

**DECREE LAW No. 7 of 1 November 1966.**  
**Extension and modification of the Maritime Code.**

**THE PRESIDENT OF THE REPUBLIC**

HAVING SEEN Article 62 of the Constitution;  
CONSIDERING that there is an urgent necessity to extend to the whole Republic the Maritime Code approved by Legislative Decree No. 1 of 21 February 1959 and modify certain provisions contained therein;

HAVING HEARD the Council of Ministers;

**DECREES:**

**CHAPTER I**

**General Provisions**

**Article 1**

*Extension of the Maritime Code to the Northern Regions*

The Maritime Code approved by Legislative Decree No. 1 of 21 February 1959, is hereby extended to the whole territory of the Republic.

**Article 2**

*Ministry of Communications and Transport*

The words «Minister» and «Ministry for Economic Affairs» appearing in the Maritime Code approved by Legislative Decree No. 1 of 21 February 1959 shall be substituted by the following:

«Minister and Ministry of Communications and Transport».

**Article 3**

*Territorial Sea*

The first paragraph of Article 1 (Territorial Sea) of Legislative Decree No. 1 of 21 February 1959, shall be substituted by the following:

«Subject to the generally accepted rules of international law, the portion of sea to the extent of twelve nautical miles within the

continental and insular coasts shall be under the sovereignty of the State. The extent shall be measured from the costal line along the low-water mark».

#### Article 4

##### *Administrative Division of the Shores*

Article 5 (Administrative Division of the Shores) of Legislative Decree No. 1 of 21 February 1959, shall be substituted by the following:

«For the purposes of the Maritime Administration, the shores of the State Territory shall be considered a single Maritime circumscription with Mogadiscio as the chief town; and its office shall be called the Maritime and Port Service of Mogadiscio. The Maritime circumscription shall include the Maritime Sections of Chisimaio, extending from Ras Ciambone to El-Caschera (excluding El-Caschera); of Merca, extending from El-Caschera to Danane (excluding Danane); of Mogadiscio, extending from Danane to Eil (excluding Eil); of Bosaso, extending from Eil to Bender Ziad; of Las-Koreh, extending from Ras-Sura to Bender Ziad (excluding Bender Ziad); of Mait, extending from Ras-Khanzir to Ras Sura (excluding Ras Sura); of Berbera, extending from Loya-Ada to Ras Khanzir (excluding Ras Khanzir); and the Maritime Branch Offices of Brava, Adale, Obbia, Eil, Bender Beila, Hafun, Hordio, Bargal, Alula, Candala, Elayu, Heis and Zeila».

#### Article 5

##### *Maritime Authority*

1. The Maritime Authority in the Ministry of Communications and Transport shall deal with maritime matters.

2. Administrative duties of the Maritime Authority may be performed in foreign countries by Registration Agents from time to time appointed by decree of the Minister of Communications and Transport.

#### Article 6

##### *Maritime Authority's Power to Impose Fine for Disciplinary Reasons on Physical and Juridical Persons*

For disciplinary reasons, the Maritime Authority shall have the power to impose a fine up to Sh. So. 3.000 (three thousand) on physical and juridical persons, including cooperatives operating within

the port area or landing place; and in serious cases, he may also suspend the activity of such persons within the Port Area or landing place for a period not exceeding 6 months.

The money derived from the pecuniary penalties shall be deposited in the Public Treasury.

## Article 7

### *Staff of the Maritime Authority*

Article 7 (The Maritime Administration Staff) of Legislative Decree No. 1 of 21 February 1959, shall be substituted by the following:

«The Staff of the Maritime and Port Service of Mogadiscio and other Services, Sections, Offices and Branch Offices shall normally be taken from the staff of the permanent Civil Service».

## Article 8

### *Flag of the Mercantile Marine*

The flag of the Mercantile Marine shall have the following characteristics:

Cloth of rectangular shape, 150 cm. long by 100 cm. wide, of blue colour having in the middle a white five point star, supported by the Admiralty Anchor, the cable of which shall have the «S» shape being the initial and symbol of Somalia.

