is not enrolled in the Public Registry, the respective instrument shall not be recorded in the Mercantile Section of the Registry unless accompanied by a notarial certificate, issued in the country in which the shipowner resides, that the grantor is vested with full legal powers to alienate or encumber the vessel.

Article 13. In time of war the sale or alienation of a national vessel destined for navigation under a foreign flag may only be carried out under a written permit from the Executive issued through the Secretariat of Finance and Treasury.

Article 16. National vessels engaged in international traffic are required to give employment to Panamanian citizens in the proportion of ten per centum (10%) at least of their crews, provided those applying for employment are up to the physical and moral standards required for the posts.

Article 18. Panamanian Consuls abroad are hereby empowered to grant provisional registration under the national flag and to issue a provisional patent of navigation to such vessels as are located in foreign waters but which desire to proceed to this country to be enrolled definitely in the Registry of the National Merchant Marine, conditioned on payment of the registration impost as provided for above.

The provisional patent to be issued by Panamanian Consuls abroad pursuant to this article shall be valid for the term of six months, during which period the definite registration of the ship must be accomplished. The Secretariat of Finance and Treasury may, nevertheless, for sufficient reasons, extend the term stipulated in such patent or even declare it permanent, if deemed desirable. In such case the port of registry shall be Panama. The Executive shall regulate by decree the provisional enroll-

ment of vessels and prescribe the manner in which consular officials shall carry it into effect.

(c) LAW NO. 54 OF 1926 (APPROVED DECEMBER 11) AMPLIFYING LAW NO. 8 OF 1925.¹

Article 1. Every merchant vessel which has acquired Panamanian nationality shall lose that status in either of the following cases:

1. When it engages in the service of a nation with which the Republic of Panama is at war;
2. When it acquires any other nationality;
3. When it engages habitually in smuggling, in unlawful trade or in piracy.

The resolutions declaring loss of nationality by any vessel shall be issued by the Executive through the Secretariat of Finance and the Treasury, but are subject to reconsideration by the Executive in the presence of sufficient reasons therefor.

Article 4. Owners, agents or masters of Panamanian vessels who desire to nationalize them in some other country must file a statement of their intention with the Inspector of the Port of registry in Panama, or with the Consuls of the Republic abroad, requesting that the inscription in the registry be cancelled. The application must be accompanied by the patent of navigation of the ship, a certificate of the Chief Collector of the Secretariat of Finance and the Treasury or from the Judge-Assessor (*Juez Ejecutor*) of the province, stating that the vessel has paid its taxes to the National Treasury, and also the document accrediting the applicant as the owner, agent or master of the vessel.

Acting on this application, the Inspector of the Port of registry or the Panamanian Consul abroad shall proceed to draw up the corresponding resolution declaring the provisional or definite inscription of the vessel cancelled.

Article 6. When a vessel lying in foreign waters desires to acquire nationality in some other country and is without the necessary certificate of solvency with the National Treasury permitting its release, the owner, agent or master of such vessel shall apply to the Panamanian Consul at the port or place where the vessel may be lying to address the Chief of Collections, (*Sección de Ingresos*) of the Secretariat of Finance and the Treasury or the Judge-Assessor (*Juez Ejecutor*) of the province, by letter, cable or radiogram, inquiring the exact amount due the Treasury by the vessel. On ascertaining the amount outstanding, the taxes may be paid to the Consul, who in this case shall issue the corresponding certificate and release by the Treasury. The expenses of cabling and others occasioned by the inquiry shall be borne by the applicant.

Article 11. Every act of nationalization must be approved by the Executive through the Secretariat of Finance and the Treasury. The provi-

¹ *Ibid.*, pp. 73-77.

sional acts carried out by the Consuls abroad in accordance with article 18 of Law 8 of 1925 do not require such approval.

Whenever the Executive may declare a vessel's Patent of Navigation permanent, it shall order the cancellation of the provisional patent, the issue of the permanent title, and the recording of the vessel definitely in the register of the National Merchant Marine.

(d) LAW No. 67 OF 11 NOVEMBER 1947, ADOPTING THE LABOR CODE. ¹

Article 142. Every captain of a Panamanian vessel engaged in the international service is required to maintain on the crew list not less than twenty-five per cent (25%) of seamen of Panamanian nationality or of foreigners married with Panamanian women or with child or children of Panamanian mothers, provided that the said seamen are domiciled in the Republic of Panama.

Proviso. The Department of Labor, upon proof of the lack of available Panamanian seamen in the Republic of Panama, may authorize that the foregoing percentage may be temporarily altered.

46. Peru

(a) PORT AUTHORITIES AND NATIONAL MERCHANT MARINE REGULATIONS OF 31 OCTOBER 1951. ²

SECOND PART. NATIONAL MERCHANT MARINE

TITLE VI. MERCHANT MARINE

Chapter III. Peruvian vessels: requirements for nationalization

Article 400. A merchant vessel shall be deemed to have Peruvian nationality if it is entered in a register of the Peruvian merchant marine and navigates in compliance with the law of the Republic.

Article 401. A merchant vessel shall be entered in a register of the Peruvian merchant marine if the following conditions are complied with—

- (a) The owners of the vessel must be Peruvian citizens;
- (b) The master, officers and crew must be Peruvian nationals;
- (c) If the vessel is owned by a company, three-quarters of the capital thereof must be the property of Peruvian citizens as laid down under (a), and if the capital is in the form of shares, three-quarters thereof must be registered shares.

Article 402. A merchant vessel shall not be deemed to be a Peruvian vessel unless it satisfies one of the following conditions—

- (a) It must be the property of a Peruvian national;
- (b) It must be the property of a company or undertaking constituted in accordance with Peruvian law and domiciled in the Republic;
- (c) If it was abandoned on the high seas, or in the territorial waters of Peru it must have been found by Peruvian citizens:

¹ *Ibid.*, p. 126.

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

- (d) It has been confiscated for an offence against the law of the Republic;
- (e) It has been attached, expropriated or requisitioned in virtue of a statute;
- (f) It has been declared lawful prize by a Peruvian prize court;
- (g) It has been built in the Republic for Government service;
- (h) It has been built or acquired abroad at the order, on behalf or at the request of a Peruvian national;
- (i) It is in law a Peruvian merchant vessel.

Article 403. Before a vessel to which the preceding article applies is registered, evidence must be furnished to show that it satisfies one of the above conditions.

Article 404. A Peruvian vessel shall lose its nationality if—

- (a) It is sold to a foreign citizen, corporation or government;
- (b) Its owners cease to be Peruvian nationals;
- (c) It is confiscated abroad;
- (d) It has been declared lawful prize by an international prize court;
- (e) It has been lost;
- (f) No news of it has been received for two years.

Article 405. In addition to the grounds specified in the preceding article, a vessel shall be expunged from the register of Peruvian vessels if it has engaged in unlawful traffic abroad or its owners have offended against the law of the Republic or against these Regulations; and the erasure shall not affect the liability at law of the offenders.

Article 406. A merchant vessel may not use the flag of Peru or benefit by the privileges and exemptions accorded by the State to Peruvian vessels until it has been nationalized.

The following shall be deemed to be proof of Peruvian nationality:

- (1) The ship's certificate or pass;
- (2) The certificate of registration; and
- (3) The list of the crew.

Article 407. A merchant ship's certificate is a certificate issued by the Supreme Government to a large vessel (that is to say, a vessel of over one hundred register tons), attesting its Peruvian nationality and its name, principal characteristics, owners and co-owners and entitling it to ply in all seas.

A merchant ship's certificate shall remain in effect until the ship's name or owner is changed or its hull or machinery undergo such alteration as to vary its general characteristics or means of propulsion or for any other reason to necessitate amendment of the survey certificates.

Article 408. A merchant shipping pass is a certificate issued by the Director of Port Authorities to a small vessel (that is to say, a vessel of less than one hundred register tons) for the purpose of attesting its Peruvian nationality and entitling it to ply at will within the coastal waters only of Peru and not abroad.

Such a pass shall remain in effect for four years, on the expiry whereof the owner shall be required to apply in writing for its renewal for a further like period, and such renewal shall be noted on the original document.

Article 409. A provisional pass is a certificate issued by the Director of Port Authorities to a large or small vessel pending its nationalization to permit it to sail. Such a pass may also be issued by a Peruvian consul abroad

for the purpose of permitting a ship purchased abroad to proceed to Callao for registration.

A provisional pass issued by the Director of Port Authorities shall have effect only during the outward and return voyages of the ship, and one issued by a Peruvian consul only during the direct voyage to Callao.

Article 410. A registration certificate is a certificate issued by a port officer attesting that the vessel is registered in the port.

Article 411. A crew list is a document signed by the master and purser of a ship and countersigned by the port officer of the port of origin, stating the name, duty station, nationality and pay of each member of the crew.

Article 412. The documents aforesaid shall be in the form specified in the schedule hereto.

Chapter V. Registration of vessels

Article 432. A Peruvian vessel, irrespective of its port of origin, shall not ply within or outside the waters of the Republic until it has been registered.

Article 439. The registration certificate of a vessel of less than five tons shall be evidence of title thereto.

TITLE VIII. STAFF OF THE PERUVIAN MERCHANT MARINE

Chapter I. Ship's company

Article 495. The crew of every national vessel shall consist entirely of Peruvian nationals except in the following cases:

(a) In time of war: foreign citizens may then be signed on in a proportion to be determined by the Ministry of Shipping;

(b) Peruvian ships abroad: a Peruvian ship abroad which by reason of lack of sufficient Peruvian nationals cannot sail with a complete Peruvian crew may, subject to permission granted by the Peruvian consul in the foreign port of departure and recorded on the crew list, sign on enough foreign members to complete its crew.

Article 496. The company and crew of every Peruvian ocean-going vessel, irrespective of its class or designation, shall be constituted in such manner as to combine safety of navigation with the most economical management of the vessel by its master, subject to the approval in Peru of the port officer or abroad of the Peruvian consul.

(b) COMMERCIAL CODE. ¹

BOOK III. MERCHANT SHIPPING

SECTION I. SHIPS

Article 588. The joint owners of a ship shall be entitled to rescission and pre-emption in respect of any interest sold to an alien, provided that they

¹ Eduardo G. Calderón, *Constitución, Códigos y Leyes del Perú*, 1942, p. 722. Translation by the Secretariat of the United Nations.

claim the same within nine days of the registration of the sale in the Register and pay the price into court.

SECTION II. PERSONS ENGAGED IN SHIPPING

Chapter II. Masters and skippers of ships

Article 622. A master or skipper must be a Peruvian citizen and capable of concluding a contract in accordance with this Code; he must prove that he possesses the skill, experience and qualifications required to command and navigate a ship as provided in the statutes, orders and regulations relating to shipping or navigation; and he must not be disqualified under any statute, order or regulation as aforesaid from holding the command.

(c) ACT CONCERNING COASTWISE TRADE BY PERUVIAN VESSELS, NO. 6207 OF 14 MAY 1928.¹

Article 1. Coastwise trade along the Peruvian coast shall be reserved solely and exclusively to ships flying the Peruvian flag.

Article 10. This Act shall not operate to benefit foreign ships which merely change their flag; and a ship shall not be a Peruvian ship unless it is owned by Peruvian citizens resident in Peru and unless two-thirds of the officers and crew are Peruvian citizens. A vessel belonging to a company shall not be a Peruvian ship unless three-quarters of the registered capital is Peruvian and the afore-mentioned conditions are satisfied.

(d) ACT CONCERNING THE SALE OF STEAMSHIPS AND SAILING SHIPS USING THE PERUVIAN FLAG, NO. 2761 OF 19 JUNE 1918.²

Sole article. The sale of steamships and sailing ships using the Peruvian flag shall be subject to the previous authorization of the Government, which, after hearing the opinion of the Lima Chamber of Commerce and having regard to the circumstances of the sale and the ship's potential importance for the maritime commerce of Peru, shall grant or withhold permission.

47. Philippines

ADMINISTRATIVE CODE OF 1917, AS REVISED.³

Section 1116. Registration and documentation of vessels. The Bureau of Customs is vested with exclusive authority over the registration and documentation of Philippine vessels. By it shall be kept and preserved the records of registration and of transfers and incumbrances of vessels; and by

¹ Eduardo G. Calderón, *Constitución, Códigos y Leyes del Perú*, 1942, p. 1523. Translation by the Secretariat of the United Nations.

² Eduardo G. Calderón, *Constitución, Códigos y Leyes del Perú*, p. 2569. Translation by the Secretariat of the United Nations.

³ Text of Code provided by the Permanent Delegation of the Philippines.

it shall be issued all certificates, licenses, or other documents incident to registration and documentation, or otherwise requisite for Philippine vessels.

Section 1167. Vessels required to be registered. Every vessel of more than three tons gross used in Philippine waters, not being a transient of foreign register, shall be registered in the Bureau of Customs. To this end it shall be the duty of the master, owner, or agent of every such vessel to make application to the proper collector of customs for the registration thereof within fifteen days after the vessel becomes subject to such registration.

Section. 1168. Where registration to be effected. The registration of a vessel shall be effected at its home port, being a port of entry, or at the port of entry of the district of the vessel's home port.

Section 1169. Exemption of small boats. A vessel of three tons gross or less shall not be registered, unless the owner shall so desire, nor shall documents or licenses of any kind be required for such vessel, but the proper fee shall be charged for admeasurement, when admeasurement is necessary.

Section 1170. Data to be noted in register of vessels. In the register of vessels, to be kept at each port of entry, the following facts concerning each vessel there registered shall be noted in such form and detail as the Commissioner shall prescribe:

- (a) Name of vessel;
- (b) Rig of vessel;
- (c) Material of hull;
- (d) Principal dimensions;
- (e) Gross tonnage;
- (f) Net tonnage;
- (g) Where built;
- (h) Year when built;
- (i) Name, citizenship, nationality, and residence of owner;
- (j) Date of issuance of certificate of Philippine register;
- (k) Any material change of condition in respect to any of the preceding items;
- (l) Any other fact required to be there noted by the regulations of the Bureau of Customs.

Section 1171. Record of documents affecting title. In the record of transfers and incumbrances of vessels, to be kept at each principal port of entry, shall be recorded at length all transfers, bills of sale, mortgages, liens, or other documents which evidence ownerships or directly or indirectly affect the title of registered vessels, and therein shall be recorded all receipts, certificates, or acknowledgments cancelling or satisfying, in whole or in part, any such obligations. No other record of any such document or paper shall be required than such as is affected hereunder.

Section 1172. Certificate of Philippine register. Upon registration of a vessel of domestic ownership, and of more than fifteen tons gross, a certificate of Philippine register shall be issued for it. If the vessel is of domestic ownership and of fifteen tons gross or less, the taking of the certificate of Philippine register shall be optional with the owner.

"Domestic ownership", as used in this section, means ownership vested in some one or more of the following classes of persons: (a) Citizens of the Philippines; (b) citizens of the United States residing in the Philippines; (c) any corporation or company composed wholly of citizens of the

United States or of the Philippines, or of both, created under the laws of the United States, or of any State thereof, or of the Philippines, provided some duly authorized officer thereof, or the agent, master, or administrator of the vessel resides in the Philippines; *(d)* any corporation or company created under the laws of the United States, or of any State thereof, or of the Philippines, duly authorized to engage in business in the Philippines, provided seventy-five per centum at least of the capital stock thereof or of any interest in said capital is wholly owned by citizens of the Philippines, or of the United States, or of both, and provided some duly authorized officer thereof, or the agent, master, or administrator of the vessel resides in the Philippines; *(e)* any corporation or company created under the laws of the United States, or of any State thereof, or of the Philippines, provided some duly authorized officer thereof, or the agent, master or administrator of the vessel resides in the Philippines: Provided, That the certificate of Philippine register issued to a vessel because the owner thereof comes under the provisions of this subsection *(e)*, shall extend to the vessel the privilege of engaging only in the foreign or high sea commerce, but not in the Philippine coastwise trade.

Any vessel of more than fifteen tons gross which on February eight, nineteen hundred and eighteen, had a certificate of Philippine register under existing law, shall likewise be deemed a vessel of domestic ownership so long as there shall not be any change in the ownership nor any transfer of stock of the companies or corporations owning such vessel to persons who are not citizens of the Philippines or of the United States, and if any such vessel should have been, during this year, or should be hereafter, totally lost through shipwreck, collision or any other marine disaster, while being lawfully operated under the provisions hereof, it may be replaced with another vessel of the same or lesser tonnage by the same person, company, or corporation owning and operating same by virtue of this section, under such terms and conditions as may be prescribed by the Commissioner of Customs consistent with public policy and with the view of its utility for Government service in case of war or any public emergency.

Under the terms of this Act, no corporation, firm or company shall be considered as of domestic ownership for the coastwise trade unless the president or managing directors thereof are citizens of the United States or of the Philippines: Provided, however, That in the case of a corporation, association, firm or company operating any vessel in the coastwise trade, the controlling interest or capital stock held by citizens of the United States or of the Philippines, or both, shall be seventy-five per centum of the capital investment in the same: Provided, further, That the controlling interest in the corporation shall not be considered as held by citizens of the United States or of the Philippines: *(a)* If the majority of the stock is not held by such citizens and such stock is not subject to any trust or fiduciary obligation in favor of any person not a citizen of the United States or of the Philippines; *(b)* if the majority of the votes in said corporation is not in the hands of citizens of the United States or of the Philippines; *(c)* if by means of a contract or agreement, it has been so arranged that the majority of the stock can be voted directly or indirectly in favor of any person not a citizen of the United States or of the Philippines; *(d)* if by any other means, the control of the corporation is conferred upon or allowed to be exercised by any person not a citizen of the United States or of the Philippines.

It shall not be considered that seventy-five per centum of the interest in a corporation are held by citizens of the United States or of the Philippines: (a) If the certificates of seventy-five per centum of the capital stock are not held by such citizens and such certificates are not subject to some or other fiduciary obligation in favor of a person not a citizen of the United States or of the Philippines; (b) if seventy-five per centum of the votes of said corporation are not in the hands of citizens of the United States or of the Philippines; (c) if by means of some contract or agreement it has been so arranged that over twenty-five per centum of the stock in such corporation or company can be voted directly or indirectly in favor of any person not a citizen of the United States or of the Philippines; (d) if by any other means, the control of any interest in the corporation in excess of twenty-five per centum has been conferred upon or is allowed to be exercised by any person not a citizen of the United States or of the Philippines.

The provisions of this Act shall be applicable to the administrator and trustees of all persons coming under the provisions of this Act and to the successors or assigns of such persons.

Section 1174. Form and recitals of certificate of Philippine register. The certificate of Philippine register shall be in such form as shall be prescribed by the Commissioner, and it shall show that the vessel is engaged in legitimate trade and is entitled to the protection and flag of the United States.

Section 1175. Privileges conferred by certificate of Philippine register. A certificate of Philippine register confers upon the vessel the right to engage, consistently with law, in the Philippine coastwise trade and entitles it to the protection of the authorities and the flag of the United States in all ports and on the high seas, and at the same time secures to it the same privileges and subjects it to the same disabilities as, under the laws of the United States, pertain to foreign-built vessels transferred abroad to citizens of the United States.

Section 1176. Investigation into character of vessel. No application for a certificate of Philippine register shall be approved until the Collector of Customs is satisfied from an inspection of the vessel that it is engaged or destined to be engaged in legitimate trade and that it is of domestic ownership as such ownership is defined in section eleven hundred and seventy-two of this Code.

A Collector may at any time inspect a vessel or examine its owner, master, crew, or passenger in order to ascertain whether the vessel is engaged in legitimate trade and is entitled to have or retain the certificate of Philippine register.

The Collector of Customs may at any time make an administrative investigation as to the ownership or title of any vessel engaged in the coastwise trade and whether such title or ownership is in accordance with the requirements of this Act; and any vessel chartered, sold, transferred, or mortgaged to any person not a citizen of the United States or the Philippines without previous permission of the Commissioner of Customs, or put under foreign register or flag without such permission, or operated in violation of any of the provisions of this Act, shall be seized by the Government of the Republic of the Philippines; and any person, corporation, company, or association violating any of the provisions of this Act shall be guilty of a misdemeanor and be punished by a fine of not more than

five thousand pesos or imprisonment for not more than five years, or both: Provided, That in the event the person guilty of such violation is a corporation, company or association, the manager or, in his default, the president thereof shall be criminally responsible for such violation.

Section 1176 1/4 License of yachts exclusively for pleasure. The Commissioner of Customs may license yachts used and employed exclusively as pleasure vessels owned by Filipino or American citizens, on terms which will authorize them to proceed from port to port of the Philippines and to foreign ports without entering or clearing at the customhouse: Provided, however, That any yacht so licensed, upon arriving from a foreign port in the Philippines after having previously advised the Commissioner of Customs by telegraph of its probable arrival, shall enter at a port of entry in the Philippines and shall immediately report its arrival to the Customs authorities. Such license shall be in such form as the Commissioner of Customs may prescribe. Such vessels shall have their name and port of registration placed on some conspicuous portion of their hulls. Such vessels shall in all respects be subject to the laws of the Philippines, and shall be liable to seizure and forfeiture for any violation of these provisions.