## CHAPTER II

### **Shipping and Forwarding Agents**

## Article 9

### *Shipping and Forwarding Agents*

1. The Shipping and Forwarding Agents shall have the right to deal with the Maritime Authority and the dependent offices in respect of documents and formalities relating to ships, dhows and floating crafts on behalf of third persons (ship owners, navigation companies, shipmasters etc.)

2. Shipping and Forwarding Agents, except as otherwise provided by special laws, shall be licenced by the Maritime Authority. The licence may be issued on an application presented, together with the following documents, by the applicant:

- a) Birth certificate, showing that the applicant is of age;
- b) Residence certificate;
- c) Good conduct certificate;
- d) Chamber of Commerce certificate showing that the applicant has worked for at least two years as an apprentice with a Shipping or Forwarding Agent, and possesses therefore the required experience;
- e) Deposit into the Somali National Bank of Sh. So. 3.000 (three thousand) according to the prescribed rule;
- f) Acceptance to comply with all formalities and obligations prescribed by the Maritime Authority, including the payment of an annual fee of Sh. So. 1.000 (one thousand) for the Shipping Agent licence.

3. The issue of the licence shall be subject to the payment of a fee of Sh. So. 500 (five hundred).

The annual renewal fee of the licence shall be Sh. So. 150 (one hundred fifty).

### CHAPTER III

#### **Registration Fees and Annual Tax**

#### Article 10

#### *Registration Fees and Annual Tax*

The Registration fees of ships, dhows, and floating crafts mentioned in Article 41 of Legislative Decree No. 1 of 21 February 1959 and the relevant annual tax shall be as follows:

1) A) *Registration Fees:*

Ships — Up-to 1.000 tons — net tonnage	Sh. So.	1.000.00
Dhows — Up-to 50 tons	» »	50.00
From 50 tons and over	» »	100.00
Floating Crafts Up-to 20 tons	» »	25.00
From 20 tons and over	» »	50.00

B) *Annual Tax:*

Ships — Up-to 1.000 tons net - per net ton.	»	»	0.50
Dhows	»	»	1.00
Floating Crafts	»	»	1.00

2) Registration fee and annual tax of ships weighing 1.000 net tons and upwards shall be governed by Article 13 of this law.

## CHAPTER IV

### **Documentation: Identification and Transfer of Vessels**

#### Article 11

##### *General Provision*

No vessel, either self-propelled or of the sailing type, weighing 1000 net tons and upwards, engaged in trade exclusively between ports of the Republic, nor any other vessel engaged in foreign trade, shall fly the flag of the Republic, or be accorded the rights and privileges of a Somali vessel, unless such vessel is registered in accordance with the terms of this law. The home port of every vessel so registered shall be Mogadiscio. The name of the home port shall be shown in the Certificate of Registration.

#### Article 12

##### *Vessels eligible to be registered*

1. Any sea going vessel wherever built, owned by a citizen or national of the Republic, shall be eligible for documentation. The term «citizen» and «national» shall include corporations, partnerships and associations of individuals registered in the Republic. Such citizen, however, shall be domiciled in the Republic, and in the case of corporations, partnerships and associations of individuals their registration in the Republic shall be effected by the Registration Agent.

2. Any vessel, either self-propelled or of the sailing type weighing less than 1000 net tons engaged solely in trading between ports in the Republic, shall be registered locally.

## Article 13

### *Registration fee and tonnage tax*

In respect of ships weighing 1000 net tons and upwards, the registration fee shall be One United States Dollar and ten United States cents (U. S. \$ 1.10) per net ton. and the annual tonnage tax shall be twelve United States cents per net ton. (U. S. \$ 0.12).

## Article 14

### *Title of Ship's Document*

The ship's document shall be called the Certificate of Registration.

## Article 15

### *Conditions for the issuance of Permanent Registration Certificate*

1. a) In order to register a vessel, the owner, managing owner, part owner, or his agent, authorized by power of attorney, where such vessel is owned by individuals, or in the case of a corporate-owned vessel, the president, vice-president, secretary or assistant secretary of the company or other officer or agent authorized in writing, shall take an oath declaring the name of the vessel, her net tonnage, the place where built; the name and residence of any other owner, his citizenship; each owner's proportion; name of master, and citizenship, the name of the affiant and his citizenship.
  - b) The oath shall be taken before the Registration Agent or any other person designated by him.
  - c) The names of the persons owning shares in an incorporated company owning such vessel need not be stated. The oath of any other person interested and concerned in the vessel shall not be required. An agent or attorney who purchases any vessel shall take oath to the ownership of the vessel and that he is the agent or attorney for the owner and, in such capacity, has made such purchase in good faith.
2. When the master of a vessel is at the port where the vessel is when she is to be registered and application is made for registration, he, instead of the owner, agent or attorney shall take the oath regarding the citizenship required by sub-para 1) (a) above.

3. Whenever the document of any vessel is lost or destroyed, the master, or other person in command, may take the following oath before any consular or diplomatic officer or other person appointed by the Minister of Foreign Affairs at or nearest to the port where the vessel is first located after such loss or destruction:

«I, (insert the name of person swearing) being master or in command of the (insert type of vessel) or vessel called the (insert the name of the vessel), Official No. (insert No.) owned by (insert the name of the owner) of (insert domicile of owner) do swear (or affirm) that the said vessel has been, as I verily believe, registered according to the law of the Somali Republic by the name of (insert again name of vessel), and that a Permanent (or Provisional) Certificate of Registry bearing No. (insert No. of lost certificate) was issued for such vessel pursuant to the laws of the Somali Republic at (insert place of issuance of lost certificate) on (insert date of issuance of lost certificate) which certificate has been lost (or destroyed); and that the same, if found, and within my power, will be delivered up to the Registration Agent who issued it».

## Article 16

### *Measurement*

A vessel shall not be permanently registered until measured by a person appointed by the Registration Agent. A vessel registered under the laws of the Somali Republic shall not be required to be measured anew to obtain another registration document, unless her burden has been changed.

## Article 17

### *Certificate of Measurement*

The person who measures a vessel shall certify, specifying the building of the vessel, number of decks and masts, length, breadth, depth, tonnage, and such other particulars usually descriptive of the identity of a vessel; and that her name, and place to which she belongs, are painted on her stern.

## Article 18

### *Tonnage statements in Registration Certificate*

1. The permanent document of every vessel shall specify her length, depth, breadth and height under the third or spardeck, ascertained as follows:

The tonnage deck, in vessels having three or more decks to the hull, shall be the second deck from below; in all other cases the upper deck of the hull shall be the tonnage deck. The length from the forepart of the outer planking on the side of the stem to the afterpart of the main stern-post of screw vessels, and to the afterpart of the rudderpost of all other vessels measured on the top of the tonnage deck, shall be the vessel's length. The breadth of the broadest part of the outside of the vessel shall be the vessel's breadth of beam. A measure from the underside of the tonnage-deck plank, amidships to the ceiling of the hold (average thickness) shall be the depth of the hold. If the vessel has a third deck, then the height from the top of the tonnage-deck plank to the underside of the upperdeck plank shall be the height under the spardeck. All measurements shall be expressed in feet and decimal fractions of feet.

2. The documented or recorded tonnage of every vessel shall be her entire internal cubical capacity in tons of 100 cubic feet each. Ascertainment of the documented or recorded tonnage shall be measured in accordance with the rules and regulations as shall be prescribed by the Minister of Communications and Transport.

3. Each ship's permanent document, after stating the number of decks, shall separately state (1) the tonnage under the tonnage deck, (2) the tonnage of the between decks above the tonnage deck, (3) the tonnage above the upper deck, and (4) the total gross tonnage which is the sum of the three preceding items.

4. Each ship's permanent document shall state separately the deductions made from the gross tonnage, and also the net or register tonnage.

5. Upon application by the owner or master of a Somali vessel in foreign trade, the Registration Agent may attach to the document an appendix stating separately, for use in foreign ports, the measurement of such space or spaces as are there permitted to be deducted from gross tonnage.

6. If a new document is not issued upon remeasurement, the statement of remeasurement shall be attached by an appendix to the outstanding registry certificate or enrolment with a certificate of the Registration Agent that the original estimate of tonnage is amended.