. . .

Section 1178. Application of shipping laws to Government boats. Vessels owned or operated by the Government shall not be subject to the requirement of this chapter relative to registration and navigation except in so far as prescribed in the regulations of the Bureau of Customs.

Section 1179. Revocation of certificate. When it shall appear to the Commissioner that any certificate of Philippine register or certificate of ownership was illegally or improperly issued, he may cancel the same.

. . .

Section 1202. Limiting number of foreign personnel on board vessels. No Philippine vessel operating in the coastwise trade or on the high seas shall be permitted to have on board more than one master or one mate and one engineer who are not citizens of the United States or of the Philippines, but the master, mate or engineer so employed must hold a license under section one thousand one hundred and ninety-nine hereof. No other person who is not a citizen of the United States or of the Philippines shall be an officer or a member of the crew of such vessel. Any such vessel which fails to comply with the terms of this section shall be required to pay an additional tonnage tax of fifty centavos per net ton per month during the continuance of said failure: Provided, That a vessel registered under section eleven hundred and seventy-two of this Code operating on the high seas and not engaged in the coastwise trade may employ foreign seamen as members of its crew except watch and engine-room officers; And provided, further, That nothing herein contained shall be construed as revoking or modifying any of the existing provisions of the Acts of the United States Congress regulating immigration.

. . .

48. Poland

ACT OF 28 MAY 1920 CONCERNING POLISH MERCHANT MARINE VESSELS. ¹

PART I.

Recognition of sea-going vessels as Polish merchant marine vessels

Article 1. Polish merchant marine vessels shall be deemed to mean any vessels navigating the seas for purposes of gain which are owned by the State, Polish nationals, or corporate bodies having their head offices in the territory of the Republic and in respect of which:

- (a) All stock-holdings or shares are nominal;
- (b) Aliens hold not more than 40 per cent of the nominal capital;
- (c) Aliens do not hold office in boards of management, supervision or control in excess of the proportion of their holding of the nominal capital and in addition are not personally liable in the case of limited share partnerships;
- (d) The principal executive (managing director) is a Polish national.

Article 2. A vessel shall also be deemed to be a Polish merchant marine vessel if at least three-fifths of the vessel is owned by the persons referred to in article 1, provided the joint owners' agent is a Polish national.

Article 3. Partnership concerns, the personally liable partners of which are not aliens shall have the rights enjoyed under this Act by Polish nationals; firms and partnerships which do not fulfil these requirements shall be treated on an equality with aliens.

Article 4. In evaluating the qualifications of individuals and corporate bodies (articles 1-3) in order to decide whether the vessels owned by them shall be recognized as Polish merchant marine vessels, persons of Polish racial origin who are not Polish nationals may be treated on an equality with citizens of the Republic. Aliens may be recognized as of Polish racial origin only with the consent of the Minister of Foreign Affairs.

Article 5. In addition to those provided for in other enactments, Polish merchant marine vessels shall have the following rights:

1. The exclusive right to carry on coasting trade (cabotage) in Polish territorial waters;
2. Inviolability *vis à vis* foreign vessels at sea, and extra-territorial rights in foreign waters and ports within the framework of international treaties, conventions and customs;
3. The right to enjoy the protection of the Polish naval authorities at sea and of Polish diplomatic and consular establishments abroad;
4. In war time, the rights deriving from neutrality, if such neutrality is proclaimed by the Government of Poland;
5. The right to State economic assistance under legislation specially promulgated for this purpose.

Article 6. In addition to the obligations laid down in other enactments, Polish merchant marine vessels shall be bound, in particular:

1. To fly at their sterns only the flag of the Polish mercantile marine;

¹ Text from *Dziennik Ustaw*, 1920, pp. 808-813. Translation by the Secretariat of the United Nations.

2. To man the vessels with Polish crews and to use the Polish language in keeping the ship's books and navigating the vessel. A Polish crew shall be deemed to mean a crew in which not less than three-quarters of the officers and seamen are nationals of the Polish State. Exceptions to this provision shall be allowed during the first five years after assent has been given to this Act, in accordance with the executive regulations.

Article 7. A maritime vessel shall forfeit the status of a Polish merchant marine vessel in the following cases:

1. If its ownership is transferred to an individual or corporate body which does not comply with the conditions laid down in articles 1-3;
2. If the membership of the company or partnership is changed in contravention of articles 1-3.

Article 8. If joint ownership of a vessel, as referred to in article 7, paragraph 2, has been changed against the wishes of the remaining joint owners, the vessel may, by decision of the registration office, continue to enjoy the status of a Polish vessel for the period required to buy back the part holding from the foreign nationals, but not for longer than one year from the occurrence of the event which led to the loss of status as a Polish vessel.

Article 9. The provisions of this Act shall also apply to ocean-going pleasure yachts, pilot vessels, larger fishing boats (over 50 cubic metres), tugs, lifeboats, training vessels for training merchant navy personnel, and vessels built in Poland for account of foreign States or their nationals, until such time as vessels in the latter category are registered by the competent foreign consul.

PART II

Registration of merchant vessels

Article 10. In order to certify the rights enjoyed by Polish merchant marine vessels, the vessels referred to in articles 1 and 9, with the exception of vessels with a gross capacity of under 50 square metres, shall be entered in a register.

Article 11. The register of merchant vessels shall be public and shall be available for perusal by interested persons, who may obtain for a fee, certified extracts from the register. The dues and costs of registration shall be borne by the parties concerned.

Article 12. Entries in the register shall comprise:

1. The date and serial number of registration of the vessel;
2. The name and classification of the vessel and the international identification signal;
3. The result of the official calculation of the vessel's measurement;
4. The date when and place where the vessel was built, if known;
5. An indication of the vessel's home port;
6. A detailed description of the owner of the vessel:

(a) In the case of individuals—the nationality, surnames, names and permanent addresses of the owner or joint owners, and the number of shares held by the various joint owners;

(b) in the case of corporate bodies—the name, head office, and place, date and number of the entry in the commercial register; nationality, names, surnames and permanent addresses of the partners who are person-

ally liable in firms and partnerships, and in other cases, the same information in respect of members of boards of directors;

7. The nationality, surnames, names and permanent addresses of the agent, if he has been appointed;

8. A declaration to the effect that all the conditions as regards nationality of the owner, joint owner, stock- or shareholders have been fulfilled;

9. Details of the title deeds of purchase of the vessel, or of the individual shares in the case of joint ownership.

Article 13. A vessel may be entered in the register only on proof of compliance with the terms of articles 1-4, after supplying all the information referred to in article 12 and depositing documents to prove that the vessel has been measured by the competent Polish authority.

Apart from the above, all the conditions referred to in articles 1-4, governing the grant to a vessel of the status of a Polish merchant vessel, shall be subject at all times to Government control. To this end, the authorities shall be entitled at all times to inspect correspondence, books, documents and any reports of maritime shipping enterprises, to investigate and verify the personnel situation and relative proportion of capital operative in the enterprises.

All this information shall, if so requested, be lodged with the registration office.

Article 14. No vessel which has been registered abroad may be registered in Poland.

The owner of a vessel purchased from foreign nationals must, when he applies for its registration in Poland, submit proof that the vessel has been struck off the foreign register.

Article 15. In the case of vessels purchased abroad from aliens, a certificate may be replaced by a provisional attestation from the Polish consul functioning abroad in the place where the vessel is lying at the time of the change of ownership (flag certificate). Such attestation may be issued for a period not exceeding one year from the date of issue. If the voyage cannot be completed within such period, the flag certificate may be prolonged for the necessary period by Polish consuls. The consul shall inform the registration office of the issue or prolongation of the attestation.

Article 16. Any owner of a vessel who is not resident in the Republic of Poland shall be bound to appoint an agent in Poland with power to carry out registration formalities and act for the principal in all matters relating to the ownership of the vessel.

Article 17. When the registry entry has been made, the owner of the vessel shall receive a registration document in the form of a ship's certificate. The ship's certificate and the certified extract from the register must always be kept on board the vessel.

Article 18. The certificate serves as proof:

1. That the information and documents required under articles 12 and 13 have been furnished;
2. That the vessel belongs to the Polish merchant navy;
3. That the vessel is entitled to fly the Polish merchant navy flag.

Article 19. When a vessel has been entered in the register, its name shall be inscribed on each side of the bow in indelible characters visible from a

distance, and the name of the vessel and its home port shall be similarly inscribed on the stern.

Article 20. Any subsequent changes in the information and legal details entered in the register must be declared and inserted in the register and as soon as possible thereafter endorsed on the ship's certificate.

The name of the vessel as chosen by the owner at the time of original registration may only be changed with the permission of the authorities.

Article 21. A vessel shall be struck off the register in the following cases:

1. If it is lost;
2. If it is considered to be unseaworthy;
3. If it loses the status of a Polish merchant marine vessel.

In the above cases the certificate must be cancelled and, if possible, withdrawn.

Article 22. The information to be entered in or deleted from the register under articles 12, 13, 20 and 21 shall be declared and proven:

(a) By the persons who, under article 12, paragraph 6, have to be entered in the register of merchant vessels;

(b) On behalf of corporate bodies, by their legal representatives;

(c) In the cases referred to in article 16, on behalf of the owner, by his agent;

(d) In the case of a change of ownership or joint ownership involving loss of the status of a Polish vessel, also by the person who has purchased the vessel or share therein.

Article 23. Any changes in or additions to the register must be declared by the persons liable therefor (Article 22) within six weeks from the date on which they learnt of the fact to be entered in the register. If there are several persons so liable, a declaration by one of these persons will suffice. The master shall also be deemed to be a person so liable, if his vessel is at the time lying in a port where there is a registration office.

49. Portugal

(a) SHIPPING ACT OF 8 JULY 1863.¹

PART I. NATIONALITY OF SHIPS: CONDITIONS OF GRANT OF NATIONALITY

Article 1. The nationality of a Portuguese merchant ship shall be determined by—

1. Its construction or origin;
2. Its owners or operators;
3. Its captain and officers;
4. Its company or crew.

Chapter I. Origin of ship

Article 2. A merchant ship shall be Portuguese only if built in Portugal.

Article 3. A foreign or foreign-built ship shall, however, be Portuguese for all purposes—

¹ *Collecção oficial de legislação portugieza*, 1863, pp. 279-280. Translation by the Secretariat of the United Nations.

1. If purchased by Portuguese nationals, provided that the tonnage duty established in the Decree of 11 August 1852 is paid and the ship is registered in accordance with the provisions of article 4 of that decree;
2. If lawfully seized and adjudged lawful prize;
3. If ordered by a court to be forfeited for a breach of law;
4. If it belongs to a shipping or towing company established in Portugal and authorized by law.

Chapter II. Ownership of ships

Article 4. A ship which though Portuguese-built does not belong entirely to Portuguese nationals or naturalized aliens shall not be Portuguese.

1. A Portuguese ship transferred by a Portuguese operator to an alien shall cease to be Portuguese.
2. A non-naturalized alien who acquires a Portuguese ship by inheritance or otherwise gratuitously shall transfer it within thirty days, in default whereof it may be awarded to the informant.

Article 5. A foreign ship acquired by a Portuguese national under a contract fraudulently giving an interest to a non-naturalized alien shall upon discovery of the fraud be sold by auction and the proceeds shall be applied for the benefit of the naval hospital.

Article 6. Ships belonging to shipping or towing companies established in Portugal and authorized by law shall for the purposes of article 4 be Portuguese and be deemed to belong to Portuguese nationals.

Article 7. Possession of a ship without the deed of conveyance thereof shall not entitle the possessor to ownership.

Chapter III. Captain, officers and crew

Article 8. The captain or master and the supercargo shall be Portuguese nationals or naturalized aliens.

Article 9. Unless otherwise prescribed by treaty, at least two-thirds of the members of the crew shall be Portuguese or naturalized aliens.

PART II. EVIDENCE OF NATIONALITY

Article 10. The Portuguese nationality of a ship shall be evidenced by the flag and ship's papers, which shall entitle it in a foreign port to the privileges and exemptions accorded by treaty and on the high seas to due respect.

Sole paragraph. The nationality of the ship shall not extend to the cargo where the nationality thereof is not duly established.

(b) DECREE NO. 15,360 OF 9 APRIL 1928.¹

Article 1. In order to obtain Portuguese nationality and to benefit by the privileges and immunities granted in accordance with statute or international treaty or convention, a vessel shall be required to satisfy the special requirements enumerated hereinafter as evidence of—

¹ *Collecção oficial de legislação portuguesa*, 1928, pp. 704-706. Translation by the Secretariat of the United Nations.

1. Its construction and origin;
2. The nationality of its owner or operator;
3. The nationality of its captain and officers and the other members of its company or crew.

Article 2. In regard to its construction and origin, the vessel shall have been built in Portuguese territory.

Sole paragraph. A vessel constructed abroad may however become Portuguese—

- (a) By purchase; inheritance, gift or any other legal means of acquisition or conveyance;
- (b) If it has been lawfully captured from the enemy and declared lawful prize by a Portuguese court;
- (c) If it has been found abandoned on the high seas and properly given Portuguese nationality;
- (d) If it has been adjudged by a competent court to be forfeited or confiscated for a breach of law by its previous owner.

Article 3. In regard to the nationality of its owners, the vessel shall be owned—

- (a) In the case of an individual owner, by a Portuguese citizen or an alien naturalized in the manner prescribed by law;
- (b) In the case of joint ownership, by a commercial company constituted in any manner prescribed by law and having its actual head office in Portuguese territory and satisfying the other requirements of Portuguese nationality set forth hereinafter.

Article 4. For purposes of registration of the ownership of coasting or sea-going merchant vessels, the following shall be Portuguese—

1. A company or undertaking with its head office in Portuguese territory, at least one-third of whose registered shares are held by Portuguese citizens or naturalized aliens, and the majority of whose directors or managers are Portuguese citizens or naturalized aliens;
2. An ordinary or commandite partnership with its head office in Portuguese territory, the majority of whose partners with unlimited liability are Portuguese citizens or naturalized aliens;
3. A commandite share company with its administrative office in Portuguese territory, the majority of whose partners with unlimited liability are Portuguese citizens or naturalized aliens, and one-third of whose shares are registered and endorsed over to Portuguese citizens or naturalized aliens;
4. A joint-stock company with its administrative office in Portuguese territory, one-third of whose capital at least has been provided by Portuguese or naturalized-alien managers, and in which these constitute a majority on the board of directors;
5. A limited-liability company with its administrative office in Portuguese territory, the majority of whose board of directors and managers are Portuguese or naturalized aliens and at least one-third of whose capital consists of registered shares held by Portuguese citizens or by naturalized aliens, and the chairman of whose board of directors or whose managing director is a Portuguese citizen or a naturalized alien.

Sole paragraph. Companies owning vessels operating regular services to the Portuguese colonies in Africa, or not operating such regular services

but drawing State subsidies, shall be constituted in conformity with the provisions of this Decree relating to companies owning fishing vessels.

Article 5. For purposes of registration of the ownership of vessels engaged in local traffic or fishing vessels, the following shall be Portuguese:

1. A company or undertaking with its head office in Portuguese territory, all of whose shares are held by Portuguese citizens or naturalized aliens;

2. An ordinary or commandite partnership or a joint-stock company with its head office in Portuguese territory, all of whose partners are Portuguese citizens or naturalized aliens;

3. A commandite share company with its head office in Portuguese territory, all of whose partners with unlimited liability are Portuguese citizens and whose share capital is constituted by registered shares endorsed over to Portuguese citizens or to naturalized aliens;

4. A limited liability company with its administrative office in Portuguese territory, whose capital is constituted by registered shares all held by Portuguese citizens or by naturalized aliens.

Sole paragraph. The owner of a vessel registered as a merchant or fishing vessel shall comply with the requirements of this article.

Article 6. Registered shares representing the working capital of a company owning vessels, and all transfers thereof, shall be duly registered by the company to enable the names of their holders to be ascertained at any time.

1. Until registration has been proved, payment of interest or yield on such shares shall be null and void and so unenforceable.

2. Registered shares of companies owning vessels may not be transferred to an alien otherwise than by lawful succession or bequest, and the alien shall in such a case transfer the shares to Portuguese citizens within six months from the date upon which he obtains possession thereof.

Article 7. It shall be the duty of a company to register shares to ascertain the nationality of the persons to whom shares are transferred.

1. Companies shall grant the competent authorities all facilities in proceedings for transfer of shares.

2. The penalty for an irregular transfer to an alien or to a company directed, managed or administered by an alien shall be forfeiture of the transferred shares to the State and a fine equal to one hundred times the nominal value of each share.

3. Half the amount of the fine shall be paid into the account of the merchant marine welfare fund in the Bank of Portugal, and the other half shall be paid to the person discovering the error or fraud in the transfer.

Article 8. Registered interests, shares or securities held by Portuguese citizens in companies owning vessels may not be subject to disposal or assignment by aliens or by other companies managed or administered by aliens even though formed in Portugal and having their head offices there.

1. A provision to this effect shall be included in the articles of association of every company owning a vessel.

2. Interests, shares and securities not satisfying the requirements of this article shall be forfeited to the State.

3. The provisions of this article shall in no way affect the validity of a majority vote at the general meeting of a limited liability company, provided that such a vote does not carry a resolution contrary to the law or in any way affecting national sovereignty or the economic interests of the metropolitan country or any of the colonies.

Article 9. It shall be the duty of the notary concerned to ascertain in advance that a ship-owning company satisfies the requirements of the preceding articles relating to nationality, and to insert in its articles of association the duties expressly laid down in this Decree and other enactments.

Article 10. The competent court may declare a head office fictitious and spurious if associations with Portuguese territory are established fraudulently in order to evade the law, or if the real or actual head office is not in Portuguese territory.

Article 11. The penalty on conviction for fraud in the organization of a company with relation to the legal requirements regarding nationality shall be forfeiture of the company's vessels to the State and any other penalty by law established.

Article 12. Administrators, directors and managers of companies, managers of joint stock companies, and administrators and directors of limited liability companies owning vessels shall be specially registered in the port offices of the ports where the vessels are registered, with the evidence of nationality required by this Decree.

Single paragraph. Failure to comply with the provisions of this article shall be a sufficient ground for excluding the offender from maritime trade or fisheries.

Article 13. An operator, whether an individual or a body corporate, who is not also an owner shall be required to satisfy the same requirements of nationality as the owner of a vessel.

Article 14. Branches, agencies and subsidiary or auxiliary establishments which belong to Portuguese companies owning Portuguese vessels and are not autonomous or independent shall, even if established outside the national territory, be Portuguese.

Article 16. An alien individual or body corporate having an interest in a company owning vessels shall have only those rights which the law confers on Portuguese companies, and shall therefore not be entitled to diplomatic protection of any personal interest in that company.

Article 17. The articles of association of a company owning vessels shall recite every instrument which may at any time constitute evidence of compliance with the legal requirements for Portuguese nationality of each of the company's vessels:

1. Registered share certificates shall contain the text of the provisions of article 6 and its paragraphs concerning transfer to aliens.

2. All share certificates of companies owning merchant vessels shall recite the provisions of the preceding article.

Article 18. In regard to the nationality of the captain, officers and other members of the company or crew—

(a) The captain, master or skipper, the officers, and the persons of officers' rank in the various special services shall be duly qualified Portuguese citizens or naturalized aliens;

(b) Except as otherwise provided by treaty, at least two-thirds of the remaining members of the company or crew of a coasting or sea-going vessel shall be Portuguese citizens or naturalized aliens;

(c) Vessels engaged in local traffic or coastwise fishing shall be manned entirely by Portuguese citizens or naturalized aliens:

1. The term "company or crew" means all persons employed in the management of a vessel, including the captain, master or skipper.

2. The Ministry of Marine may authorize the employment of foreign masters or technicians aboard merchant or fishing vessels.

3. Where by sickness, desertion or other unavoidable circumstance, duly established, the company or crew of a vessel is reduced in a foreign port below the smallest number necessary to continue the voyage, enough alien hands may be signed on to complete the vessel's complement until it reaches the first national port where they can be replaced by Portuguese hands.

Article 19. All Portuguese vessels must possess the national flag.

Article 20. Exhibition of the ship's papers, that is to say the certificate of registration of ownership, the ship's certificate (*passaporte*) and the crew list, shall furnish evidence that the requirements of this Decree relating to nationality and the wearing of the national flag have been satisfied.

1. The ship's papers shall be exhibited on all occasions when a statute, regulations, custom or international treaty or convention so requires.

2. The ship's papers shall also prove Portuguese nationality and enable a vessel to benefit by the privileges to which national shipping is entitled, and shall be carried by every vessel sailing the high seas and entering ports, and shall constitute evidence that a vessel is operating with the knowledge of the Portuguese Government and has satisfied all legal requirements.