## Article 19

### *Forms of Documents*

The Maritime Authority or the Registration Agent shall prescribe and furnish forms of Certificates of Registration. Ship documents shall not be issued except in the form prescribed.



### *Numbering Registration Certificates and Licences*

The Maritime Authority or the Registration Agent shall progressively number the licences and registration certificates, respectively, granted by him, beginning anew at the commencement of each year, and shall make a record thereof in a book kept for that purpose. He shall also retain permanently copies of all such documents issued by or surrendered to him.

### Article 21

#### *Provisional Registration Certificates to vessels abroad*

1. The Maritime Authority or the Registration Agent may issue provisional registration certificates to vessels abroad which are to be documented under the flag of the Republic.
2. A provisional certificate shall entitle the vessel to the privileges of a vessel of the Republic 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 the Republic, whichever happens first. The Maritime Authority or the Registration Agent shall prescribe the conditions in accordance with which provisional certificates shall be issued and renewed and the manner in which they shall be surrendered in exchange for permanent certificates of registration.
3. The Maritime Authority or the Registration 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.
4. Copies of provisional certificates shall be forwarded as soon as practicable by the issuing officer to the Maritime Authority.

### Article 22

#### *Denial of Document*

The Maritime Authority or the Registration Agent shall not grant a document or issue papers to any vessel until all applicable provisions of this decree law have been fully complied with.

Article 23

*Sale of document forbidden*

A document, or papers issued to any vessel, shall be used solely for the vessel for which the document or papers are granted, and the document or papers shall not be sold, lent or otherwise disposed of to any person.

Article 24

*Transfer foreign*

The owner of a vessel documented in accordance with the terms of this law, and who desires to transfer the vessel to foreign registration, may so do, provided that there are no unfulfilled obligations to the Republic in respect of the vessel. Before such transfer is accomplished, however, the registered owner shall surrender the ship's document to the Maritime Authority or the Registration Agent.

Article 25

*Surrender and Cancellation of Registration Certificates*

1. If a registered vessel is lost, taken by the enemy, burnt, broken up, or otherwise prevented from returning to the port to which she may belong, the registration 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 Maritime Authority or the Registration Agent.

2. When the application is made for new registration of a vessel, its former registration certificate shall be delivered up to the Maritime Authority or the Registration Agent to whom such application is made.

Article 26

*New Document*

1. 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.

2. When the Maritime Authority or the Registration Agent determines that any vessel has been sold and transferred by process of law, and that the 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 Chapter, excepting only the delivering up of the former document. This paragraph 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.

3. Any vessel required to be documented anew which is not so documented, shall not be deemed a vessel of the Republic. 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 fine of not more than Sh. So. 3.000.

## Article 27

### *Builders Certificate*

In order to register a vessel built within the Republic, the builder, by whom or under whose direction the vessel has been built, shall certify as follows: (1) that it was built by him or under his direction; (2) the place where built; (3) the time when built; (4) the person for whom built; (5) build; (6) number of decks and masts; (7) length; (8) breadth; (9) depth; (10) tonnage, and (11) such other circumstances as are usually descriptive of the identity of a vessel.

## Article 28

### *Names, Numbers and Marks on Vessels*

1. Every documented vessel shall have its name marked upon each bow and upon the stern. The home port of the vessel shall also be marked upon the stern. These names shall be painted or consist of cut or carved or cast roman letters in light colour on a dark ground, or in a dark colour on a light ground, secured in place and distinctly visible. The smallest letters used shall not be less than four inches in size. If any such vessel shall be found without these names being so marked the owner shall be liable to a fine of Sh. So. 200 for each name omitted.

2. Each vessel in addition to having her name painted on her stern, shall have the same conspicuously placed in distinct, plain

letters of not less than six inches in length, on each outer side of the pilot house, if it has such, and in case the vessel has side wheels, also on the outer side of each wheelhouse.

Any such vessel found without having her name so marked shall be subject to a fine of Sh. So. 200 for each marking omitted.