3. The penalty for loss or defacement of the ship's papers relating to nationality shall be forfeiture of the vessel by the owner in accordance with statute, treaty or international convention.

Article 21. A vessel may lose Portuguese nationality—

(a) If it is confiscated abroad;

(b) If it is captured by the enemy in war and adjudged lawful prize;

(c) If no news is received of it for more than two years;

(d) If its owner has ceased to be a Portuguese citizen or naturalized;

(e) If it is sold abroad.

Sole paragraph. If within six months after a vessel loses Portuguese nationality its owner or his representative does not apply for its registration to be cancelled, it may be seized and sold by order of a court and the proceeds forfeited to the State.

Article 22. All provisions of law contrary to this Decree are hereby repealed.

(c) DECREE NO. 1,787 OF 25 JUNE 1925.¹

Article 1. A vessel in joint ownership shall be required to be owned by a Portuguese commercial company constituted in any of the forms provided by law; and the head office of the company shall be situated in Portuguese territory; and at least 51 per cent of the paid-up capital shall be owned by Portuguese-born or naturalized citizens; and the majority of the members of the board of directors shall be Portuguese-born or naturalized citizens; and the managing director or manager shall be a Portuguese-born or naturalized citizen.

Sole sub-paragraph. The provisions of this article shall not apply to vessels engaged in fishing or plying in harbours or rivers.

Article 2. All provisions of law contrary to this Decree are hereby repealed.

(d) LEGISLATIVE DECREE NO. 37,052 OF 9 SEPTEMBER 1948.²

Article 1. A shipping company which is constituted and has its head office and management in Portuguese territory and the majority of whose shareholders and of whose administrators, directors or managers are Portuguese nationals shall be a national shipping company.

Article 4. Services on shipping routes reserved to the Portuguese flag may be operated only by companies declared to be of national importance.

Article 27. Shipping companies of national importance may not purchase shares in their own or other companies without prior permission of the Ministry of Marine.

Sole paragraph. Where shares are acquired through distraint on or bankruptcy of debtors of such companies, or through winding-up or composition with creditors, the Ministry shall have power only to direct the disposal of those shares.

50. RomaniaDECREE NO. 40 OF 14 FEBRUARY 1950, CONCERNING THE MERCHANT MARINE.³

CHAPTER III

Nationality of vessels

Article 7. Romanian nationality shall be granted—

(a) To vessels owned by the Romanian People's Republic or by Romanian State institutions or undertakings;

¹ *Diário de Governo*, No. 137. Translation by the Secretariat of the United Nations.

² Text of Decree provided by the Embassy of Portugal in Washington. Translation by the Secretariat of the United Nations.

³ *Buletinul oficial* No. 11 of 14 February 1950. Translation by the Secretariat of the United Nations.

(b) To vessels owned by companies which have their head offices in the territory of the Romanian People's Republic and in which the State holds not less than fifty per cent of the paid-up capital;

(c) To vessels owned by private companies which have their head offices in the territory of the Romanian People's Republic and in which not less than fifty per cent of the capital is Romanian;

(d) To vessels in category *Ia* owned by Romanian citizens.

Boats owned by Romanian citizens shall be entitled to Romanian nationality; and the "boat card" shall constitute proof of a boat's nationality.

Article 8. Where the name, port of registry, type or particulars of a vessel are changed, its certificate of nationality or boat card shall be withdrawn and a new certificate or card issued instead thereof.

The certificate of nationality or boat card of any vessel which loses Romanian nationality shall be cancelled.

Article 9. Any vessel sold to a foreign State or citizen shall lose Romanian nationality.

Article 10. Merchant vessels in category *Ia* shall be authorized by the certificate of nationality, and those in category *IIa* by the boat card, to wear the Romanian flag.

A provisional licence to wear the Romanian flag may be issued to vessels newly built or purchased abroad. The licence shall be issued by the Minister of Communications at the request of the Merchant Marine Department or by any Romanian consulate abroad, which shall notify the Minister of Communications accordingly.

The licence shall be valid for the period required to obtain Romanian nationality, or until the vessel enters a national port.

CHAPTER IV

Registration of vessels cancellation

Article 11. Every vessel of Romanian nationality shall be registered in the register of the port captain's office or port office of the port to which it belongs.

Romanian nationality shall be granted to vessels by the Minister of Communications, who shall issue a certificate of nationality in respect of vessels in category *Ia*.

Port captain's offices or port offices shall issue a boat card to each boat at the time of its registration.

The Minister of Communications shall prescribe the conditions required for grant of Romanian nationality.

Article 12. The registration of a vessel shall be cancelled—

(a) If it loses Romanian nationality;

(b) If it is lost because of a disaster or shipwreck or in other similar circumstances;

(c) If it has been broken up.

Cancellation of the registration of any vessel shall require the approval of the Minister of Communications.

Any vessel classified as a wreck on the advice of official experts shall be broken up in such manner as the Minister of Communications shall, through the Merchant Marine Department, prescribe.

51. Spain

(a) MEMORANDUM BY THE MINISTRY OF FOREIGN AFFAIRS, DATED 7 SEPTEMBER 1954. ¹

The document proving the nationality of Spanish vessels is the ship's certificate (*patente de navegación*), which all vessels are required to carry on board together with a copy of the certificate of registration in the Commercial Register, in which every ship must be registered in order to establish title and for taxation purposes.

A vessel acquires Spanish nationality by entry in the Shipping Register kept by the shipping authorities and in the Commercial Register, and by construction in a Spanish shipyard, or, if foreign built, by grant of the flag. The owner must, if an individual, establish Spanish nationality or, if a company, be registered in the Commercial Register.

The basic provisions on registration and grant of the flag are contained in chapter IX of the Regulations of 13 October 1913 made under the Act of 14 June 1909 to protect Maritime Industries and Communications. Those regulations are amplified by the Decree of 13 June 1916 requiring that the registered capital of shipping companies shall consist of registered shares, for the transfer of which Government permission must be obtained, and that the proportion of shares held by aliens may not exceed twenty-five per cent of the capital.

Transfer and ownership of ships also calls for proof of Spanish nationality by individuals or compliance with the 1916 Decree by companies. Generally speaking, the sale of Spanish ships to aliens is prohibited by the Act of 2 March 1938, but the sale of vessels of less than five hundred tons is allowed by the Decree of 26 November 1944. The purchase of foreign ships is subjected to certain restrictions by the amended Acts for the Protection of Shipbuilding, approved by the Decree of 26 May 1946.

A Spanish ship registered in the Shipping Register and the Commercial Register carries a ship's certificate, which proves its nationality and authorizes it to wear and sail under the Spanish flag.

(b) REGULATIONS MADE ON 13 OCTOBER 1913, UNDER THE ACT OF 14 JUNE 1909 TO PROTECT AND ENCOURAGE MARITIME INDUSTRIES AND COMMUNICATIONS. ²

CHAPTER IX

Grant of flag: registration and clearance of ships

Article 145. A shipowner desiring grant of the flag and registration for a ship shall be required, if an individual, to show that he is a Spanish national by means of a certificate in due form issued by the local authority of his place of residence or, if a body corporate, to be registered in the Commercial Register.

Article 146. An owner shall likewise be required to prove lawful title to the ship by means of a duly-authenticated document. If the ship was acquired abroad, the document shall comply in form and otherwise with

¹ Translation by the Secretariat of the United Nations.

² Text of Regulations provided by the Consulate General of Spain in New York. Translation by the Secretariat of the United Nations.

the law of the country in which the contract was concluded and shall also be authenticated by the Spanish consul and countersigned by the Ministry of State; if the contract was concluded in Spain, the conveyance shall comply with the ordinary rules of law.

Article 147. The owner shall produce a survey certificate. . .

Article 148. Upon presentation of those documents the port authority in whose register the ship is to be entered shall grant it the flag and registration and shall register it, according to the type of shipping in which it is to be engaged, in the appropriate list of the shipping register of the port authority and local shipping control office to which application was made.

The special provisions now governing the grant of the flag to pleasure craft and to naval craft in harbour service shall remain in force.

Article 149. Consulates may henceforward grant the flag provisionally in accordance with the Royal Order of the Ministry of Shipping dated 1 August 1909, as amended by the Order dated 15 September 1909; but the time limit of six months allowed for permanent grant of the flag may be extended for a further six months for sufficient reason, and indefinitely for reasons related to unavoidable circumstances.

(c) COMMERCIAL REGISTER REGULATIONS OF 20 SEPTEMBER 1919. ¹

Article 147. The shipping register shall contain a record of—

1. Ships wearing the Spanish flag registered in Spain;
2. Ships under construction encumbered by a mortgage as provided by the Shipping Mortgage Act of 21 August 1893, article 16.

There shall likewise be recorded therein every change in the ownership or name of the ship or in any other particular listed in article 22, item (1), of the Commercial Code, and the creation, variation or cancellation, as provided in that article, of any charge on the ship.

(d) DECREE OF 22 AUGUST 1931 PROHIBITING THE TRANSFER OF SHIPS TO ALIENS. ²

1. The sale of a Spanish merchant ship of any class to an alien individual or body corporate, and the registration of such a ship in any foreign country, are hereby prohibited.

2. No mortgage may be created on a Spanish ship in favour of an alien individual or body corporate; and any transaction or agreement in general limiting in any way the title of a Spanish ship-owner to a Spanish ship or the powers of the State in respect thereof is hereby prohibited.

3. Any transfer of ownership in a Spanish ship to, and any charge on such a ship established in favour of, an alien individual or body corporate shall be null and void.

4. A notary shall not certify any public instrument relating to a prohibited transaction, and a commercial registrar shall refuse to register or record any interest conferred thereby.

¹ Text from Leon Medina and Manuel Marañon, *Leyes Civiles de España* (1943). Translation by the Secretariat of the United Nations.

² *Ibid.*

The Government may seize ships of a shipping company or operator contravening the provisions of the foregoing articles.

(e) ACT OF 27 FEBRUARY 1939 CONCERNING SHIPPING MORTGAGES IN FAVOUR OF ALIENS. ¹

1. In special circumstances for the purpose of restoring our merchant or fishing fleet the Minister of Industry and Commerce may, with the agreement of the Council of Ministers, authorize the creation of mortgages on Spanish ships in favour of alien individuals or bodies corporate, notwithstanding the provisions of the Decree of 22 August 1931 ratified by the Act of 14 October 1931, which Decree shall remain in force in so far as it does not conflict with the provisions of this Act.

52. Suisse

a) ARRÊTÉ DU CONSEIL FÉDÉRAL CONCERNANT LA NAVIGATION MARITIME SOUS PAVILLON SUISSE (DU 9 AVRIL 1941) ².

Article 3. Le registre des navires prévu par le présent arrêté est tenu par l'Office fédéral du registre des navires, dont le siège est à Bâle.

CHAPITRE II. DROIT AU PAVILLON ET ENREGISTREMENT DES NAVIRES

1. *Droit au pavillon*

Article 5. Sont considérés comme navires suisses les bâtiments qui ont le droit, en vertu d'une concession accordée par le Conseil fédéral, de porter le pavillon suisse et qui ont été immatriculés dans le registre des navires tenu par l'Office fédéral du registre des navires. Ces navires ont l'obligation de porter le pavillon suisse sur mer.

Article 6. Le Conseil fédéral peut conférer le droit au pavillon suisse à des ressortissants suisses domiciliés en Suisse, à des sociétés commerciales ou coopératives suisses, ainsi qu'à des corporations ou établissements suisses de droit public; il peut également autoriser des services de l'administration fédérale à user du pavillon suisse.

Le droit au pavillon ne peut être accordé à des sociétés commerciales ou coopératives que:

1. Si elles sont inscrites dans le registre suisse du commerce.
2. Si le contrat de société ou les statuts disposent que la qualité de membre ne peut être acquise que par des ressortissants suisses, par des corporations ou établissements suisses de droit public ou par des sociétés commerciales ou coopératives auxquelles l'origine du capital social et la composition des organes confèrent le caractère suisse.
3. Si les organes chargés de l'administration et du contrôle sont composés uniquement de ressortissants suisses.

¹ *Ibid.*

² *Recueil systématique des lois et ordonnances, 1848-1947, vol. 7, XIII. Transports et communications, pp. 503 et s.*

Celui qui désire obtenir le droit au pavillon doit présenter au Conseil fédéral une demande écrite et motivée renseignant sur tous les faits déterminants pour l'octroi de ce droit; les pièces justificatives seront jointes à la demande.

Article 7. Le droit au pavillon suisse ne sera accordé que pour des navires déterminés, nommément désignés; il n'est pas transmissible.

Le Conseil fédéral détermine dans la concession les conditions et charges qui lui semblent nécessaires.

L'Office de la navigation maritime peut, de son propre chef ou sur ordre du Conseil fédéral, examiner en tout temps si les conditions de la concession sont encore remplies et si les clauses en sont observées. Le concessionnaire doit lui donner tous renseignements utiles à ce sujet, lui permettre de consulter ses livres et sa correspondance et autoriser en tout temps et sans avis préalable les fonctionnaires ou mandataires de l'office, ainsi que les consuls de Suisse, à opérer des recherches à bord.

Article 8. Le Conseil fédéral peut, pour de justes motifs, modifier en tout temps la concession ou la retirer à un concessionnaire pour tout ou partie de ses navires autorisés à battre pavillon suisse. Avant de prendre une telle mesure, il doit donner au concessionnaire l'occasion de se faire entendre.

Les intéressés ne peuvent exiger que leur soient communiqués les motifs pour lesquels le Conseil fédéral refuse, modifie ou retire une concession. Ils ne peuvent non plus prétendre à la réparation du dommage résultant d'une de ces mesures.

Article 9. Le concessionnaire ne peut renoncer au droit au pavillon suisse qu'avec l'autorisation du Conseil fédéral.

Si le Conseil fédéral autorise la renonciation, il ordonne, à la demande du concessionnaire, que le navire soit radié du registre, à moins qu'une personne à laquelle le droit au pavillon suisse est assuré n'acquière le navire. L'article 20 est en outre réservé.

Article 10. Le propriétaire d'un navire immatriculé dans le registre suisse des navires ne peut remettre son bâtiment à un tiers (armateur-gérant) pour le faire naviguer sous son propre nom que si le Conseil fédéral a conféré à ce tiers le droit d'arborer le pavillon suisse sur la bâtiment.

Le droit au pavillon du propriétaire est sans effet aussi longtemps que l'armateur-gérant fait naviguer son navire. Le droit au pavillon de l'armateur-gérant s'éteint dès que ce dernier cesse de faire naviguer le navire.

L'article 9 n'est pas applicable au cas où la navigation est exercée par un armateur-gérant.

Article 13. Le nom d'un bâtiment inscrit dans le registre des navires ne peut être changé qu'avec l'assentiment de l'Office de la navigation maritime.

2. Registre des navires

Article 14. Le port d'enregistrement des navires suisses est à Bâle.

Les navires suisses doivent être immatriculés dans le registre des navires tenu par l'Office fédéral du registre des navires; sauf disposition contraire du présent arrêté, la loi sur le registre des bateaux, du 28 septembre 1923, et l'ordonnance d'exécution de ladite loi, du 24 mars 1924, sont applicables, par analogie, à l'organisation et à la tenue du registre des navires.

Le Département fédéral de justice et police peut édicter des dispositions complémentaires sur l'organisation et la tenue du registre; ces dispositions peuvent déroger à celles de la loi et de l'ordonnance d'exécution susmentionnées.

Article 15. L'inscription dans le registre des navires ne jouit pas de la foi publique.

La Confédération répond du dommage résultant de la tenue du registre; cette responsabilité suppose la faute intentionnelle ou la négligence grave.

Le Conseil fédéral peut, dans l'intérêt des mesures prises en vertu de son droit de haute surveillance, ordonner le blocage du registre pour un navire déterminé.

Article 16. Le propriétaire du navire requiert l'immatriculation dans le registre des navires.

La requête indique:

1. Le nom du navire.
2. Le nom et le domicile du propriétaire.
3. Le constructeur du navire, ainsi que la date et le lieu de la construction.
4. Le type du navire et le matériel de construction.
5. Les mesures d'identification et le tonnage.
6. Le moyen de propulsion.

Le Département fédéral de justice et police peut prescrire d'autres indications encore.

Si des modifications se produisent dans les faits mentionnés sur la requête, le propriétaire du navire doit en informer sans délai l'Office du registre des navires et fournir, si possible, des documents à l'appui.

Article 17. Celui qui requiert l'inscription doit produire des documents établissant:

1. Qu'il est propriétaire du navire ou qu'il a le droit d'acquérir la propriété immédiatement et sans condition.
2. Que le droit au pavillon suisse lui est assuré pour ce navire.
3. Que l'office de la navigation maritime a autorisé le navire à naviguer et a approuvé le nom indiqué dans la requête.
4. Que le navire, s'il était déjà enregistré, a été radié du registre précédent ou que la radiation est assurée pour le cas d'immatriculation dans le registre suisse.
5. Que le navire n'est grevé d'aucun droit de gage conventionnel ou, dans le cas contraire, que le créancier gagiste consent à ce que la créance soit convertie en argent suisse, que son droit soit transcrit dans le registre suisse et soumis au droit suisse.

Celui qui requiert l'immatriculation doit, en outre, déclarer par écrit qu'il n'a pas requis et ne se propose pas de requérir l'immatriculation du navire dans le registre d'un autre Etat.

L'Office du registre des navires informe l'Office de la navigation maritime, à son intention et à celle du Conseil fédéral, que l'immatriculation est opérée; celle-ci doit être publiée dans la *Feuille fédérale* et communiquée aux consulats de Suisse par l'entremise du département politique fédéral.

Article 18. Sous réserve du deuxième alinéa du présent article, la radiation d'un bâtiment immatriculé dans le registre des navires doit, pour être valable, avoir été ordonnée par le Conseil fédéral.

Lorsque, au vu des explications qui lui sont données, l'Office de la navigation maritime juge vraisemblable que le navire a péri, a disparu depuis plus d'une année ou n'est plus réparable, il le fait radier du registre. La radiation ne pourra, toutefois, être opérée qu'une fois la décision de l'Office de la navigation maritime entrée en force.

Article 19. L'Office fédéral du registre des navires publie dans la *Feuille fédérale* la radiation du navire et en informe les consulats de Suisse par l'entremise du Département politique fédéral.

La radiation est sans effet sur les droits réels autres que le droit de propriété qui grèvent le navire.

Article 20. Les prescriptions fédérales sur la saisie et l'expropriation s'appliquent par analogie à tous les bâtiments immatriculés dans le registre des navires.

3. Certificat de pavillon et lettre de mer

Article 21. Dès qu'un bâtiment a été immatriculé dans le registre des navires, le Conseil fédéral délivre au concessionnaire du droit au pavillon un certificat de pavillon.

Le certificat de pavillon doit désigner exactement le bâtiment et le concessionnaire et reproduire les clauses de la concession.

Le Département politique fédéral tient une liste des certificats de pavillon qui ont été délivrés.

La perte du certificat de pavillon doit être annoncée sans délai au Département politique fédéral.

Article 22. Lorsque le navire a été immatriculé dans le registre, l'Office de la navigation maritime, d'entente avec l'Office du registre des navires, délivre une lettre de mer au propriétaire ou, le cas échéant, à un armateur-gérant.

La lettre de mer atteste que le navire a le droit de naviguer sous pavillon suisse; elle reproduit, en outre, les indications principales du feuillet ouvert pour ce navire dans le registre. La formule de la lettre de mer doit répondre au modèle approuvé par le Conseil fédéral.

Si des modifications se produisent dans les faits indiqués dans la lettre de mer, le consulat qui peut être atteint le plus facilement opérera les mutations, sur ordre de l'Office de la navigation maritime.

Si la perte de la lettre de mer a été rendue vraisemblable, l'Office de la navigation maritime déclare la lettre sans valeur et le fait connaître par une publication dans la *Feuille fédérale*. Une nouvelle lettre de mer est en même temps établie.

Article 23. Le certificat de pavillon et la lettre de mer doivent être remis sans délai à l'Office de la navigation maritime:

1. Par le propriétaire, lorsqu'il aliène le navire.
2. Par le propriétaire et, le cas échéant, par un armateur-gérant, quand le bâtiment est radié du registre des navires.
3. Par le concessionnaire du droit au pavillon, lorsque la concession lui est retirée ou qu'il y renonce.
4. Par l'armateur-gérant, lorsqu'il renonce à faire naviguer le navire.

CHAPITRE IV. EXERCICE DE LA NAVIGATION

1. *Droit de naviguer sur mer*

Article 27. L'immatriculation dans le registre des navires et le droit de naviguer sur mer sous pavillon suisse sont subordonnés à l'autorisation de l'Office de la navigation maritime.

L'autorisation ne peut être accordée que pour des bâtiments classés par une des sociétés de classification généralement reconnues. L'Office de la navigation maritime peut, au besoin, exiger un complément de preuves concernant l'aptitude du navire à tenir la mer et l'armement.

b) LOI FÉDÉRALE SUR LE REGISTRE DES BATEAUX (DU 28 SEPTEMBRE 1923)¹.

I. REGISTRE DES BATEAUX

b. *Immatriculation*

Article 4. Seront immatriculés au registre tous les bateaux d'un tonnage d'au moins quinze tonnes, qui sont affectés au transport professionnel de personnes ou de marchandises et qui ont leur port d'attache en Suisse.

Article 5. Les bateaux ayant leur port d'attache en Suisse et un tonnage d'au moins deux tonnes peuvent être immatriculés, sur réquisition du propriétaire, même s'ils ne sont pas affectés au transport professionnel de personnes ou de marchandises.

Article 6. Les bateaux d'une entreprise de navigation au bénéfice d'une concession de la Confédération ne sont pas immatriculés; la loi fédérale du 25 septembre 1917 concernant la constitution des gages sur les entreprises de chemins de fer et de navigation et la liquidation forcée de ces entreprises leur est applicable.

La présente loi n'est pas applicable aux bateaux des chemins de fer fédéraux.

Article 7. Le propriétaire d'un bateau remplissant les conditions de l'article 4 doit le faire immatriculer avant d'entreprendre les courses régulières.

Si le bateau est en copropriété, chacun des propriétaires est tenu de requérir l'immatriculation. Cette obligation incombe, dans les sociétés en nom collectif, en commandite et en commandite par actions, aux associés personnellement responsables et, dans les sociétés anonymes et les sociétés coopératives, à leurs représentants investis du droit de signer.

Si plusieurs personnes sont tenues de requérir l'immatriculation, la réquisition d'une d'entre elles suffit.

Article 8. Lorsque l'immatriculation d'un bateau remplissant les conditions de l'article 4 n'est pas requise, l'Office somme la personne responsable d'y procéder dans les dix jours ou de lui indiquer par écrit dans ce délai les motifs de son refus.

Si la personne sommée refuse de requérir l'immatriculation ou n'indique pas dans le délai imparti les motifs de son refus, l'Office défère le cas à l'autorité de surveillance. Celle-ci décide sans retard si les conditions de l'article 4 sont remplies.

¹ Suisse, *Recueil systématique des lois et ordonnances*, 1848-1947, vol. VII, XIII. Transports et communications, pp. 305-311 (Berne, 1951).

Dans l'affirmative et s'il n'y a pas eu recours au Conseil fédéral¹ ou si le recours a été écarté, l'autorité de surveillance ordonne à l'Office de procéder à l'immatriculation.

Article 9. La réquisition d'immatriculation, consistant en une déclaration écrite revêtue de la signature du requérant, est remise à l'office compétent du port d'attache.

Article 10. La réquisition d'immatriculation indique:

1. L'époque et le lieu de construction du bateau, ainsi que le nom du constructeur.
2. Le type du bateau et le matériel de construction.
3. Le tonnage du bateau et, s'il s'agit d'un bateau automobile, la force en chevaux.
4. Le nom et les autres signes distinctifs du bateau.
5. Le tirant d'eau.
6. Le nom, le domicile et la nationalité du propriétaire.
7. Le port d'attache actuel et, le cas échéant, le port d'attache précédent.

Si des modifications interviennent dans les faits indiqués sous chiffres 2 à 5, elles sont communiquées sans retard à l'Office par les personnes tenues de requérir l'immatriculation en conformité de l'article 7, s'il s'agit de bateaux dont l'immatriculation est obligatoire, et par le propriétaire pour les bateaux dont l'immatriculation est facultative.

Article 11. Celui qui requiert l'immatriculation est tenu de rendre vraisemblables son droit de propriété et les indications figurant à l'article 10, 1^{er} alinéa.

Il en est de même pour les modifications dont l'inscription est requise conformément à l'article 10, 2^e alinéa.

Article 12. Si le bateau a été ou est encore immatriculé à l'étranger, la réquisition doit être accompagnée:

Dans le premier cas, d'une attestation de l'office étranger constatant que le bateau était immatriculé et que les inscriptions et annotations le concernant ont été radiées;

Dans le second cas, d'un extrait du registre étranger.

Article 13. Si le bateau n'est pas encore immatriculé en Suisse ou si l'autorité de surveillance ordonne l'immatriculation en conformité de l'article 8, 3^e alinéa, l'Office fait une publication dans la Feuille officielle suisse du commerce, dans la Feuille officielle cantonale et dans un journal paraissant au précédent port d'attache ou, pour les bateaux nouvellement construits, au lieu de la construction. Cette publication contient, outre la description sommaire du bateau (nom, signes distinctifs, époque et lieu de construction, port d'attache, nom du propriétaire):

1. La sommation de déposer par écrit dans les vingt jours à l'Office les oppositions éventuelles à l'immatriculation.
2. La sommation à tous ceux qui prétendent posséder des droits réels sur le bateau ou des titres à la constitution de droits réels ou à l'inscription d'une annotation, de déclarer leurs droits par écrit dans les vingt jours à l'Office, en produisant leurs moyens de preuve, faute de quoi ils seront réputés avoir renoncé au droit réel ou à l'annotation.

¹ Actuellement « au Tribunal fédéral » en vertu de l'OJ (art. 99, ch. I, lettre c).

Une copie de la publication est communiquée sans retard et sous pli recommandé au constructeur, pour les bateaux nouvellement construits, ou aux ayants droit indiqués dans l'extrait du registre (art. 12, 3^e al.), pour les bateaux immatriculés à l'étranger.

Article 14. Lorsqu'il est fait opposition, l'Office somme le requérant et, dans le cas de l'article 8, le propriétaire du bateau de déclarer par écrit dans le délai de dix jours s'il admet l'opposition.

Si l'opposition est contestée, l'Office impartit à l'opposant un délai de dix jours pour requérir une décision de l'autorité de surveillance sur l'opposition, faute de quoi le bateau sera immatriculé.

S'il est fait opposition à l'immatriculation ordonnée par l'autorité de surveillance en conformité de l'article 8, l'Office se borne à soumettre le cas à l'autorité de surveillance.

L'autorité de surveillance prononce après avoir entendu le propriétaire du bateau; elle peut ordonner l'immatriculation provisoire.

Article 15. Lorsqu'il n'a pas été fait opposition ou que l'opposition a été définitivement écartée ou encore que l'autorité de surveillance a ordonné l'immatriculation provisoire, l'Office immatricule le bateau, en inscrivant les droits réels déclarés et les annotations.

Les nantissements, ainsi que les hypothèques constituées à l'étranger, sont convertis en hypothèques régies par la présente loi et inscrits comme telles. Sont également convertis les usufruits établis à l'étranger.

Lorsqu'un bateau est encore immatriculé à l'étranger, il en est fait mention au registre. Cette mention est radiée s'il est prouvé que le bateau a été radié du registre étranger.

Article 16. L'Office remet immédiatement au propriétaire du bateau, ainsi qu'à ceux qui ont requis l'inscription de droits réels ou d'annotations, une copie intégrale du feuillet du registre concernant le bateau.

S'il s'agit de réquisitions fondées sur des titres, l'Office impartit au propriétaire un délai de dix jours pour ouvrir action en contestation de ces droits, faute de quoi ils seront inscrits définitivement. En l'absence de titres, le propriétaire est sommé de se prononcer dans les dix jours sur le droit dont l'inscription est requise. S'il y a contestation, le requérant est tenu de faire valoir son droit en justice dans les dix jours, à défaut de quoi il sera réputé déchu de ce droit.

Toute personne se prétendant lésée par une inscription de l'Office en faveur d'un tiers, est tenue d'ouvrir action contre ce dernier dans les dix jours dès la communication de l'inscription.

Le juge du port d'attache connaît des actions prévues aux 2^e et 3^e alinéas du présent article.

Article 17. Tous les bateaux immatriculés sont pourvus d'une marque distinctive extérieure.

Le Conseil fédéral détermine la forme, les dimensions et l'emplacement de cette marque.

Article 18. Lorsqu'un bateau immatriculé en Suisse transfère son port d'attache dans un autre arrondissement, une nouvelle réquisition d'immatriculation n'est pas nécessaire.

Article 19. Lorsqu'un bateau immatriculé en Suisse transfère son port d'attache à l'étranger, déclaration doit en être faite sans retard à l'Office.

Cette déclaration est obligatoire pour l'aliénateur et l'acquéreur dans le cas d'aliénation contractuelle, et pour l'acquéreur s'il s'agit de dévolution successorale ou d'exécution forcée. L'article 7, 2^e et 3^e alinéas, est applicable.

Article 20. En cas de perte ou d'innavigabilité durable d'un bateau immatriculé, le propriétaire est tenu d'en faire sans retard la déclaration à l'Office. L'article 7, 2^e et 3^e alinéas, est applicable.

Article 21. Lorsqu'un bateau ne remplit plus les conditions de l'immatriculation obligatoire, en conservant toutefois son port d'attache suisse, il en est fait mention au registre.

Les inscriptions et annotations subsistent aussi longtemps que le propriétaire n'a pas fait usage du droit prévu à l'article 22.

Article 22. Les bateaux ne remplissant pas les conditions de l'article 4. peuvent en tout temps faire l'objet de la cancellation sur réquisition écrite du propriétaire, s'il n'existe pas d'inscriptions ou d'annotations ou si les titulaires d'inscriptions ou annotations donnent par écrit leur consentement à la cancellation.

53. Sweden

(a) MARITIME LAW OF 12 JUNE 1891.¹

Article 1. A ship shall be considered Swedish when it is either owned to the extent of two-thirds by Swedish subjects, or else is owned by a Joint Stock Company, the Board of Directors of which have their registered office in Sweden and the shareholders of which are Swedish subjects. The Managing Director shall always be a Swedish subject residing in Sweden. *Law of 27 April 1906.*

Article 2. A register shall be kept of all Swedish ships of 20 tons Register burden or upwards intended for use in merchant shipping or for the conveyance of passengers and shall contain for each such ship all the details which are deemed requisite for its identification, as well as information respecting the ownership, the nature of the acquist by the registered owner and the time when the ship was registered or when change of ownership was entered; and a certificate shall be issued to every ship when entered in the Register, and such certificate shall accompany the ship.

When an application for the registration of a ship is made, a certificate shall be produced showing when, where, and by whom the ship was built, or, in the event of the ship having been foreign property, it shall be proved that the right of the foreign owner has been transferred to the person requiring to be registered as owner thereof. On the registration of a ship a certain number shall be allotted to the ship, and that number may not subsequently be altered or allotted to any other ship. If a ship which has been removed from the Register is again entered therein, it shall retain its previous number. If notice is given of a change in the ownership of a ship entered in the Register, but if it is found that the alleged owner thereof cannot be entered in that capacity, an entry shall nevertheless be

¹ Text from Statute Book for Legations and Consulates (1937), pp. 105-152.

made in the Register setting forth his name, the nature of his acquest, and the date of the notice so given. No ship entered in the Register may be removed from the same except when the ship has been lost, or broken up, or otherwise destroyed, or may, in accordance with [article 258] be considered lost, or, after having sustained damage, is condemned, or has ceased to be Swedish.

Any owner of a Swedish ship which is not bound to be entered in the Register under the provisions hereinbefore made, who wishes to enter the same in the Register shall be entitled to do so; and if an application for the ship's entry is made, the provisions hereinbefore made with regard to ships which have to be registered shall be applicable.

Further directions as to how the Shipping Register shall be arranged and the registration shall take place will be issued by the King. *Law of 10 May 1901.*

Article 5. No share in a ship shall be transferred to any person who is not a Swedish subject without the consent of all the other part-owners, if owing to such transfer the ship would cease to be a Swedish ship; should the transfer take place, however, it shall be void, even though the share were sold in consequence of a legal seizure or in bankruptcy.

Should an alien through inheritance, will or marriage become a part-owner in a Swedish ship, or should any Swedish part-owner become the subject of a Foreign Power and should, in consequence of the acquest or the change in nationality the ship cease to be a Swedish ship, such part-owner shall then transfer to a Swedish subject such proportion of the ship as shall enable her Swedish nationality to be preserved. If within three months from the date of the acquest or change no such transfer has been made and duly notified to the proper authority where the ship is registered, or, if the ship is not registered, to all the other part-owners, any one of such other shareholders shall have the right to cause to be sold, for account of the owner, any such share in a ship which in the manner aforesaid has become the property of an alien. The sale shall be made by the bailiff of the place to which the ship belongs, in the manner prescribed for sale of ships seized for debt. *Law of 27 April 1906.*

(b) ORDINANCE OF 18 OCTOBER 1901 CONCERNING THE REGISTRATION OF SWEDISH VESSELS.¹

Article 1. The register of Swedish vessels mentioned in Article 2 of the Maritime Law shall be kept at the Board of Trade.

Article 7. After registration has been completed and an entry regarding the master made in the register, the Board of Trade has to issue a certificate (certificate of nationality and registration) in accordance with the annexed form (Form. B). If the application for registration was accompanied only by a provisional bill of measurement the certificate shall not be issued until a Swedish bill of measurement for the vessel has been produced.

¹ *Ibid.*, pp. 153-162.

This certificate shall be produced whenever such is demanded by a Swedish Civil or Military Authority or by a Swedish Consular Official.

No entry may be made on the certificate by the shipowner, master or any other private person. *Procl. of 8 May 1931.*

Article 8. § 1. A vessel which has been built in Sweden and has not been in foreign ownership and is of a register tonnage of twenty tons or more may not be used in mercantile navigation or for the conveyance of passengers until a certificate of nationality and registration has been issued to the vessel, except in the cases mentioned below in § 3. The provisions here enacted are also applicable with regard to a vessel of the tonnage just mentioned, if it has passed from foreign into Swedish ownership whilst lying in this Country.

§ 2. If a vessel of the tonnage mentioned in § 1 has been built abroad for Swedish account, or if a vessel of such tonnage, whilst abroad, has passed from foreign into Swedish ownership, the same law as that just mentioned shall apply after the vessel has entered a Swedish port. If, before such entry has been made, the owner wishes to use the vessel in mercantile navigation or for the conveyance of passengers otherwise than in Sweden, either direct or calling at only one intermediate shipping port, notice regarding that vessel shall be given to the Register in the manner and order prescribed in Articles 4 and 5 in the case of a vessel which has passed from foreign into Swedish ownership; but instead of a Swedish bill of measurement the foreign bill of measurement of the vessel may be produced or else a certificate regarding the rateable tonnage of the vessel in Swedish or foreign measurement issued by a Swedish Consul or other proper authority; the notice shall also contain a statement of the master's name, his domicile and any special qualification that he may possess for holding command on board a Swedish merchant vessel.

After the vessel has been entered in the register the Board of Trade shall issue a certificate to that effect (interim certificate of nationality and registration) valid for such time as the Board may decide in each separate case. If the vessel does not arrive within such specified time in a Swedish port, the Board of Trade shall have the right, after investigating the circumstances, to issue a new interim certificate for the vessel.

Where special circumstances give occasion thereto, the Board of Trade has the right, although the conditions previously prescribed for obtaining an interim certificate have not been complied with, to authorize a Swedish Consul, after having ascertained the alleged owner's legal right to the vessel, to issue an interim certificate for the same, which shall be valid for a certain time, at most six months, or until the vessel arrives in a Swedish port within the specified time.

§ 3. In special cases, and for very special reasons, and on those conditions which may in such cases be prescribed, the Board of Trade has the right to issue a certificate (interim evidence of nationality) to the effect that a vessel which is in this Country and is subject to registration may, even if it is not entered in the register, depart either to a certain other, or certain other Swedish ports or even to certain foreign port or ports and back to a Swedish port.

§ 4. An interim certificate, during the time it is valid, carries the same rights and privileges as a certificate of nationality and registration. The same law applies in the case of an interim evidence of nationality regarding the voyage set out therein.

(c) ORDINANCE OF 4 DECEMBER 1903 CONCERNING PASSPORTS AND NATIONALITY DOCUMENTS FOR SWEDISH FOREIGN-GOING VESSELS.¹

Article 1. A Swedish vessel of such description as necessitates being entered in the Shipping Register shall on its voyages to places outside Sweden carry, for confirmation of its nationality, not only a *certificate of nationality and registration*, or, in place thereof, a valid interim document of nationality but also a *crew-list*; all these documents being issued in conformity with specially enacted provisions to that effect.

No vessel of the above-mentioned description which is not provided with documents here prescribed may be cleared from a Swedish port.

54. Syrie

a) CODE DE COMMERCE MARITIME DU 12 MARS 1950².

TITRE PREMIER. DES NAVIRES

Chapitre premier. Définition du navire

Article 1. Sont considérés comme navires pour l'application du présent code tous bâtiments de mer, quelle que soit leur dénomination et quel que soit leur tonnage, aptes à entreprendre une navigation maritime, que cette navigation ait ou non un but lucratif.

Chapitre II. Nationalité et individualisation du navire

Article 2. Sont syriens, les navires de tout tonnage ayant un port syrien comme port d'attache et appartenant pour la moitié au moins à des citoyens syriens ou à des sociétés syriennes dont la majorité du Conseil d'administration et le Président du Conseil doivent être de nationalité syrienne.

Article 3. Sont assimilés aux navires syriens :

1° Les navires abandonnés en mer et recueillis par des navires battant pavillon syrien.

2° Ceux qui seront confisqués pour infraction aux lois syriennes.

Tous les navires désignés au présent article et à l'article précédent sont tenus de hisser le drapeau syrien au cours de voyage, compte tenu des dispositions du paragraphe 2 de l'article 16.

Chapitre III. L'immatriculation des navires et l'inscription des droits

Article 8. Il sera ouvert un registre matricule dans chacun des ports syriens que le Ministre compétent désigne et en fixe les limites.

Chacun des feuillets de ce registre sera numéroté et paraphé.

Le numéro du feuillet sera le numéro matricule du bâtiment auquel le feuillet sera exclusivement affecté.

Un navire est considéré comme appartenant au port dans lequel son propriétaire a son domicile réel ou élu.

¹ *Ibid.*, pp. 162-163.

² *Recueil des lois syriennes et de législation financière*, n° 4, avril 1950, Code de commerce maritime, p. 9.

Les navires appartenant à des services publics (Douanes, Police, Services quarantenaies, l'Etat, etc.) sont immatriculés à leur port de stationnement habituel.

Article 10. Les navires appartenant à des étrangers domiciliés en Syrie pourront y être immatriculés sur autorisation du Ministre compétent, si ces navires sont destinés à la navigation de plaisance ou à la circulation à l'intérieur d'un port syrien, à l'exclusion de toute autre navigation.

L'autorisation pourra être retirée en cas d'infraction aux règlements ou en cas de changement du propriétaire du navire. Elle sera retirée obligatoirement si le navire est utilisé à un autre mode de navigation que celui pour lequel il aura été immatriculé.

Les navires étrangers immatriculés dans un port syrien battent le pavillon de la nationalité de leur propriétaire, ou, s'ils ont plusieurs propriétaires, le pavillon de la nationalité de l'un d'eux.

Article 12. L'immatriculation a lieu dans l'un des ports mentionnés à l'article 8, à la suite de la déclaration écrite du propriétaire, faite devant le capitaine du port et deux témoins au moins. Il y indique la part qu'il possède dans le navire et le régime de sa propriété.

Lorsque le navire est la propriété d'une société, il appartient au représentant de cette société de faire en sa dite qualité la déclaration requise.

A l'appui de sa déclaration de propriété, le déclarant doit produire toutes pièces justificatives (acte d'achat, factures, etc.) ou offrir de faire entendre par le capitaine de port les témoins (entrepreneur de construction, ouvriers, etc.).

De tout ce qui précède, il est dressé procès-verbal signé par le déclarant, les témoins et le capitaine du port.

Article 16. L'immatriculation des navires doit avoir lieu dans les quinze jours qui suivent leur construction ou leur acquisition et, s'ils sont construits ou achetés à l'étranger, dans les quinze jours qui suivent leur entrée dans les eaux syriennes.

Le navire acquis ou construit à l'étranger peut naviguer, battant pavillon syrien, en attendant son immatriculation sur autorisation du représentant de l'Etat syrien au lieu de l'achat ou de la construction, sur déclaration d'acquisition du navire, avec documents à l'appui.

Article 17. En cas de vente du navire à un étranger, ou s'il a été pris par l'ennemi ou a été brûlé ou perdu de quelque autre manière, le propriétaire au nom de qui le navire est inscrit est tenu de rapporter la copie du feuillet dudit navire au bureau du port d'immatriculation pour y être annulée en même temps que le feuillet du registre matricule, relatif à ce navire.

Cette remise doit être faite dans le délai de quinze jours si la perte ou la vente a eu lieu dans les eaux syriennes, dans le délai de trois mois, si la vente ou la perte a eu lieu à l'étranger.

TITRE V. DE LA RÉGLEMENTATION DU TRAVAIL MARITIME

Chapitre III. Obligations de l'armateur

Article 133. Pour le cabotage de port syrien à port syrien et pour la pêche sur la côte syrienne, l'armateur ne peut engager que des marins de nationalité syrienne.