3. The draft of every registered vessel shall be marked upon the stern and stern post, in English feet or decimeters, in either Arabic or Roman numerals. The bottom of each numeral shall indicate the draft to that line.

## Article 29

### *Change in name of vessel*

1. The Maritime Authority or the Registration Agent may change the name of a vessel on application of the owner.

The Maritime Authority or the Registration Agent shall establish necessary rules and regulations and procure necessary evidence as to age, condition, where built, and pecuniary liability of the vessel so as to prevent injury to public or private interest. Upon granting permission, the Maritime Authority or the Registration Agent shall cause the order for change of name to be published in at least four issues of newspaper at the place of documentation. The person desiring the change of name shall pay the cost of procuring evidence and advertising.

2. The following fees shall be paid the owners of vessels for securing such changes of name.

- 1) For vessels ninety-nine gross tons and under, Sh. So. 140 or Twenty United States dollars (\$ 20);
- 2) for vessels one hundred gross tons and up to and including four hundred and ninety-nine gross tons, Sh. So. 350 or Fifty United States dollars (\$ 50);
- 3) for vessels five hundred gross tons and up to and including nine hundred and ninety-nine gross tons, Sh. So. 700 or One hundred United States dollars (\$ 100);
- 4) for vessels one thousand gross tons and up to and including four thousand nine hundred and ninety-nine gross tons; Sh. So. 1,050 or One hundred and fifty United States dollars (\$ 150);
- 5) for vessels five thousand gross tons and over; Sh. So. 1400 or two hundred United States dollars (\$ 200).

3. Whenever the name of a vessel is changed, or any device, advertisement, or contrivance is used with intent to deceive as to its true name or character, such vessel shall be forfeited.

## Article 30

### *Inspection of Documents*

Any officer concerned in the collection of the revenue may at all times inspect the document of a vessel. A master who fails to exhibit the same, when required by such officer, shall be liable to a fine of Sh. So. 500, and if his failure is wilful shall be liable to a fine of Sh. So. 7.000, or imprisonment not more than one year, or both.

## Article 31

### *Deposit of Ship's Document with Consul*

Every master of a registered vessel, on his arrival at a foreign port, shall deposit his register with the consul or vice-consul if any at such port or any representative of the Republic at such port, to be returned when such master or commander produces clearance from the proper officer of the port and complies with the laws relating to the discharge of seamen in a foreign country, and payment of the fees of consular officers.

## Article 32

### *Perjury*

1. If any owner, agent or attorney commits perjury in the oath taken to obtain documentation of a vessel, such vessel, her tackle, apparel, and furniture shall be forfeited, or the value thereof recovered from such person.

2. A master who commits perjury in taking such oath shall be liable to a fine of Sh. So. 5.000, but the vessel shall not thereby be forfeited.

## Article 33

### *Compliance with Appropriate Standards*

The Maritime Authority and the Registration Agent are hereby empowered to accept for registration, documentation or enrolment hereunder such vessel as shall have complied with appropriate standards set by the following classification societies:

- 1) American Bureau of Shipping
- 2) Bureau Veritas
- 3) Lloyd's Register
- 4) Norske Veritas
- 5) or any similar standards approved by the Minister of Communications and Transport or Registration Agent.

## CHAPTER V

### **Prohibition of Vessels to call at Certain Ports**

#### Article 34

##### *Prohibition of vessels to call at certain ports*

Vessels documented with the Republic may in the ordinary course of commerce, sail to any port or harbour in any country whatsoever; but vessels shall not sail to any port or harbour of any country subject to a prohibitive ruling of the United Nations supported by the Republic or subject to prohibition by law of the Somali Republic.

## CHAPTER VI

### **Preferred Ship Mortgages and Maritime Liens**

#### Article 35

##### *Recording contents*

1. A sale, conveyance, hypothecation, mortgage or assignment of mortgage of any vessel shall not be valid in respect to such vessel, against any person other than the grantor or mortgagor, his heirs or devisees and persons having actual notice thereof, until the instrument evidencing such transaction is recorded in the Office of the Maritime Authority or in the office of the Registration Agent.