Pour les voyages au long cours les deux tiers au moins de l'équipage doivent être de nationalité syrienne.

En ce qui concerne le personnel technique l'armateur pourra en cas de nécessité engager des capitaines, officiers ou mécaniciens de nationalité étrangère justifiant de brevets ou certificats au moins équivalents à ceux qui seront exigés des capitaines, officiers ou mécaniciens syriens par les services du Ministère des travaux publics.

b) LOI N° 185 DU 10 JUIN 1954¹.

Conditions d'immatriculation des navires palestiniens entrés dans les eaux syriennes au cours de 1948

Article 1. Contrairement aux dispositions de l'article 10 du Code de commerce maritime promulgué à la date du 12 mars 1950 est autorisée pour une seule fois seulement et au cours du délai d'un mois de la date de la présente loi, l'immatriculation des navires palestiniens entrés dans les eaux syriennes au cours de 1948 et ce dans les conditions suivantes :

1. Que les propriétaires des navires soient des palestiniens arabes ;
2. Qu'ils produisent un certificat délivré par les services douaniers établissant le paiement des droits de douane.
3. Que les propriétaires des navires produisent des documents établissant leur propriété de ces navires. (En cas de perte de ces documents, un certificat délivré par l'Office des réfugiés palestiniens arabes pourrait en tenir lieu.)

55. Thailand

SIAMESE VESSELS ACT B. E. 2481 (1938), ENACTED ON 7 APRIL B. E. 2482 (1939).²

CHAPTER I

Registration of Siamese vessels

Section 6. The registration of Siamese vessels under this Act shall be made by the Registrar of Vessels.

Section 7. A person, whether natural or juristic, shall be of Siamese nationality in order to own a vessel registered as a Siamese vessel.

If the owner is a partnership or limited company, it must be registered under the Siamese law, having its principal office in the Kingdom of Siam, and

¹ *Ibid.*, n° 6, juin 1954.

² *Thailand, Law on navigation in Siamese waters with ministerial regulations and the Siamese Vessels Act*, Bangkok.

1. In case of an ordinary partnership, all partners shall have Siamese nationality;

2. In case of a limited partnership all partners jointly and unlimitedly liable shall have Siamese nationality, and not less than seventy per cent of its capital shall be owned by natural persons having Siamese nationality;

3. In case of a limited company, the majority of its directors shall have Siamese nationality and not less than seventy per cent of its capital shall be owned by natural persons having Siamese nationality, and the regulations of such company shall not permit the issue of shares to bearer.

Section 8. The following vessels, upon being registered under this Act, shall be deemed Siamese vessels:

For trading in Siamese waters:

1. Mechanically-propelled vessels of ten tons gross or upwards;
2. Sea vessels, not mechanically-propelled, of twenty tons gross or upwards;
3. River vessels, not mechanically-propelled, of fifty tons gross or upwards;

For fishing:

1. Mechanically-propelled vessels of every size;
2. Vessels, not mechanically-propelled, of six tons gross or upwards.

Section 9. Vessels owned by any person under Section 7 of the tonnage prescribed in the foregoing section which are not made use of as provided in Section 47 and vessels owned by any person under Section 7 under the tonnage prescribed in the foregoing section which are used for trading in Siamese waters or fishing, as the case may be, are not required to be registered under this Act.

Vessels herein referred to shall be deemed likewise to be Siamese vessels.

Section 10. In applying for registration of a vessel as a Siamese vessel, the applicant shall:

1. Produce a declaration of ownership in the form prescribed by the Harbour Department;
2. Make a declaration that the conditions regarding the acquisition of ownership as provided in Section 7 have been fulfilled and produce evidence to substantiate the said declaration; if the applicant is a partnership or limited company, it shall produce a certificate of registration of such partnership or company;
3. Produce a certificate of survey issued by a surveyor of the Harbour Department under Section 12;
4. Produce a statement showing, so far as possible, the date when and the place where the vessel was completed;
5. State the previous name of the vessel if it formerly belonged to an alien;
6. State the name of the person in charge of the vessel.

Section 14. A register for Siamese vessels shall be kept in the form prescribed by the Harbour Department and shall contain the following particulars:

1. The name of the vessel, the name of her port of registration and the name of the person in charge of the vessel;

2. The class of the vessel, the name of the dock where the vessel was built, and the name of the owner of the dock;
3. The details of survey;
4. Particulars relating to the acquisition of the vessel as shown in the declaration of ownership;
5. The name, residence and occupation of the registered owner.

In case of a partnership or limited company the names and residences of the manager or directors shall be included in the register.

Section 15. The port at which a vessel has been registered as a Siamese vessel shall be her port of registration.

CHAPTER VI

Special rights and duties of Siamese vessels

Section 47. Unless otherwise governed by international agreements, only Siamese vessels registered under this Act and vessels under the tonnage prescribed in Section 8 used for trading in Siamese waters belonging to persons specified by Section 7, may trade in Siamese waters.

The provisions of the foregoing paragraph shall not apply to vessels below the tonnage prescribed in Section 8 used for trading in Siamese waters which are owned by natural persons who are aliens.

Section 49. A registered Siamese vessel while in use shall have on board the following documents—

1. Certificate of registration or provisional certificate of registration, as the case may be.
2. Crew contract.
3. Ship charter, if any.
4. Consignment notes, if any.
5. Ship manifest.
6. Log book.
7. Clearance and Port clearance, if any.

The Minister shall have the power to exempt, by way of issuing Ministerial Regulations, from the requirement to have on board the vessel the above mentioned documents, with the exception of the certificate of registration or the provisional certificate of registration, as the case may be.

The above documents may be used as proof of the nationality of the vessel. The language and form of such documents, if not already dealt with in this Act, shall be in accordance with Ministerial Regulations.

Section 50. The number of the crew of a Siamese vessel for trading in Siamese waters shall not be less than the number fixed by the Harbour Master, and no less than seventy five per cent of such crew shall have Siamese nationality.

Moreover, the crew of the Siamese vessel above referred to must have the qualification and standard of knowledge required by Ministerial Regulations.

Section 51. Only Siamese vessels are entitled to fly the Siamese flag. Any vessel, not being a Siamese vessel, which flies the Siamese national

flag in order to pass as a Siamese vessel, shall be deemed to have violated this Act.

Section 54. A vessel belonging to any person as provided in Section 7 which should be registered as a Siamese vessel under this Act, but which has not been so registered, or a vessel which has ceased to be registered as a Siamese vessel for reasons mentioned in Section 22, shall not be entitled to any of the benefits enjoyed by Siamese vessels under this Act, but in so far as payment of fees, liability to fines and forfeiture, and punishment for offences committed on board or by her crew are concerned, such vessel shall be dealt with in the same manner as if she were a registered Siamese vessel.

56. Turkey

(a) COMMERCIAL CODE OF 13 MAY 1929.¹

Article 1044. Any part-owner of a ship may, at any time and without the consent of the other part-owners, transfer all or part of his share. A sale of a share in a ship as a result of which the ship would cease to be entitled to wear the Turkish flag may not be made without the consent of all the part-owners.

Article 1459. Every Turkish ship shall wear the Turkish flag. A ship owned exclusively by Turkish citizens shall be Turkish.

An alien may not own the whole or any part of a Turkish ship.

Article 1460. If a part-owner of a ship loses Turkish citizenship, or if the share of a Turkish citizen passes to an alien otherwise than by sale, the ship may continue to wear the Turkish flag for one year. The former part-owners may, however, after the expiry of six months apply to the shipping registry for the sale of that share by public auction. If a majority of the part-owners so request, the registry shall order the sale. The number of votes shall be proportional to the number of shares. The former part-owners may also participate in the auction.

The ship may be sold only to a Turkish citizen.

The foregoing provisions shall apply only if the former part-owners own at least two-thirds of the shares.

Article 1461. Shipping registers shall be kept for Turkish ships in all places where the Government may deem necessary to do so.

Article 1465. Before a ship may be entered in the register it shall be entitled to wear the Turkish flag, and the legal facts and relations referred to in article 1464 shall have been established. If the official survey has not yet taken place in Turkey, the tonnage of the ship shall be entered in the register in virtue of a survey certificate issued by a foreign authority or of any other certified document.

Article 1466. The shipping registry shall draw up a certificate in accordance with the ship's entry in the register. The certificate shall also contain

¹ *Resmî gazete* No. 1197, 20 May 1929. Translation by the United Nations Secretariat.

a statement that the requirements of article 1464 have been satisfied and that the ship is entitled to wear the Turkish flag.

Article 1467. The certificate shall constitute evidence that the ship is entitled to wear the Turkish flag. The Turkish flag may not be worn until the certificate has been issued.

The certificate or a copy thereof endorsed by the shipping registry shall always be kept on board during a voyage.

Article 1468. If a ship becomes when abroad entitled to wear the Turkish flag because it is the property of a Turkish citizen, a flag certificate issued by the Turkish consul shall take the place of the ship's certificate.

The flag certificate may be used for one year only from the date on which it was issued. After the expiry of that period it may be used only if the voyage is prolonged by reason of unavoidable circumstances.

Article 1469. . .

The ship's name may not be changed without leave of the President of the Council of Ministers. If the ship is wrecked and beyond repair, or ceases to be entitled to wear the Turkish flag, it shall be erased from the register and the ship's certificate shall be cancelled.

In the event of a change of home port the shipping registry shall forward the register entry and copy of the certificate to the shipping registry of the new port, which shall make the new entry.

. . .

Article 1472. A ship of gross capacity not exceeding 50 cubic metres may wear the Turkish flag even though it is not registered and does not possess a ship's certificate.

. . .

Article 1482. The provisions of this Code shall apply to yachts, training ships and ships built in Turkey for a foreign country or an alien.

They shall also apply to ships not gainfully employed in sea transport.

. . .

(b) REGISTRATION OF TURKISH SHIPS ORDER, No. 11,045 of 18 MAY 1931. ¹

Article 1. In pursuance of article 1461 of the Commercial Code,² a shipping registry shall be established in each of (certain) ports . . . and shall be under the direction of the port officer.

. . .

Article 3. . . Where a ship is purchased abroad by a Turkish national the competent Turkish consulate shall, in accordance with article 1468 of the Act, issue a flag certificate and forthwith notify the Ministry of Economy accordingly. An owner or joint owner whose vessel is permitted to sail during the statutory period by virtue of a flag certificate without a ship's certificate shall on the expiry of that period elect a home port and exchange the flag certificate for a ship's certificate.

. . .

Article 6. . . A ship shall not be permitted to sail unless the procedure of its registration has been completed. . .

. . .

¹ *Resmî gazete*, No. 1806, 26 May 1931. Translation by the Secretariat of the United Nations.

² *Supra*.

Article 12. If a ship is ascertained to be wrecked or beyond repair or to have ceased to be entitled to wear the Turkish flag, it shall be erased from the register and its certificate cancelled; and an announcement to that effect shall be published in a single issue of the Official Gazette.

Article 15. A ship in respect of which the registration procedure prescribed for ships in Turkish waters has been carried out but for which no ship's certificate has been obtained may not wear the Turkish flag.

57. Union of South Africa

MERCHANT SHIPPING ACT NO. 57 OF 1951.¹

CHAPTER II

Recording, registering and licensing of ships

20. (1) On the first registry of a ship in the Union the owner shall produce—

(a) A declaration of ownership, in the prescribed form;

(b) In the case of a ship built elsewhere than in the Union, a certificate signed by the builder and containing a true account of the size and dimensions and the tonnage of the ship as estimated by the said builder, and of the time when and the place where she was built, and of the name of the person on whose account she was built, unless the person who makes the declaration of ownership declares that the time and place of building are unknown to him, or that the builder's certificate cannot be obtained, in which case there shall be required only the deed of sale under which the ship became vested in the applicant for registry;

(c) If there has been any sale, the deed of sale under which the ship has been vested in the applicant for registry;

(d) In the case of a ship that has been forfeited, an official copy of the notice of forfeiture.

(2) The builder of a ship shall not within the Union refuse or omit upon request by the owner to grant the certificate required by this section.

(3) The proper officer may demand proof of ownership of the ship to his satisfaction before proceeding with the registry of the ship.

23. On completion of the registry of a ship, the proper officer shall grant a certificate of registry in the prescribed form, containing the particulars respecting the ship entered in the register in accordance with section *twenty-one* and stating the name of her master.

28. (1) Whenever a change occurs in the registered ownership of a South African ship, such change of ownership shall be endorsed on the certificate of registry by the proper officer at the ship's port of registry, or by the proper officer at any other port at which the ship arrives after such officer has been advised of the change by the proper officer at the ship's port of registry.

¹ Text of Act provided by the Permanent Delegation of the Union of South Africa.

(2) If a change of ownership of a South African ship occurs when the ship is at her port of registry, the master shall, for the purpose of endorsement in terms of sub-section (1), deliver the certificate of registry to the proper officer immediately after such change of ownership takes place, or upon the ship's return to that port, if the change occurs during the absence of the ship from that port and no endorsement in terms of sub-section (1) has been made by a proper officer at some other port.

(3) The proper officer at any port who is by this section required to make an endorsement on the certificate of registry of a South African ship, may require the master to produce such certificate forthwith.

29. (1) In the event of a South African ship being either actually or constructively lost, taken by the enemy, burnt or broken up, or ceasing to be a South African ship by reason of transfer to a person not qualified to own a South African ship or for any other cause, the registered owner of the ship or of any share in the ship shall immediately on obtaining knowledge of the event report the particulars thereof to the proper officer at the port of registry of the ship, who shall record such particulars in the register and the registry of the ship in that register shall be considered closed, except in respect of any unsatisfied mortgages or existing certificates of mortgage entered therein.

(2) In any such case, except where the ship's certificate of registry is lost or destroyed, the master of the ship shall immediately, if the event occurs in port, or within three days after his arrival in port, if it occurs elsewhere, deliver the certificate to the proper officer, and that officer shall forthwith forward the certificate to the proper officer at the port of registry of the ship.

(3) If the registry of a ship is considered closed in terms of sub-section (1) by reason of its transfer to a person not qualified to own a South African ship, and if the ship thereafter comes within the area of jurisdiction of any court in the Union or in any other part of the Commonwealth which has jurisdiction to give judgment upon any unsatisfied mortgage entered in the register, and to order that the ship be sold in execution of the judgment, or which would have had such jurisdiction if the transfer of the ship had not been made, the court may exercise such jurisdiction notwithstanding the transfer of the ship, without prejudice, in a case in which the ship has been sold under a judgment of a court, to the effect of that judgment.

(4) For the purposes of sub-section (1) a ship shall be deemed to be constructively lost if—

(a) She is reasonably abandoned on account of her actual total loss appearing to be unavoidable; or

(b) She cannot be preserved from actual total loss without an expenditure which would exceed her value when the expenditure had been incurred; or

(c) She has been so damaged that the cost of repairing the damage would exceed her value when repaired.

30. (1) If at a port outside the Union a ship becomes the property of a person qualified to own a South African ship, and if that person declares to the proper officer at that port that it is his intention to apply to have her registered in the Union, the proper officer may grant to the master of the ship, on application by him, a provisional certificate stating—

(a) The name of the ship;

(b) The time and place of her purchase, and the name and address of the purchaser;

(c) The name of the master; and

(d) The best particulars respecting the tonnage, build, and description of the ship which he is able to obtain, and shall forward a copy of the certificate at the first convenient opportunity to the Director.

(2) A provisional certificate issued in terms of sub-section (1) shall be deemed to be a certificate of registry until the expiry of six months from the date on which it was issued, or until the ship's arrival at a port of registry in the Union, whichever is the earlier date, but shall thereafter have no effect.

31. Whenever by reason of special circumstances it appears desirable to the Director that permission should be granted to a ship which, in terms of this Act, is entitled to be registered in the Union, or, in terms of the laws in force in any other part of the Commonwealth is entitled to be registered in that part to proceed to sea without being previously registered, he may authorize the granting or a pass in the prescribed form for the ship to be taken from any port in the Union to any other port in the Union or, as the case may be, to any port in that other part of the Commonwealth, and that pass shall for the time and within the limits therein mentioned be deemed to be a certificate of registry.

32. (1) When a South African ship is so altered that she does not correspond with the particulars contained in the register relating to her tonnage or description, the proper officer at the port where the alteration is made, or, if the alteration is not made at a port, the proper officer at the first port at which the ship afterwards arrives, shall, on application, and on receipt of a certificate from a surveyor stating the particulars of the alteration, either cause the alteration to be registered or direct that the ship be registered anew.

(2) If a proper officer directs that a ship be registered anew, the owner of the ship shall forthwith make application for registry anew of the ship.

(3) For the purpose of the registry of an alteration in a ship the ship's certificate of registry shall be produced to the proper officer who shall in his discretion either retain the certificate of registry and grant a new certificate of registry containing a description of the ship as altered, or endorse particulars of the alteration on the existing certificate.

(4) The particulars of the alteration and the fact that a new certificate has been granted or an endorsement made shall be entered in the register by the proper officer at the ship's port of registry, and for that purpose the proper officer to whom the application for the registry of the alteration has been made (if he is not the proper officer at the ship's port of registry) shall forthwith report to the last-mentioned officer the particulars and facts of the case, accompanied, where a new certificate of registry has been granted, by the old certificate of registry.

. . .

37. If a ship has ceased to be registered as a South African ship by reason of having been wrecked or abandoned, or for any other reason except capture by the enemy or transfer to a person not qualified to own a South African ship, the ship shall not be re-registered until she has at the expense

of the applicant for registration been inspected by a surveyor and certified by him to be seaworthy.

43. (1) When ownership of a South African ship or share therein is transmitted on marriage or death or otherwise to a person not qualified to own a South African ship, that person may apply to the Director for an order directing that the property be sold and the proceeds of the sale, after deduction of the expenses thereof, be paid to him.

(2) The application shall be made in the form and manner prescribed, and shall be accompanied by proofs of the applicant's claim.

(3) Upon any such application being made to him, the Director shall direct that notice of the application be published in the *Gazette* and in such newspapers and be served upon such persons as he may determine. The notice shall be in a form approved by the Director and shall call upon all persons who may object to the order being made to lodge their objections in writing with the Director within a period determined by him and mentioned in the notice.

(4) Upon proof of the due publication and service of the notice, the Director shall, if no objection in writing has been lodged with him within the period mentioned in the notice, and if he is satisfied of the justice of the applicant's claim, make the order applied for.

(5) If objection in writing is lodged with the Director within the period mentioned in the notice, or if he is not satisfied of the justice of the applicant's claim, he shall refuse to make the order.

(6) If the Director refuses to make the order, the applicant may apply to the superior court within whose area of jurisdiction the port of registry of the ship is situated for such an order as is referred to in sub-section (1).

(7) The court may make the order on any terms and conditions it thinks fit, or may refuse to make the order, or generally may do what it considers best in the interests of the justice of the case.

(8) Every such application to the Director shall be made within thirty days after the date on which the event occurred on which the transmission took place, and every such application to the court shall be made within thirty days after the refusal by the Director to make the order. The court may allow an extension of the time (not exceeding in all one year from the said date) within which the application to the Director or the court^o must be made.

(9) If such application is not made within the time fixed by or extended under sub-section (8), or if the court refuse an order for sale, the ship or share transmitted shall be liable to forfeiture.

63. (1) An officer of customs shall not grant a clearance for any ship until the master of the ship has declared to that officer the name of the country to which he claims the ship belongs, and that officer shall thereupon inscribe that name on the clearance.

(2) If a ship attempts to proceed to sea without such clearance, it may be detained by the officer of customs until the declaration is made.

64. The following classes of ships shall be recognized as ships of South African nationality, to wit:

(a) Any ship registered under this Act;

(b) Any ship which in terms of section *fourteen* or sub-section (2) of section *thirty* is deemed to be registered under this Act;

- (c) Any ship licensed under this Act;
- (d) Any ship (other than a ship referred to in paragraphs (a), (b) or (c) which is owned by the Government of the Union; and
- (e) Any pleasure yacht of less than twenty-five gross tons—
 - (i) The whole of which is owned by persons all of whom in terms of section *eleven* are qualified to own a South African ship; and
 - (ii) The majority of the owners of which, either in number or extent of ownership, are persons resident in the Union.

CHAPTER IV

Engagement, discharge, repatriation, payment, discipline and general treatment of seamen, cadets and apprentice-officers

102. (1) The master of every South African ship of more than one hundred gross register tons shall, and the master of every other South African ship may, enter into an agreement (in this Act called the agreement with the crew) with every seaman whom he engages to serve in that ship: Provided that the proper officer may refuse to allow the engagement of a seaman—

(a) Who has not completed any period of pre-sea training that may be prescribed; or

(b) Who does not possess a knowledge of one of the official languages of the Union sufficient to enable him to understand fully any necessary orders given him in that language in the performance of his duties.

58. Union of Soviet Socialist RepublicsMERCHANT SHIPPING CODE, No. 366 OF 14 JUNE 1929.¹

INTRODUCTORY PROVISIONS

1. The term "vessel" for the purposes of the present code includes—

(a) Seagoing vessels (merchant vessels) engaged in carrying freight or passengers, exploiting fisheries and other sea resources, assisting vessels in distress at sea, raising sunken property or towing other vessels;

(b) Seagoing vessels on special government service (icebreakers, tug-boats and other floating harbour installations, vessels used exclusively for lifesaving purposes or for the protection of fisheries, revenue cutters, quarantine boats, cable ships, training ships, etc.);

(c) Seagoing vessels used exclusively for scientific purposes;

(d) Seagoing vessels used for sports and other purposes not governed by paragraphs (a), (b) or (c) of this article.

2. The present Code, except Annexes V, VI and IX, shall not apply to warships.

3. For the purposes of this Code a person exploiting a vessel on his own behalf shall be deemed to be a shipowner, whether or not he actually owns the vessel or exploits it by agreement with its owner or on any other lawful ground.

¹ *Sobraniye Zakonov*, 1929, No. 41, p. 766. Translation by the Secretariat of the United Nations.

4. The rules set forth in the present Code shall apply as follows—

(a) The rules contained in Chapter II (on vessels) except article 36, Chapter III (on crew of vessel. . .) shall apply to vessels wearing the flag of the USSR;

When, by virtue of this article, the rules of the Merchant Shipping Code are not applicable, Courts of the USSR and of Union Republics may apply foreign law so far as it is not inconsistent with the principles of the Soviet régime.

5. Provisions governing the application of foreign law may be included in contracts covered by the present Code to the extent to which the parties may depart from the rules laid down in the Code.

CHAPTER II. VESSELS

A. *The right to wear the flag of the USSR and the right to own vessels*

6. The right to wear the flag of the USSR shall be granted to vessels owned by—

(a) The USSR, the Union Republics and their constituent republics, local councils, and State institutions and undertakings with legal personality;

(b) Co-operative organizations which are part of a co-operative system, and other co-operative organizations all the members of which are citizens of the USSR, provided in both cases that the governing body is in the territory of the USSR;

(c) Joint enterprises (share companies and limited liability companies), provided that foreign capital has no interest therein and that all the members of the governing body and of other executive organs and the managing directors are citizens of the USSR;

(d) Share companies and companies set up for the purpose of engaging in trade or other business activities, provided that foreign capital has no interest therein and that all the members of the governing body and of other executive organs and the managing directors are citizens of the USSR;

(e) Soviet public organizations performing specific State and public duties under a statute;

(f) Trade union organizations of the USSR;

(g) Non-profit-making companies operating under special statutes of the USSR or of Union Republics, provided that all their members are citizens of the USSR or Soviet bodies corporate and that all the members of their executive organs are citizens of the USSR and that their managements are in the territory of the USSR;

(h) Citizens of the USSR.

The Council of People's Commissars of the USSR may enact exceptions to the rules of this article.

7. Citizens of the USSR, the bodies corporate defined in article 6, paragraphs (d), (f) and (g), and co-operative organizations serving an area smaller than a district may own only sailing vessels, with or without auxiliary power, vessels listed in paragraph (d) of article 1, or mechanically-powered vessels of gross burden not exceeding 20 register tons.

A vessel with machinery capable of propelling it in still water without the aid of sails at a speed not exceeding 6 knots is an auxiliary-powered sailing vessel.

8. Citizens of the USSR and co-operative organizations serving an area smaller than a district may own, in addition to the vessels defined in article 7, mechanically-powered vessels of gross burden exceeding 20 register tons, provided that these do not exceed, according to their survey certificates, 150 feet in length and that those citizens or members of co-operative organizations take part in the exploitation of the vessels by their own labour and do not possess other vessels.

9. The bodies corporate defined in article 6, paragraphs (a), (c) and (e), and co-operative organizations serving an area not smaller than a district (*okrug*), may own any kind of vessel of any tonnage.

10. All privately-owned vessels subject to nationalization under the decree of the Council of People's Commissars of the Russian Soviet Federated Socialist Republic of 26 January 1918 (Statute of the R.S.F.S.R. 1918, No. 19, page 290) and under the directive issued to give effect to that decree by the Higher Council of National Economy to the Chief Directorate of Water Transport on 18 May 1918, or under enactments of other Union Republics, shall be deemed to be nationalized, in whosesoever possession they may actually be, whether an authority has made an order therefor or not.

11. If an order of liquidation is made in respect of one of the bodies corporate defined in article 6, paragraphs (b), (c), (d), (e), (f) and (g), the USSR, acting by the People's Commissariat for Transport, may within six months from the date when such order is made by the competent organ purchase the vessels owned by the body at their real value, to be determined in case of dispute by a commission consisting of representatives of the People's Commissariat for Transport, the People's Commissariat for External and Internal Trade, and the People's Commissariat of the Workers' and Peasants' Inspection of the USSR.

12. If the owner of a vessel ceases to be a citizen of the USSR, or if title to a vessel passes by inheritance to a person not a citizen of the USSR, the USSR acting by the People's Commissariat for Transport may within six months acquire the vessel at its real value, to be determined in case of dispute in accordance with the procedure laid down in article 11.

13. If the owner of a vessel ceases to be a citizen of the USSR, or a share in a vessel passes by inheritance to a person not a citizen of the USSR, the co-owners who are citizens of the USSR may within three months acquire the share at a price to be mutually agreed upon or, in case of dispute, to be determined by a tribunal.

14. In a case to which articles 11 or 12 applies, the competent State institution or Court shall forthwith inform the People's Commissariat for Transport of any order of liquidation made in respect of a body corporate, and of the loss of USSR citizenship by a person, and of any transfer of title to a vessel by inheritance.

15. The right to wear the flag of the USSR shall be extinguished when the owner of a vessel ceases to satisfy the requirements of article 6.

In cases to which articles 12 and 13 apply, the right to wear the flag of the USSR shall be extinguished at the expiration of the time limits stated therein.

B. Registration of vessels at a port and their inclusion in the register of shipping.

16. A vessel entitled to wear the flag of the USSR (article 6) shall be registered at one of the commercial seaports of the USSR to be chosen by its owner.

Floating equipment (ship's boats etc.) which is part of the equipment of any vessel shall be exempt from registration.

The People's Commissariat for Transport may exempt from registration vessels belonging to the working population of the frontier regions of the USSR and not exploited for profit.

17. Vessels of burden not less than 20 register tons gross shall be entered in the register of shipping in addition to being registered at a port (article 16).

Vessels of burden less than 20 register tons gross may be entered in the register of shipping at the request of their owners.

Registers of shipping shall be kept by the authorities of the commercial seaports indicated in the list compiled by the People's Commissariat for Transport.

18. Each vessel shall be given a particular name, which may be changed only by the procedure prescribed by the People's Commissariat for Transport.

C. Ship's papers.

29. A vessel subject to entry in the register of shipping (article 17), except as provided by article 30, may not wear the flag of the USSR until it has been entered in that register and the owner has received a certificate of right to wear the flag of the USSR and a certificate of ownership.

A vessel not subject to entry in the register of shipping, except as provided in article 30, may not wear the flag of the USSR until the owner has received a ship's licence.

30. A vessel acquired abroad by a person entitled to own a vessel wearing the flag of the USSR shall be given by the consul of the USSR a temporary certificate of right to wear the flag of the USSR. The certificate shall be valid until the vessel has been registered at a port and, where required, entered in the register of shipping, but not longer than one year.

CHAPTER III *Crew of vessel*

Article 53. The crew of a vessel shall consist of citizens of the USSR; provided however that—

(a) The People's Commissariat for Transport, in agreement with the People's Commissariat for Foreign Affairs, the Unified State Political Department and the central committee of the water transport workers' trade union, may in exceptional circumstances include in a vessel's company, but not as master or first mate, an alien worker domiciled in the USSR;

(b) The People's Commissariat for Transport, in agreement with the central committee of the water transport workers' trade union, may permit local vessels engaged in minor coastal trade in the Far East under the flag of the USSR to be manned by foreign nationals;

(c) The master of a vessel may, with the consent of a consul of the USSR in a case where no suitably-qualified citizens of the USSR are available, complete his crew, except for radio observers, with foreign nationals; but the number of these shall not exceed one-quarter of the number of the crew, and their employment may not continue after the end of the voyage;

(d) While a vessel is navigating in tropical waters, the master may supplement the engine-room crew with a number of aliens not exceeding one-half its regular establishment.

In the cases to which paragraphs (c) and (d) of this article apply, former Russian citizens not admitted to citizenship of the USSR may be engaged as members of the crews of vessels only with the special permission in each case of a consul of the USSR.

Article 55. Where a contract is rescinded, the shipowner shall convey discharged persons who are citizens of the USSR to the port specified in the collective contract or, if no port is mentioned therein, then to the port where they were engaged, and provide them with full maintenance in cash and in kind until their return to the proper port. If the port where a discharged person was engaged is a foreign port, the shipowner shall convey him, at his request, either to the nearest port in the USSR or to the port where he was engaged and provide him with full maintenance until his arrival there.

Where a contract with an alien is rescinded the shipowner shall, in the absence of any provision to the contrary in the contract or in a special agreement, convey him to the port where he was engaged and provide him with full maintenance until his arrival there.

59. United Kingdom of Great Britain and Northern Ireland

MERCHANT SHIPPING ACT OF 25 AUGUST 1894¹ (57 & 58 VICT. c. 60).

An Act to consolidate Enactments relating to Merchant Shipping.

PART I. REGISTRY

Qualification for owning British ships

1. A ship shall not be deemed to be a British ship² unless owned wholly by persons of the following description (in this Act referred to as persons qualified to be owners of British ships); namely,

¹ *Temperley's Merchant Shipping Acts*, Fifth Ed., London, 1954, p. 3.

² . . . The term "*British ship*" is not defined in the Act. It would seem, however, that, unless she is employed by a government under letters of marque, the nationality of the owners is generally the criterion of the nationality of a vessel, at any rate so far as regards the duties and liabilities of her owners and persons belonging to her. Hence, a British-owned ship is a British ship for such purposes, even if she is not registered in this country, or if she is registered in, and carries the flag of, a foreign country. . .

Where a vessel is registered as a British ship, she cannot divest herself of her national character and the liabilities attached to it, except by ceasing to be owned wholly by persons qualified to be owners of British ships and thereupon closing her British register. . .

(a) . . . British subjects: ¹

(d) Bodies corporate ² established under and subject to the laws of some part of Her Majesty's dominions, and having their principal place of business in those dominions: ³

Obligation to register British ships

2. (1) Every British ⁴ ship shall, unless exempted from registry, be registered under this Act.

(2) If a ship required by this Act to be registered is not registered under this Act she shall not be recognised as a British ship.

(3) A ship required by this Act to be registered may be detained until the master of the ship, if so required, produces the certificate of the registry of the ship.

3. The following ships are exempted from registry under this Act—

¹ "*British subjects*". Before the amendment introduced by the British Nationality Act, 1948, the words used were "*natural-born British subjects*". This term was previously defined by s. 1 of the British Nationality and Status of Aliens Act, 1914 (as amended by Acts of 1918, 1922, 1933 and 1943); but these enactments have now, with immaterial exceptions, been repealed by the British Nationality Act, 1948, which does not recognise the term "*natural-born British subjects*". The term "*British subject*", which is now used in this section, includes those who have become British subjects by naturalisation. The present definition, if definition it can properly be called, of "*British subject*" will be found in s. 1 of the British Nationality Act, 1948. The status of British subject (or, in the elegant alternative phrase offered by the Act, "*Commonwealth citizen*") is dependent on citizenship either of the United Kingdom and Colonies (regarded for this purpose as a single unit) or of Canada, Australia, New Zealand, the Union of South Africa, Newfoundland (now part of Canada), India, Pakistan, Southern Rhodesia or Ceylon. The assumption is that each of these territories within the British Commonwealth will enact (if it has not already enacted) legislation defining its own "*citizenship*", and that anyone who is a local citizen *qua* any part of the British Commonwealth will be a British subject (or, if the title be preferred a "*Commonwealth citizen*") *qua* the whole of the Commonwealth. For the conditions of qualification for citizenship of the United Kingdom and colonies, reference should be made to ss. 4 to 18 of the Act. It may also be mentioned that there are special provisions in s. 2 of the Act to enable citizens of Eire (now Republic of Ireland) who desire to do so to continue their status as British subjects, provided they satisfy certain conditions. There are also provisions in the Act (see s. 3(2)) and in the Ireland Act, 1949 (see s. 3(2) and s. 4), the general effect of which is to place citizens of the Republic of Ireland (formerly Eire) and Irish ships in the same position under the M. S. Acts as British subjects and British ships respectively.

² . . . In deciding whether a British registered company is qualified to own a British ship, the nationality of the individual shareholders is for the purpose of this Act immaterial . . . The real criterion for the purpose of this Act is where "*the principal place of business*" is. This is in each case a question of fact which generally falls to be determined by an inquiry into the *locality of the control of the business of the company*. . . .

³ The rest of the section was repealed by the British Nationality Act, 1948, with effect from January 1, 1949.

⁴ . . . A ship built in England to be delivered to a foreign purchaser at a foreign port, was held not to be a British ship so as to require to be registered, although being undelivered it was still the property of a British subject. . . .

(1) Ships not exceeding fifteen tons burden employed solely in navigation on the rivers or coasts of the United Kingdom,¹ or on the rivers or coasts of some British possession² within which the managing owners of the ships are resident;

(2) Ships not exceeding thirty tons burden and not having a whole or fixed deck, and employed solely in fishing or trading coastwise on the shores of Newfoundland or parts adjacent thereto, or in the Gulf of St. Lawrence, or on such portions of the coasts of Canada as lie bordering on that gulf.

3. The following ships are exempted from registry under this Act—

(1) Ships not exceeding fifteen tons burden employed solely in navigation on the rivers or coasts of the United Kingdom, or on the rivers or coasts of some British possession within which the managing owners of the ships are resident:

(2) Ships not exceeding thirty tons burden and not having a whole or fixed deck, and employed solely in fishing or trading coastwise on the shores of Newfoundland or parts adjacent thereto, or in the Gulf of Saint Lawrence, or on such portions of the coasts of Canada as lie bordering on that gulf.

Procedure for registration

4. (1) The following persons shall be registrars of British ships—

(a) At any port in the United Kingdom, or Isle of Man, approved by the Commissioners of Customs for the registry of ships, the chief officer of customs:

(b) In Guernsey and Jersey, the chief officers of customs together with the governor;

(c) In Malta and Gibraltar, the governor;

(d) At Calcutta, Madras, and Bombay, the port officer;

(e) At any other port in any British possession approved by the governor of the possession for the registry of ships, the chief officer of customs; or, if there is no such officer there resident, the governor of the possession in which the port is situate, or any officer appointed for the purpose by the governor;

(f) At a port of registry established by Order in Council under this Act, persons of the description in that behalf declared by the Order.

(2) Notwithstanding anything in this section Her Majesty may by Order in Council declare, with respect to any British possession named in the Order, not being the Channel Islands or the Isle of Man, the description of persons who are to be registrars of British ships in that possession.

(3) A registrar shall not be liable to damages or otherwise for any loss accruing to any person by reason of any act done or default made by him in his character of registrar, unless the same has happened through his neglect or wilful act.

5. Every registrar of British ships shall keep a book to be called the register book, and entries in that book shall be made in accordance with the following provisions—

¹ "United Kingdom" here includes the Republic of Ireland.

² "British possession". This expression is defined by the Interpretation Act, 1889, s. 18(2) as "any part of Her Majesty's dominions exclusive of the United Kingdom".

As to powers of colonial legislatures to alter provisions of this Act and to regulate coasting trade and for special position of dominions. . . .

- (i) The property in a ship shall be divided into sixty-four shares;
- (ii) Subject to the provisions of this Act with respect to joint owners or owners by transmission, not more than sixty-four individuals shall be entitled to be registered at the same time as owners of any one ship; but this rule shall not affect the beneficial title of any number of persons or of any company represented by or claiming under or through any registered owner or joint owner;
- (iii) A person shall not be entitled to be registered as owner of a fractional part of a share in a ship; but any number of persons not exceeding five may be registered as joint owners of a ship or of any share or shares therein:

12. On the registry of a ship the registrar shall retain in his possession the following documents: namely, the surveyor's certificate, the builder's certificate, any bill of sale of the ship previously made, the copy of the condemnation (if any), and all declarations of ownership.

13. The port at which a British ship is registered for the time being shall be deemed her port of registry and the port to which she belongs.

Certificate of registry

14. On completion of the registry of a ship, the registrar shall grant a certificate of registry comprising the particulars respecting her entered in the register book, with the name of her master.

16. If the master or owner of a ship uses or attempts to use for her navigation a certificate of registry not legally granted in respect of the ship, he shall, in respect of each offence, be guilty of, a misdemeanour, and the ship shall be subject to forfeiture under this Act.

17. The registrar of the port of registry of a ship may, with the approval of the Commissioners of Customs, and on the delivery up to him of the certificate of registry of a ship, grant a new certificate in lieu thereof.

22. (1) If at a port not within her Majesty's dominions and not being a port of registry established by Order in Council under this Act, a ship becomes the property of persons qualified to own a British ship, the British consular officer there may grant to her master, on his application, a provisional certificate, stating—

- (a) The name of the ship;
 - (b) The time and place of her purchase, and the names of her purchasers;
 - (c) The name of her master; and
 - (d) The best particulars respecting her tonnage, build, and description which he is able to obtain;
- and shall forward a copy of the certificate at the first convenient opportunity to the Registrar-General of Shipping and Seamen.

(2) Such a provisional certificate shall have the effect of a certificate of registry until the expiration of six months from its date, or until the ship's arrival at a port where there is a registrar (whichever first happens), and on either of those events happening shall cease to have effect.

23. Where it appears to the Commissioners of Customs, or to the governor of a British possession, that by reason of special circumstances it

would be desirable that permission should be granted to any British ship to pass, without being previously registered, from any port in Her Majesty's dominions to any other port within Her Majesty's dominions, the Commissioners or the governor may grant a pass accordingly, and that pass shall, for the time and within the limits therein mentioned, have the same effect as a certificate of registry.

Transfers and transmissions

28. (1) Where the property in a registered ship or share therein is transmitted on marriage, death, bankruptcy, or otherwise to a person not qualified to own a British ship, then—

If the ship is registered in England or Ireland, the High Court; or

If the ship is registered in Scotland, the Court of Session; or

If the ship is registered in any British possession, the court having the principal civil jurisdiction in that possession; or

If the ship is registered in a port of registry established by Order in Council under this Act, the British court having the principal civil jurisdiction there;

may on application by or on behalf of the unqualified person, order a sale of the property so transmitted, and direct that the proceeds of the sale, after deducting the expenses thereof, be paid to the person entitled under such transmission or otherwise as the court direct.

National character and flag

68. (1) An officer of customs shall not grant a clearance or transire for any ship until the master of such ship has declared to that officer the name of the nation to which he claims that she belongs, and that officer shall thereupon inscribe that name on the clearance or transire.

(2) If a ship attempts to proceed to sea without such clearance or transire, she may be detained until the declaration is made.

69. (1) If a person uses the British flag and assumes the British national character on board a ship owned in whole or in part by any persons not qualified to own a British ship, for the purpose of making the ship appear to be a British ship, the ship shall be subject to forfeiture under this Act, unless the assumption has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.

(2) In any proceeding for enforcing any such forfeiture the burden of proving a title to use the British flag and assume the British national character shall lie upon the person using and assuming the same.

70. If the master or owner of a British ship does anything or permits anything to be done, or carries or permits to be carried any papers or documents, with intent to conceal the British character of the ship from any person entitled by British law to inquire into the same, or with intent to assume a foreign character, or with intent to deceive any person so entitled as aforesaid, the ship shall be subject to forfeiture under this Act; and the master, if he commits or is privy to the commission of the offence, shall in respect of each offence be guilty of a misdemeanour.

71. If an unqualified person acquires as owner, otherwise than by such transmission as herein-before provided for, any interest, either legal or

beneficial, in a ship using a British flag and assuming the British character, that interest shall be subject to forfeiture under this Act.

72. Where it is declared by this Act that a British ship shall not be recognised as a British ship, that ship shall not be entitled to any benefits, privileges, advantages, or protection usually enjoyed by British ships nor to use the British flag or assume the British national character, but so far as regards the payment of dues, the liability to fines and forfeiture, and the punishment of offences committed on board such ship, or by any persons belonging to her, such ship shall be dealt with in the same manner in all respects as if she were a recognised British ship.

APPLICATION OF PART I

91. This Part of this Act shall apply to the whole of Her Majesty's dominions, and to all places where Her Majesty has jurisdiction.