2. The Maritime Authority or the Registration Agent shall record such instruments in the order of their reception in books to be kept for that purpose and indexed to show:

- 1) the name of the vessel;
- 2) the names of the parties;
- 3) the time and date of reception of the instrument;
- 4) the interest in the vessel transferred or affected; and
- 5) the amount and date of maturity of any mortgage.

## Article 36

### *Preferred mortgage, documentary endorsements*

A valid mortgage, which, at the time it is made, includes the whole of any vessel shall have a preferred status in respect to such vessel as of the date of its recordation, if:

- 1) the mortgage is endorsed upon the vessel's document;
- 2) the mortgage is recorded as provided herein;
- 3) an Affidavit is filed with the record of such mortgage to the effect that the mortgage is made in good faith and without any design to hinder, delay, or defraud any existing or future creditor of the mortgage or any lienor of the mortgaged vessel; and
- 4) the mortgage does not stipulate that the mortgagee waives the preferred status thereof.

## Article 37

### *Termination of mortgagee's interest*

The interest of a mortgagee in a vessel registered under this law shall not be terminated by a forfeiture of the vessel for a violation of any law of the Republic, unless the mortgagee authorized, consented, or conspired to effect the illegal act, failure, or omission which constituted such violation.

## Article 38

### *Recordation: conditions precedent*

A bill of sale, conveyance, or mortgage shall not be recorded unless it states the interest of the grantor or mortgagor in the vessel, and the interest so sold, conveyed or mortgaged. A bill of sale, conveyance, mortgage, notice of claim of lien, or certificate of discharge thereof, shall not be recorded unless previously acknowledged before the Maritime Authority or the Registration Agent or Consular Agent or before a notary public or other officer authorized by the laws of the place where the acknowledgment is made to take acknowledgment of deeds.

## Article 39

### *Preferred Mortgage*

1. A mortgage which complies with the conditions enumerated in this Chapter is designated a «Preferred Mortgage».

2. There shall be endorsed upon the document of a vessel covered by a preferred mortgage:

- a) the names of the mortgagor and mortgagee;
- b) the time and date the endorsement is made;
- c) the amount and date of maturity of the mortgage; and
- d) any amount required to be endorsed by paragraphs (4) or (5) of this article.

3. Such endorsement shall be made by the Maritime Authority or the Registration Agent or other agent appointed by the Maritime Authority or the Registration Agent at any foreign port. Clearance shall not be issued to the vessel until such endorsement is made. A certificate of such endorsement, giving the time, place and description of the endorsement, shall be recorded with the records of registration. Where the endorsement is made by a person other than the Maritime Authority such certificate shall be promptly furnished to the Maritime Authority for recording.

4. A mortgage which includes property other than a vessel shall not be held a preferred mortgage unless the mortgage provides for the separate discharge of such property by the payment of a specified portion of the mortgage indebtedness. If a preferred mortgage so provides for the separate discharge, the amount of the portion of such payment shall be endorsed upon the document of the vessel.

5. If a preferred mortgage includes more than one vessel and provides for the separate discharge of each vessel by the payment of a portion of the mortgage indebtedness, the amount of such portion of such payment shall be endorsed upon the document of the vessel.

## Article 40

### *Lien of preferred mortgage*

A preferred mortgage shall constitute a maritime lien upon the mortgaged vessel in the amount of the outstanding mortgage indebtedness secured by such vessel.



## Article 41

### *Interest on preferred mortgage*

A preferred mortgage may bear such rate of interest as is agreed by the parties thereto.

## Article 42

### *Priority, disclosure of liens: penalty*

1. The mortgagor, before executing a preferred mortgage shall disclose to the mortgagee in writing the existence of any maritime lien, prior mortgage, or other obligation or liability upon the vessel to be mortgaged, which is known to the mortgagor.

2. After the execution of such mortgage and before the mortgagee has had a reasonable time in which to record it and have proper endorsements made upon the document of the vessel, the mortgagor, without the consent of the mortgagee, shall not incur any contractual obligation creating a lien upon the vessel, other than liens for wages of stevedores when employed directly by the owner, operator, master, ship's husband, or agent of the vessel, for wages of the crew of the vessel, for general average or for salvage, including contract salvage, in respect to the vessel.

3. Whoever, being a mortgagor or the president or principal officer of a corporate mortgagor, with intent to defraud, violates this article, shall be liable to a fine not exceeding Sh. So. 10,000 or to imprisonment not exceeding two years or both. The mortgage indebtedness shall thereupon become immediately due and payable at the election of the mortgagee.

## Article 43

### *Certified copies: exhibition*

1. Upon recording a preferred mortgage, two certified copies thereof shall be delivered to the mortgagor who shall place and use due diligence to retain one copy on board the mortgaged vessel and cause such copy and the document of the vessel to be exhibited by the master to any person having business which may give rise to a maritime lien or to the sale, conveyance, or mortgage of the vessel.

2. The licence of a master who wilfully fails to exhibit such documents and copy of mortgage may be suspended or revoked.

## Article 44

*Record of notice of all claim of lien: discharge of lien: discharge of mortgage*

1. The Maritime Authority or the Registration Agent shall upon the request of any person record notice of his claim of a lien upon a registered vessel, together with the nature, date of creation, and amount of the lien and the name address of the person. Any person who has caused notice of his claim of lien to be so recorded, shall upon a discharge in whole or in part of the indebtedness, forthwith file a certificate of such discharge with the Maritime Authority or the Registration Agent, who shall thereupon record the certificate.

2. The mortgagor upon a complete discharge of the mortgage indebtedness shall forthwith file a certificate of such discharge duly executed by the mortgagee, his successors or assigns with the Maritime Authority or the Registration Agent, who shall thereupon record the certificate and the mortgagor may similarly file a certificate of partial discharge which shall be similarly recorded. In case of a vessel covered by a preferred mortgage, the Maritime Authority or the Registration Agent, shall cause an endorsement of the fact of such discharge to be made on the certificate of registration of the vessel. A certificate of such endorsement, giving the time, place and description of the endorsement, shall be recorded with the records of registration. Where the endorsement is made by a person other than the Maritime Authority such certificate shall be promptly furnished to the Maritime Authority for recording.

## Article 45

*Foreclosure and default: jurisdiction and procedure*

1. The lien of a preferred mortgage may be enforced in the Republic by a suit *in rem* in admiralty upon default of any term or condition. In addition to any notice by publication, actual notice of the commencement of suit shall be given by the libellant, in such manner as the court directs, to the master, other ranking officer, or caretaker of the vessel, and any person who has recorded a notice of claim of an undischarged lien upon the vessel, unless after search by the libellant satisfactory to the court, such person is not found within the Republic.

2. The lien of a preferred mortgage may also be enforced by a suit *in rem* in admiralty or otherwise in any foreign country in which the vessel shall be found, pursuant to the procedure of said country for the enforcement of ship mortgages constituting maritime liens on vessels documented under the laws of said country.

3. Notwithstanding anything in this Law, the mortgagee may, in addition to all other remedies granted by this Chapter, bring suit *in personam* against the mortgagor in any court of competent jurisdiction for the amount of the outstanding mortgage indebtedness or for any deficiency in the full payment thereof.

4. This Decree Law does not authorize the enforcement by suit *in rem* in admiralty of the rights of the mortgagee in respect to realty or personalty other than vessels covered by a mortgage.

#### Article 46

##### *Foreclosures: Priority of Preferred Mortgage Lien: Exemption*

Upon the sale of any vessel in a suit *in rem* in admiralty for the enforcement of a preferred mortgage lien, all pre-existing claims in the vessel, including any possessory common-law lien, shall terminate and shall thereafter attach, in like amount and in accordance with their respective priorities, to the proceeds of sale; except that the preferred mortgage lien shall have priority over all claims against the vessel, except liens arising prior in time to the recording and endorsement of the preferred mortgage as provided in this Chapter, liens for damages arising out of tort, for crew's wages, for general average, and for salvage (including contract salvage) and expenses and fees allowed and costs taxed by the court.

#### Article 47

##### *Necessaries; liens; enforcement*

1. Whoever furnishes repairs, supplies, towage, use of dry dock or marine railway, or other necessaries, to any foreign or domestic vessel upon the order of the owner or person authorized by the owner, shall have a maritime lien on the vessel.

2. The managing owner, ship's husband, master, or any person to whom the management of the vessel at the port of supply is entrusted including any such appointed by a charterer, owner *pro hac vice* or agreed purchaser in possession, shall be presumed to have authority from the owner to procure such necessaries, but a person tortiously or unlawfully in possession or charge of the vessel shall not have authority to bind it.

3. This Chapter shall not confer a lien when the furnisher knew, or by exercise of reasonable diligence could have ascertained, that because of the terms of a charter party, agreement for sale of the vessel, or for any other reason, the person ordering necessaries was without authority to bind the vessel therefor.

## Article 48

### *Necessaries: waiver of lien*

This Chapter shall not prevent the furnisher of repairs, supplies, towage, use of dry dock or marine railway, or other necessaries, or the mortgagee, from waiving his right to a lien or in the case of a preferred mortgage lien to the preferred status of such lien, at any time by agreement or otherwise.

## CHAPTER VII

### **Wrecks and Salvage**

## Article 49

### *International Agreements*

The Government may, subject to the provisions of the Constitution, make international agreements with governments interested for the reporting, marking and removing of dangerous wrecks, derelicts and other menaces to navigation in the Indian Ocean outside the coastal waters of the Republic.

## Article 50

### *International Agreements: Derelicts expenses*

1. The Government may subject to the provisions of the Constitution conclude agreements with interested maritime nations for the maintenance of:

- a) a service of assistance to vessels and crews requiring aid within the limits of a patrol to be defined in the agreement concluded;
- b) a service for the destruction or removal of derelicts in the Indian Ocean, the area in which said service is to be maintained, to be determined in such agreements by appropriate latitudinal and longitudinal boundaries;
- c) the Government may include in such agreements a provision for payment to the Government by the countries concerned of a proportionate share of the expense for the maintenance of the services named.

2. All such agreements shall be subject to ratification by the National Assembly of the Republic.

## Article 51

### *Vessels stranded on foreign coasts*

1. Consuls and vice consuls in countries on whose shores vessels of the Republic are stranded, shall take proper measures for saving the vessels, their cargoes and appurtenances, storing and securing the effects and merchandise saved, and taking inventories thereof; and such merchandise and effects with inventories thereof shall, after payment of the expenses be delivered to the owners. A consul or vice consul shall not take possession of any such merchandise, or other property, when the master, owner or consignee thereof is presented or capable of taking possession of the same.

2. The Government may appoint honorary consuls or conclude agreements with countries in which the Republic is not represented by a consul, vice consul or other accredited government agent, for the purpose of securing the service herein imposed upon the consuls and vice consuls of the Republic in countries to which they are assigned.

## Article 52

### *Right to salvage not affected by ownership of vessel*

The right to remuneration for assistance or salvage services shall not be affected by common ownership of the vessels rendering and receiving such assistance or salvage services.

## Article 53

### *Salvage remuneration*

Salvors of human life or cargo who have taken part in the services rendered in connection with the accident giving rise to salvage, shall be entitled to a fair share of the remuneration awarded to the salvors of the vessel, her cargo and accessories.

## Article 54

### *Time limit for salvage suits*

A suit for the recovery of remuneration for rendering assistance or salvage services shall not be maintainable if brought later than two years from the date when such assistance or salvage was ren-

dered, unless during that period there has not been reasonable opportunity for securing jurisdiction of the vessel, person or corporation to be charged, in which case the right of action shall not lapse until ninety days after there has been a reasonable opportunity to secure jurisdiction.

## Article 55

### *Recovery of salvage services rendered by State vessels*

The Maritime Authority or the Registration Agent and the crew of any vessels owned or operated by the Republic or its representatives, may collect and sue for salvage services rendered by such vessel and crew. Any salvage monies, recovered by the Maritime Authority or the Registration Agent and not for the benefit of the crew, shall be held for the credit of the governmental agency having possession or control of the vessel rendering such service.

## CHAPTER VIII

### **