Powers of Colonial Legislature

735. (1) The Legislature of any British possession may by any Act or Ordinance, confirmed by Her Majesty in Council, repeal, wholly or in part, any provisions of this Act (other than those of the Third Part thereof which relate to emigrant ships), relating to ships registered in that possession; but any such Act or Ordinance shall not take effect until the approval of Her Majesty has been proclaimed in the possession, or until such time thereafter as may be fixed by the Act or Ordinance for the purpose.

(2) Where any Act or Ordinance of the Legislature of a British possession has repealed in whole or in part as respects that possession any provision of the Acts repealed by this Act, that Act or Ordinance shall have the same effect in relation to the corresponding provisions of this Act as it had in relation to the provision repealed by this Act.

736. The Legislature of a British possession may, by any Act or Ordinance, regulate the coasting trade of that British possession, subject in every case to the following conditions:

(a) The Act or Ordinance shall contain a suspending clause providing that the Act or Ordinance shall not come into operation until Her Majesty's pleasure thereon has been publicly signified in the British possession in which it has been passed;

(b) The Act or Ordinance shall treat all British ships (including the ships of any other British possession) in exactly the same manner as ships of the British possession in which it is made;

(c) Where by treaty made before the passing of the Merchant Shipping (Colonial) Act, 1869 (that is to say, before the thirteenth day of May, eighteen hundred and sixty-nine), Her Majesty has agreed to grant to any ships of any foreign State any rights or privileges in respect of the coasting trade of any British possession, those rights and privileges shall be enjoyed by those ships for so long as Her Majesty has already agreed or may hereafter agree to grant the same, anything in the Act or Ordinance to the contrary notwithstanding.

Exemption of Her Majesty's ships

741. This Act shall not, except where specially provided, apply to ships belonging to Her Majesty.

Definitions and provisions as to application of Act

742. In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say—

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

“Ship” includes every description of vessel used in navigation not propelled by oars;

“Master” includes every person (except a pilot) having command or charge of any ship;

“Seaman” includes every person (except masters, pilots, and apprentices duly indentured and registered), employed or engaged in any capacity on board any ship;

“Name” includes a surname;

“Port” includes place.

60. United States of America

(a) UNITED STATES CODE. ¹

TITLE 46. SHIPPING

CHAPTER 2. REGISTRY AND RECORDING

General provisions as to registry and documents

§ 11. *Vessels entitled to registry; coastwise trade; ocean mail service contracts*

Vessels built within the United States and belonging wholly to citizens thereof; and vessels which may be captured in war by citizens of the United States and lawfully condemned as prize, or which may be adjudged to be forfeited for a breach of the laws of the United States; and sea-going vessels, whether steam or sail, which have been certified by the Coast Guard as safe to carry dry and perishable cargo, wherever built, which are to engage only in trade with foreign countries, with the Islands of Guam, Tutuila, Wake, Midway, and Kingman Reef, being wholly owned by citizens of the United States or corporations organized and chartered under the laws of the United States, or of any State thereof, the president and managing directors of which shall be citizens of the United States, and no others, may be registered as directed in this chapter and chapters 3, 4, 5, 6, 7, 8, and 9 of this title. Foreign-built vessels registered pursuant to this section shall not engage in the coastwise trade: *Provided*, That such vessels so admitted under the provisions of this section may contract with the Postmaster General under act March 3, 1891, ch. 519, 26. Stat. 830, so long as such vessels shall in all respects comply with the provisions and requirements of said sections.

¹ *United States Code*, 1952 Edition, Title 46, United States Government Printing Office, Washington, 1953, pp. 6559-6740.

§ 12. *Provisional certificates of registry to vessels abroad*

Consular officers of the United States and such other persons as may from time to time be designated by the President for the purpose are authorized to issue provisional certificates of registry to vessels abroad which have been purchased by citizens of the United States, including corporations, as defined in section 11 of this title.

(a) Such a provisional certificate shall entitle the vessel to the privileges of a vessel of the United States in trade with foreign countries or with the islands of Guam and Tutuila until the expiration of six months from its date or until ten days after the vessel's arrival at a port of the United States, whichever first happens, and no longer. On arrival at a port of the United States the vessel shall become subject to the laws relating to officers, inspection, and measurement.

(b) The Commissioner of Customs shall prescribe the conditions in accordance with which such provisional certificates shall be issued and the manner in which they shall be surrendered in exchange for certificates of registry at ports of the United States.

(c) The form of such provisional certificate shall be prescribed by the Commissioner of Customs and shall include the name of the ship and of the master, time and place of purchase and names of purchasers, and the best particulars respecting her tonnage, build, description, and inspection or survey which the consular officer is able to obtain.

(d) Copies of such provisional certificates shall be forwarded as soon as practicable by the issuing officer to the Commissioner of Customs.

§ 13. *Foreign-built vessels admitted to American registry; coastwise trade*

All foreign-built vessels admitted to American registry, owned on February 1, 1920, by persons citizens of the United States, and all foreign-built vessels owned by the United States on June 5, 1920, when sold and owned by persons citizens of the United States may engage in the coastwise trade so long as they continue in such ownership, subject to the rules and regulations of such trade.

CHAPTER 11. OFFICERS AND CREWS OF VESSELS

§ 221. *Vessels of United States and officers defined; officers to be citizens*

Vessels registered pursuant to law and no others, except such as shall be duly qualified according to law for carrying on the coasting or fishing trade, shall be deemed vessels of the United States, and entitled to the benefits and privileges appertaining to such vessels; but no such vessel shall enjoy such benefits and privileges longer than it shall continue to be wholly owned by a citizen or citizens of the United States or a corporation created under the laws of any of the States thereof, and be commanded by a citizen of the United States. And all the officers of vessels of the United States who shall have charge of a watch, including pilots, shall in all cases be citizens of the United States. The word "officers" shall include the chief engineer and each assistant engineer in charge of a watch on vessels propelled wholly or in part by steam; and no person shall be qualified to hold a license as a commander or watch officer of a merchant vessel of the United States who is not a native-born citizen, or whose naturalization as a citizen shall not have been fully completed. In cases where on a foreign voyage, or on a voyage from an Atlantic to a Pacific port of the United

States, any such vessel is for any reason deprived of the services of an officer below the grade of master, his place, or a vacancy caused by the promotion of another officer to such place, may be supplied by a person not a citizen of the United States until the first return of such vessel to its home port; and such vessel shall not be liable to any penalty or penal tax for such employment of an alien officer.

CHAPTER 18. MERCHANT SEAMEN

Protection and relief

§ 672a. *Nationality of crews—(a) Officers and pilots*

From and after June 25, 1936, all licensed officers and pilots of vessels of the United States shall be citizens of the United States, native-born, or completely naturalized.

(b) Seamen

From and after six months after June 25, 1936, upon each departure of any such vessel from a port of the United States, 75 per centum of the crew, excluding licensed officers, shall be citizens of the United States, native-born, or completely naturalized, unless the Commandant of the Coast Guard shall, upon investigation, ascertain that qualified citizen seamen are not available, when, under such conditions, he may reduce the above percentages.

(c) Vacancies on foreign voyage

If any vessel while on a foreign voyage is for any reason deprived of the services of any member of the crew, such position or vacancy caused by the promotion of another to such position may be supplied by a person other than defined in paragraph (a) and (b) until the first call of such vessel at a port in the United States where such replacements can be obtained.

CHAPTER 23. SHIPPING ACT

§ 801. *Definitions*

When used in this chapter:

The term "person" includes corporations, partnerships, and associations, existing under or authorized by the laws of the United States, or any State, Territory, District, or possession thereof, or of any foreign country.

The term "vessel" includes all water craft and other artificial contrivances of whatever description and at whatever stage of construction, whether on the stocks or launched, which are used or are capable of being or are intended to be used as a means of transportation on water.

§ 802. *Corporation, partnership, or association as citizen*

(a) Within the meaning of this chapter no corporation, partnership, or association shall be deemed a citizen of the United States unless the controlling interest therein is owned by citizens of the United States, and,

in the case of a corporation, unless its president and managing directors are citizens of the United States and the corporation itself is organized under the laws of the United States or of a State, Territory, District, or possession thereof, but in the case of a corporation, association, or partnership operating any vessel in the coastwise trade the amount of interest required to be owned by citizens of the United States shall be 75 per centum.

(b) The controlling interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to a majority of the stock thereof is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if the majority of the voting power in such corporation is not vested in citizens of the United States; or (c) if through any contract or understanding it is so arranged that the majority of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or, (d) if by any other means whatsoever control of the corporation is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

(c) Seventy-five per centum of the interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to 75 per centum of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if 75 per centum of the voting power in such corporation is not vested in citizens of the United States; or (c) if, through any contract or understanding, it is so arranged that more than 25 per centum of the voting power in such corporation may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or (d) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

§ 842. "Shipping Act, 1916"

This chapter may be cited as "Shipping Act, 1916".

CHAPTER 27. MERCHANT MARINE ACT, 1936

SUBCHAPTER III. AMERICAN SEAMEN

§ 1132. *Citizenship of officers and crew — (a) Vessels documented under laws of United States*

All licensed officers of vessels documented under the laws of the United States, as now required by law, shall be citizens of the United States, native-born or completely naturalized; and upon each departure from the United States of a cargo vessel in respect of which a construction or operating subsidy has been granted all of the crew (crew including all employees of the ship) shall be citizens of the United States, native-born or completely naturalized.

(b) *Passenger vessels granted subsidies*

For a period of one year after the effective date of this chapter upon each departure from the United States of a passenger vessel in respect of which a construction or operation subsidy has been granted, all licensed

officers shall be citizens of the United States as defined above, and no less than 80 per centum of the crew (crew including all employees of the ship other than officers) shall be citizens of the United States, native-born or completely naturalized, and thereafter the percentage of citizens, as above defined, shall be increased 5 per centum per annum until 90 per centum of the entire crew, including all licensed officers of any such vessel, shall be citizens of the United States, native-born or completely naturalized.

(c) Aliens; conditions of employment

Any member of the crew, not required by this section to be a citizen of the United States, may be an alien only if he is in possession of a valid declaration of intention to become a citizen of the United States, or other evidence of legal admission to the United States for permanent residence. Such alien, as above defined, may be employed only in the steward's department on passenger vessels.

(d) Filling vacancies while on foreign voyage

If any such vessel (as above defined) while on a foreign voyage is for any reason deprived of the services of any employee below the grade of master, his place or a vacancy caused by the promotion of another to his place may be supplied by a person other than defined in paragraphs (a) and (b), until the first return of such vessel to a port in the United States.

(f) Enforcement; effective date; repeal of other laws

This section shall be enforced by the Commandant of the Coast Guard, for the purpose of carrying out the provisions of this section, and shall take effect ninety days after June 29, 1936.

(h) Suspension of section during emergency

During a national emergency as proclaimed by the President he may, in his discretion, suspend any or all of the provisions of this section.

(b) CODE OF FEDERAL REGULATIONS. ¹

TITLE 19. CUSTOMS DUTIES (REVISED 1953)

PART 3. DOCUMENTATION OF VESSELS

§ 3.1 *General definitions.* For the purposes of this part and Part 4 of this chapter:

(a) The word "vessel" includes every description of watercraft or other contrivance used or capable of being used as a means of transportation on water, but does not include aircraft.

(b) The term "vessel of the United States" means any vessel documented under the laws of the United States.

(c) The term "documented" means registered, enrolled, and licensed, or licensed under the laws of the United States, whether permanently or temporarily.

(d) The term "marine document" includes registry, enrollment and license, and license.

¹ *United States Code of Federal Regulations*, Title 19, Revised, 1953, pp. 58-86.

(e) The term "port of documentation" means the home port of a vessel. It does not include a port in which a temporary document is issued.

(f) The term "mortgagee", in the case of a mortgage involving a trust deed and a bond issue thereunder, means the trustee designated in such deed.

(g) The term "noncontiguous territory of the United States" includes Alaska and all the island Territories and possessions of the United States, but does not include the Canal Zone.

§ 3.2 *Vessels entitled to documents*

(c) The following classes of vessels are entitled to receive documents under existing laws:

Class 1. Any vessel built in the United States and wholly owned by a citizen.¹ Any such vessel which by sale has become the property of one who is not a citizen or which has been placed under foreign registry will be entitled to a new marine document upon afterward becoming the property of a citizen, but cannot engage in the coastwise trade. (See § 3.43.) The following notation shall be made on the document issued to such a vessel:

As amended by section 27 of the Merchant Marine Act of June 5, 1920, as amended. This vessel shall not engage in the coastwise trade.

Class 2. Any vessel purchased from the Maritime Administration or War Shipping Administration by a citizen. (See § 3.42.)

Class 3. Any vessel built in the United States in whole or in part for the account of one who is not a citizen and then recorded, which thereafter becomes wholly owned by a citizen and has never before been documented. (See § 3.47.)

Class 4. Any vessel captured by a citizen in a war to which the United States is a party, which has been lawfully condemned as a prize and is wholly owned by a citizen.

Class 5. Any vessel which has been judicially forfeited for a breach of the laws of the United States when wholly owned by a citizen. This includes a foreign-built vessel, but does not include any vessel not otherwise entitled to documents which has been sold under a decree of admiralty for debt or seamen's wages.

Class 6. Any vessel built in the United States and sold by the Government to a citizen. A foreign-built vessel bought or chartered by the Government is entitled to documentation if sold to a citizen and the requirements for class 9 are met.

Class 7. Any vessel authorized by special act of Congress to be documented.

Class 8. Any vessel wrecked on a coast of the United States or its possessions or in adjacent waters when purchased by a citizen and repaired in a shipyard in the United States or its possessions, provided it be proved to the satisfaction of the Commissioner of Customs, through a board of three appraisers appointed by him if necessary, that the repairs put upon

¹ For the meaning of the word "citizen" in this section, see § 3.19.

such vessel are equal to three times the appraised salved value of the vessel. The expense of such appraisal shall be borne by the owner of the vessel. If any of the material facts sworn to or represented by the owner, or at his instance, to obtain a document for such vessel is not true, the vessel is liable to forfeiture.

Class 9. Any sea-going vessel, whether steam or sail, wherever built, wholly owned by a citizen. A foreign-built vessel of this class shall engage only in trade with foreign countries or the islands of Guam, Tutuila, Wake, Midway, or Kingman Reef. It shall not engage in the coastwise trade, except as specified in sections 18 and 22, Merchant Marine Act, 1920, as amended, nor in the American fisheries. (See § 3.42.)

(d) No vessel shall engage in the coastwise trade if it is owned by a corporation, unless 75 percent of the interest in that corporation is owned by citizens. The appropriate one of the following notations shall be made on the register of any vessel owned by a corporation, except when such register is required by any other provision of this part to bear an endorsement prohibiting the vessel from engaging in the coastwise trade:

(1) "Less than 75 percent of the interest in the corporation owning this vessel is owned by citizens of the United States. It shall not engage in the coastwise trade"; or

(2) "75 percent of the interest in the corporation owning this vessel is owned by citizens of the United States. It may engage in the coastwise trade so long as so owned and no longer".

§ 3.3 *Provisional registers.*¹ (a) Consular officers of the United States and such other persons as may be designated by the President for the purpose are authorized to issue a provisional certificate of registry to any vessel abroad which has been purchased by a citizen, as defined in § 3.19, and which at the time of such purchase is not documented as a vessel of the United States.

(b) Such provisional certificate shall entitle the vessel to the privileges of a vessel of the United States in trade with foreign countries or with the islands of Guam and Tutuila until the expiration of 6 months from the date thereof, or until 10 days after the vessel's arrival in a port of the United States, whichever first happens, and no longer. On arrival at a port of the United States, the vessel shall become subject to the laws relating to officers, inspection, and measurement.

§ 3.5 *Vessels exempt from documentation.* (a) The following classes of vessels are exempt from documentation:

(1) Boats or lighters not masted, or masted but not decked, used in the harbor of any town or city, and not carrying passengers.

(2) Canal boats, barges, or other boats used in whole or in part on canals or on the internal waters of a State, without sail or internal motive power of their own, not engaged in trade with contiguous foreign territory, and not carrying passengers.

(3) Barges or boats without sail or internal motive power of their own plying in whole or in part on inland rivers or lakes of the United States, not engaged in trade with contiguous foreign territory, and not carrying passengers.

¹ The captains of the ports of Cristobal and Balboa, C.Z., and the Governor of Guam were designated by Executive Order of April 7, 1915.

(4) Vessels plying upon waters which are wholly within the limits of a State and which have no outlet into a river or lake on which commerce with foreign nations or among the States can be carried on.

(5) Vessels of less than 5 net tons.

(b) All other vessels engaged in trade between ports in the United States or engaged in the fisheries, if not registered, shall be enrolled and licensed, or licensed, or will be liable to a penalty of \$30 on every arrival, unless the vessel has not been within a customs district since the expiration of the license.

§ 3.6 *Marine documents; kinds of.* (a) Marine documents are of two descriptions, (1) permanent, granted to vessels at their home ports¹ and (2) temporary, granted to vessels at ports other than their home ports.²

(b) A register or enrollment shall be valid until a contingency arises requiring its surrender. (See §§ 3.26, 3.27.) A license shall be valid for one year only, but may be renewed or changed at any time during the year for which it is granted. Care shall be taken that only one license, and for one employment, be granted to a vessel for the same period, except that a license may be granted for the "coasting trade and mackerel fisheries".

(c) No enrollment and license or license shall be considered in force longer than the vessel to which it is granted is owned as stated in the document, nor shall it be valid if the description of the vessel is changed, nor if the vessel engages in any business or employment other than that for which the document was granted.

§ 3.10 *Registers.* Vessels of the United States engaged in the foreign trade shall be registered, except as provided for in § 3.40 with respect to vessels on the northern, northeastern, and northwestern frontiers. Vessels engaged in domestic trade only may be registered.

§ 3.17 *Home port; definition; change of.* (a) A vessel's home port³ is that port where marine documents may be issued to vessels which has been fixed and determined by the owner with the approval of the Commissioner of Customs, or in special cases with the approval of the collector, assistant collector, or deputy collector in charge of marine work. (See paragraph (e) of this section.)

¹ Under the "Seattle plan", which is in force in a number of customs districts, a vessel having its home port within the customs collection district may secure a permanent document at any other port in the same district at which marine documents are issued.

² The ports at which marine documents may be issued are indicated in § 1.1. of this chapter.

³ "For the purposes of the navigation laws of the United States * * *, every vessel of the United States shall have a 'home port' in the United States, including Alaska, Hawaii, and Puerto Rico, which port the owner of such vessel, subject to the approval of the Secretary of the Treasury, shall specifically fix and determine, and subject to such approval may from time to time change. Such home port shall be shown in the register, enrollment, and license, or license of such vessel, which documents, respectively, are referred to as the vessel's document. The home port shown in the document of any vessel of the United States in force on February 16, 1925, shall be deemed to have been fixed and determined in accordance with the provisions hereof. * * *" (46 U.S.C. 18).

It is the port at which a vessel's permanent documents are issued, but it shall appear in all documents whether they are permanent or temporary.

§ 3.19 *Citizenship; documentation.* (a) Whenever used in this part, the word "citizen" includes the plural as well as the singular. Unless the context requires a different meaning, it means:

(1) In the case of an individual, a native-born, derivative, or naturalized citizen of the United States;

(2) In the case of a partnership, unincorporated company, or association, one whose members are all citizens of the United States;

(3) In the case of a corporation, one which is incorporated under the laws of the United States or of one of the States, and of which the president and all the managing directors are citizens of the United States. If no directors are authorized to act as managing directors, all the directors of the corporation shall be considered to be managing directors for the purpose of this paragraph.

(b) A vessel, although owned and documented by a corporation which is a citizen as defined in paragraph (a) (3) of this section, shall not engage in the coastwise trade unless 75 percent of the interest in the corporation is owned by citizens as specified in section 2 of the Shipping Act, 1916, as amended.¹

§ 3.29 *Change of build or rig.* (a) When a documented vessel is altered in form or tonnage by being lengthened, shortened, or built upon, or changes

¹ "(a) Within the meaning of this chapter no corporation, partnership, or association shall be deemed a citizen of the United States unless the controlling interest therein is owned by citizens of the United States, and, in the case of a corporation, unless its president and managing directors are citizens of the United States and the corporation itself is organized under the laws of the United States or of a State, Territory, District, or possession thereof, but in the case of a corporation, association, or partnership operating any vessel in the coastwise trade the amount of interest required to be owned by citizens of the United States shall be 75 per centum.

"(b) The controlling interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to a majority of the stock thereof is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if the majority of the voting power in such corporation is not vested in citizens of the United States; or (c) if through any contract or understanding it is so arranged that the majority of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States or (d) if by any other means whatsoever control of the corporation is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

"(c) Seventy-five per centum of the interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to 75 per centum of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if 75 per centum of the voting power in such corporation is not vested in citizens of the United States; or (c) if, through any contract or understanding, it is so arranged that more than 25 per centum of the voting power in such corporation may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or (d) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a citizen of the United States." (46 U.S.C. 802).

from one denomination to another by a change in rig or fitting, the vessel shall cease to be deemed a vessel of the United States unless she is documented anew.

(b) When there is a change in the means of propulsion of a vessel as from steam engine to gas engine or any other alteration which may change the description, the marine document of the vessel shall be surrendered.

§ 3.32 *Sale or transfer of vessel; change in membership of owning partnership.*

(a) Except as stated in § 3.35, when a documented vessel is sold or transferred in whole or in part to a citizen, such vessel shall not be deemed a vessel of the United States until documented anew.

§ 3.35 *Sale abroad.* A documented vessel which has been sold or transferred in whole or in part to a citizen while such vessel is outside the limits of the United States shall be entitled on her first arrival thereafter to all the privileges of a vessel of the United States if a new document is obtained within 5 days after she arrives at the first port in the United States.

§ 3.36 *Sale or charter to an alien.* (a) When a documented vessel is sold in whole or in part, even in trust or confidence, to one who is not a citizen, its document shall be delivered (1) within 7 days after the sale to the collector at the port where the vessel is, if it is in the United States, or (2) within 8 days after the first arrival of the master in the United States to the collector at the port of his first arrival, if the vessel is at sea or not in the United States at the time of sale.

(b) The master and all watch officers of a documented vessel chartered to one who is not a citizen shall be citizens.

§ 3.55 *Citizenship of masters of documented vessels.* Every vessel of the United States shall be commanded by a citizen or surrender her document.

61. Uruguay

ACT NO. 10,945 (MERCHANT MARINE: GRANT OF NATIONAL FLAG) OF
10 OCTOBER 1947.¹

CHAPTER I

Use of Uruguayan flag

Article 1. Every merchant ship which has obtained permanent registration, or has been furnished with a pass (*pasavante*) by a consular authority of the Republic, in accordance with the succeeding articles shall be entitled to wear the national flag.

CHAPTER II

Authority competent to grant flag or issue pass

Article 2. The flag shall be granted by decree of the Executive Power on a report of the proper shipping authority that all requirements have been

¹ *Registro nacional de Leyes de la República oriental del Uruguay*, 1947, pp. 1044-1056. Translation by the Secretariat of the United Nations.

satisfied; passes shall be issued by consular agents of the Republic with the knowledge and consent of the Prefecture-General of Ports.

Article 9. After grant of the flag the Prefecture-General of Ports shall proceed to enter the ship in the Shipping Registrar and to issue a national ship's certificate (*patente nacional de navegación*).

CHAPTER IV

Issue of pass

Article 11. Application for a pass shall be made to the proper consular agent.

Article 19. A pass shall be valid for the direct voyage to the Republic; but the consular agent may, if satisfied that the ship cannot obtain cargo to go direct to the Republic, designate in the pass one or more ports of call, which may include the Port of Buenos Aires or any other port situated on the Uruguay or Paraná rivers. Forces entries, and calls at ports on the direct route to the Republic, are not departures from the itinerary.

Article 20. Where a ship holding a valid pass obtains the flag of another country, the owner shall forfeit to the State the security he has given under article 7 and the ship shall not operate in any port of the Republic.

The Executive Power may, by a reasoned order, remit or reduce this penalty.

Article 21. If a ship holding a pass does not visit a port of the Republic for permanent registration during the period laid down in article 16 [five months] or article 18 [extension in unavoidable circumstances], the owner shall forfeit to the State the security he has given under article 7.

The Executive Power may, by a reasoned order, remit or reduce this penalty.

Article 22. In a case to which article 20 or 21 applies the Executive Power shall withdraw the national flag and also, if it sees fit, rescind any contract concluded between the owner of the ship or his agent and the State.

CHAPTER V

Duties of ship wearing flag

Article 24. A ship wearing the Uruguayan flag shall be required on that account, in addition to the requirements of statute and regulation regarding deck crews and engine-room staff enforced by the Prefecture-General of Ports in respect of all national ships, (1) to carry free of charge mail to the Republic when bound for its port of registry, and mail from the Republic for places abroad when returning; (2) to carry free of charge to ports of the Republic shipwrecked mariners, deserters and distressed persons of Uruguayan nationality, but only in reasonable number having regard to its capacity and equipment.

Article 25. A ship holding a national ship's certificate shall make at least one round voyage annually to ports of the Republic. If it is shown by production of a certified copy of the contract that the ship is required to

ply for more than one year between foreign ports without touching a national port, the Executive Power may grant the necessary extension of time, but only to a ship already holding its national ship's certificate.

Article 26. A national ship shall, either on the voyage required by the preceding article or in the aggregate of its voyages made during the year to ports of the Republic, transport thither cargo equivalent to one-tenth of its cargo capacity.

Article 27. No national ship may, without prior permission of the Executive Power, change the name under which it obtained the flag, on pain of forfeiture of the security given under article 7.

CHAPTER VI

Withdrawal of flag

Article 28. The flag may be summarily withdrawn from a national merchant ship which—

1. Joins the navy of a belligerent nation with which the Republic is at war; or
2. Engages in unlawful or clandestine trade or piracy.

Withdrawal of the flag shall not affect any duty or liability deriving from the ship's previous status.

Article 29. Any person having knowledge of any of the aforesaid grounds may send a report thereon, supported by evidence, to the Ministry of National Defence, which shall thereupon investigate the matter and proceed accordingly.

In every case the Ministry of National Defence shall transmit a copy of its decision to the owner, agent or master of the ship and to the Prefecture-General of Ports for necessary action.

Article 30. Where the flag is withdrawn on any ground specified in article 28, the owner shall forfeit the security given under article 7 and the ship may not operate in any port of the Republic.

Article 31. The owner of a national merchant ship desiring to relinquish the flag shall apply therefor in writing to the Prefecture-General of Ports and attach certificates attesting that he owes no debts to the State. The Prefecture-General of Ports shall forward the application to the Ministry of National Defence, within six days, and the Executive Power shall decide on the application within 30 days. In default of a decision within that time, the applicant may apply directly to the Minister; and if within a further period of 20 days no decision has been given, a decision shall be deemed at law to have been given in favour of the applicant.

Article 32. The owner of a national merchant ship that has been permanently taken out of commission or sold to be broken up, or has foundered, or is otherwise lost, shall state the facts in a notarized affidavit and make application to the Prefecture-General of Ports, attaching the certificates referred to in the previous article, for cancellation of registration and of the ship's certificate in order that the ship may be released from all statutory obligations.

62. Vatican City

DECREE OF THE PAPAL COMMISSION FOR THE STATE OF VATICAN CITY,
No. LXVII OF 15 SEPTEMBER 1951, CONCERNING SHIPPING UNDER THE FLAG
OF THE STATE OF VATICAN CITY.¹

CHAPTER I

Vatican shipping register

Article 1. Persons or goods may be carried to or from Vatican City in ships belonging to the State, to Vatican citizens or to Vatican undertakings duly authorized by the Papal Commission for the State of Vatican City.

Article 2. Shipping shall be directed and administered by the Government of Vatican City through the competent office situated in the Governor's Palace, Vatican City. The said office shall be the port of registry of Vatican ships and shall also keep the Vatican shipping register.

Article 3. Ships used for carriage by sea under article 1 shall be entered in the Vatican register.

Article 4. Ships belonging to the State shall be entered in the Vatican shipping register administratively.

Other ships shall be entered in the register on application in writing by the owner of the ship, subject to previous authorization by the Papal Commission for the State of Vatican City.

Article 5. Authorization to enter in the Vatican shipping register all or any of the ships belonging to a single owner may at any time be withdrawn by order of the Papal Commission of the State of Vatican City.

Article 6. Persons who have been refused authorization to enter a ship in the Vatican shipping register, or whose authorization has been withdrawn, shall in no circumstances be entitled to an explanation of the grounds for such refusal or withdrawal, or to any compensation or indemnity therefor.

Article 7. Ships to be entered in the Vatican shipping register must be passed as sea-worthy; for this purpose a statement by the competent authorities of the place where the ship was built, launched or previously registered shall be accepted as sufficient evidence.

Article 8. Every ship shall have its distinctive name, which shall be approved by the Papal Commission of the State of Vatican City and marked conspicuously at the bow and the stern, followed by the words "Vatican City".

Article 9. Ships entered in the Vatican shipping register shall wear the flag of the State of Vatican City, in conformity with the specification contained in annex A to the fundamental law of Vatican City, 7 June 1929, No. I.

State ships shall also be marked on each side with the official coat of arms of the State of Vatican City, in conformity with annex B to the fundamental law of Vatican City, 7 June 1929, No. I.

¹ Text of Decree provided by the Secretariat of State of the Vatican. Translation by the Secretariat of the United Nations.

Every ship entered in the Vatican shipping register shall in addition be marked conspicuously, on each side of the bow and the stern, with the colours of the flag, white and yellow.

Article 10. On the entry of a ship in the Vatican shipping register a document attesting the same, signed by the Governor, shall be issued, and shall constitute the ship's certificate of nationality and shall be kept on board at all times.

Article 11. Every ship shall also be furnished with a log-book, a crew list, an engine-room log and a wireless telegraphy log.

Article 12. The ship's master and the technical staff shall be required to hold certificates of competency issued by the appropriate authorities of the States of which they are nationals or of another State engaging in shipping.

Article 13. Ships belonging to the State shall at all times be deemed to be territory of the State of Vatican City.

Ships belonging to private owners shall be deemed when on the high seas to be territory of the State of Vatican City.

Article 14. The crew of a ship managed directly by the State of Vatican City shall be subject to the same regulations as other employees of that State.

CHAPTER IV

Management of ship

Article 19. The management of a ship may, by order of the Papal Commission for the State of Vatican City, be delegated to a ship's operator.

A ship's operator need not be a citizen of Vatican City.

63. Venezuela

SHIPPING ACT OF 9 AUGUST 1944.¹

CHAPTER II

Vessels or ships

Article 9. In this Act the term "ship" or "vessel" means any craft with integrated means of propulsion intended to sail in territorial waters or inland waterways or on the high seas between national or foreign ports or both.

Lighters, cranes, boats, floating docks, houseboats, floating piers and dredges and other structures having no independent means of self-propulsion are not ships but auxiliary craft.

CHAPTER III

National merchant ships

Article 12. Venezuelan merchant ships shall register with the National Merchant Marine.

¹ *Compilación Legislativa de Venezuela, 1944.* Translation by the Secretariat of the United Nations.

Article 13. National merchant ships may be owned by Venezuelan citizens or by national or legally-naturalized undertakings established in Venezuela. . .

A vessel in joint ownership is not Venezuelan and may not be registered as such unless a half share or more is absolutely owned by Venezuelan citizens domiciled in Venezuela.

Article 14. The following shall be evidence of title to a merchant ship—

1. In the case of a ship built in Venezuela, the builder's certificate, giving particulars of the ship's dimensions and other characteristics and the name of the owner;

2. In the case of a ship built abroad, the deed of transfer to the person, persons or undertaking applying for entry of the ship in the National Register;

3. In the case of a ship that has been seized, arrested or sold at auction, a certified copy of the court order;

4. On all subsequent transfers of title to a ship, the deed of transfer.

Documents to which this article applies shall be registered at the branch registry office of the ship's place of registry, which is its home port, and shall be entered not later than thirty days thereafter in the book kept for that purpose by the port office.

CHAPTER IV

Entry, registry and documents authorizing a ship to navigate

Article 15. A ship shall not be Venezuelan unless entered in the register of the national merchant marine. On completion of registration the port officer shall issue a certificate of registration.

Article 16. A ship may not in any circumstances be registered with the national merchant marine until security has been given for the proper use of the flag. The security shall be given jointly by two persons of substance approved by the port officer, and its amount shall be fixed with due regard to the type of traffic in which the ship is to engage and its market value.

(1) The security referred to in this article may be applied in particular to the payment of fines imposed by administrative or judicial authorities on the owner, master or agent of the ship, in accordance with the penal provisions of this Act or of regulations made thereunder, for offences committed in or in connexion with the use of the ship.

Article 17. The certificate of registration shall be the document which, subject to regulation, attests the Venezuelan nationality of a ship.

Article 18. The ship's certificate (*patente de navegación*) shall be issued by the President of the United States of Venezuela and countersigned by the Minister of War and the Navy, and shall authorize a national ship to navigate all waters for five years under the Venezuelan flag.

Sole paragraph—A ship's certificate shall be carried by—

(a) Ships of more than three hundred register tons;

(b) Ships of three hundred register tons or less sailing to foreign ports other than those specified in article 19.

Article 19. The navigation permit shall be issued by the Ministry of War and the Navy and shall authorize the employment of a national ship of

less than three hundred register tons for two years solely for navigation between national ports or between a national port and the Antilles islands of Aruba, Bonaire, Curaçao, Trinidad, Grenada, Barbados, Guadeloupe, Martinique or the Dominican Republic and Haiti, or between a national port and the Guianas, or between a national port and Colombian ports on the Atlantic or on the tributaries of the Orinoco.

Article 21. The procedure for entry of a ship built or acquired abroad in the register of the national merchant marine shall be carried out through the local Venezuelan consul, who shall communicate all the necessary particulars to the port office in which the ship is to be registered. On completion of the procedure the Venezuelan consul shall deliver to the ship a pass, which shall have the effect of a navigation licence or permit until the ship reaches a national port. A ship holding a pass shall wear the Venezuelan flag when proceeding to Venezuela from the foreign country in which the pass was issued by the consul. On arrival at the Venezuelan port the ship shall be registered in the port office and application shall be made in accordance with the provisions of this chapter for a ship's certificate, navigation permit or special permit, as the case may be.

CHAPTER V

Lapse of registration and of documents authorizing navigation

Article 23.

(a) Registration shall become void—

- (1) If the ship is transferred to a person not a national. . . ;
- (2) If the owner of the ship changes his nationality. . . ;
- (3) If the ship is destroyed intentionally, even if it is later rebuilt with the same materials;
- (4) If the ship is seized or confiscated abroad;
- (5) If the ship fails to put in at a national port for one year or its owner, agent or master makes no report concerning it to the port office for six months;
- (6) If the ship becomes a total loss.

(b) A ship's certificate or navigation permit shall become void—

- (1) On any of the grounds mentioned in paragraph (a);
- (2) On expiry of the term for which it was issued;
- (3) If there is a change in the ship's ownership, name, class, dimensions or tonnage;
- (4) If the vessel is declared to be totally unseaworthy;
- (5) If the ship is used in unlawful trade or is declared in due form to be a pirate ship.

(c) A special permit shall become void on any of the grounds specified in paragraph (a) (3, 6) and in paragraph (b), (2, 3, 4, 5).

CHAPTER XIII

Ship's company: order aboard ship

Article 60. The master of a national merchant ship and not less than 50 per cent of the crew shall be Venezuelan nationals.

64. Viet-Nam

ORDONNANCE N° 6 DU 19 AVRIL 1951 PORTANT RÉGLEMENTATION PROVISOIRE DE LA MARINE MARCHANDE ¹.

Article 2. L'ensemble du droit et de la réglementation concernant les navires portant pavillon français, immatriculés à Saïgon et à Haïphong, sera provisoirement applicable aux navires portant pavillon vietnamien.

Article 3. La nationalité du bâtiment de commerce vietnamien, à l'égard des Puissances étrangères et des tierces personnes, publiques ou privées, est déterminée par un Acte de vietnamisation conforme au modèle annexé à la présente ordonnance.

Article 4. L'Acte de vietnamisation constitue le titre authentique de propriété.

Il est délivré par le Gouvernement du Viet-Nam dans les conditions suivantes :

Le navire doit appartenir pour moitié au moins à des Vietnamiens ou à des ressortissants de l'Union française ;

En ce qui concerne les sociétés :

Leur siège social doit se trouver au Viet-Nam ou en France ;

Le directeur doit être Vietnamien ou ressortissant de l'Union française ;

Le conseil d'administration doit être composé en majorité de Vietnamiens ou de ressortissants de l'Union française ;

Au moins 50 pour 100 du capital doit être souscrit par des Vietnamiens ou des ressortissants de l'Union française.

Le capitaine, les officiers ou chefs de quart doivent être Vietnamiens ou ressortissants de l'Union française ; l'équipage doit être composé pour moitié au moins de Vietnamiens ou de ressortissants de l'Union française.

Article 5. La vietnamisation ne peut être suivie et obtenue que dans le port d'attache du bâtiment.

Toutefois, une lettre de vietnamisation provisoire peut être délivrée :

Par l'autorité française compétente, si le navire est acheté en France ;

Par le représentant consulaire vietnamien ou à défaut par le représentant consulaire français, si le navire est acheté à l'étranger.

Article 6. Les bâtiments de mer, d'une jauge brute inférieure à cent tonneaux, sont exemptés des formalités de vietnamisation.

Article 7. Le port d'attache et le nom du navire qui figurent sur l'Acte de vietnamisation sont choisis par l'armateur. L'autorisation préalable des autorités habilitées à délivrer l'Acte de vietnamisation est exigée pour toute demande de modification de port d'attache ou de nom de navire.

Article 8. Tout navire doit être immatriculé sur un registre spécial du port d'attache. Il doit être pourvu, en même temps que son immatriculation, d'un signal distinctif conforme aux dispositions internationales.

Article 10. Les fonctions de capitaine, officiers ou chefs de quart à bord des bâtiments de commerce vietnamiens sont exercées par les marins vietnamiens ou les marins ressortissants de l'Union française titulaires des brevets délivrés par les autorités qualifiées vietnamiennes ou françaises.

¹ Texte fourni par le Ministère des affaires étrangères du Viet-Nam.

65. Yugoslavia

ACT OF 23 JANUARY 1950 CONCERNING THE ESTABLISHMENT OF A FLAG OF THE MERCHANT MARINE AND INLAND NAVIGATION FLEET OF THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA.¹

Article 1. A flag of the merchant marine and inland navigation fleet of the Federal People's Republic of Yugoslavia is hereby established, to indicate the nationality of the vessel concerned.

Article 2. Sea-going and inland vessels listed in the shipping register of the Federal People's Republic of Yugoslavia and vessels inscribed in the provisional shipping list of the Federal People's Republic of Yugoslavia shall be entitled and obliged to wear the flag of the merchant marine and inland navigation fleet of the Federal People's Republic of Yugoslavia.

Article 3. The flag of the merchant marine and inland navigation fleet of the Federal People's Republic of Yugoslavia shall be identical with the national flag of the Federal People's Republic of Yugoslavia; the ratio of its width to its length shall be as one is to one and a half.

Article 4. The Minister of Marine of the Federal People's Republic of Yugoslavia and the Minister of Transport of the Federal People's Republic of Yugoslavia are authorized jointly to issue detailed regulations concerning the wearing of the flag of the merchant marine and inland navigation fleet of the Federal People's Republic of Yugoslavia and the displaying of other signs on vessels of the merchant marine and inland navigation fleet of the Federal People's Republic of Yugoslavia.

¹ Official Gazette of the Federal People's Republic of Yugoslavia, Year VI, No. 11, 15 February 1950, Item 94. Translation by the Secretariat of the United Nations.

United Nations Legislative Series

LAWS CONCERNING THE NATIONALITY OF SHIPS

5a. Burma

The following is to be inserted on page 10:

(a) MERCHANT SHIPPING ACT, 1894¹

(b) MERCHANT SHIPPING (REGISTRATION OF BURMA GOVERNMENT SHIPS)
ORDER, 1937^{2 3}

1. An application for registry of a Burma Government ship shall be made in writing under the hand of a Secretary to the Government of Burma or other officer nominated by that Government. Such application shall contain the following particulars:

- (i) A statement of the name and description of the ship;
- (ii) A statement of the time when and place where the ship was built, or if the ship was foreign-built and the time and place of building are unknown, a statement to that effect and of her foreign name;
- (iii) A statement of the nature of the title to the said ship, whether by original construction by or for that Government, or by purchase, capture, condemnation or otherwise, and a list of the documents of title, if any, in case she was not originally constructed by or for that Government;
- (iv) A statement of the name of the Master.

2. The Registrar, on receiving such application in respect of a Burma Government ship, shall—

- (i) Enter the ship in the Register Book as belonging to "His Majesty, represented by the Government of Burma" and shall also enter therein—
- (ii) The name of the port to which she belongs;
- (iii) The particulars stated in the application for registration;
- (iv) The details comprised in the Surveyor's Certificate.

3. On the registry of a Burma Government ship the Registrar shall retain in his possession the Surveyor's Certificate and the application for registry and any documents of title mentioned in such application.

¹ See *infra* under United Kingdom. According to the note of 31 January 1956 received from the Ministry for Foreign Affairs of the Union of Burma, the provisions of the Merchant Shipping Act, 1894, apply with respect to the registration of Burmese ships in that country.

² Great Britain, *Statutes, Statutory Rules and Orders*, 1937, p. 1689.

³ According to the note of 31 January 1956 received from the Ministry for Foreign Affairs of the Union of Burma, the Merchant Shipping (Registration of Burma Government Ships) Order, 1937, is a Statutory Rule and Order of Her Majesty's Government as far as it relates to Government ships only.

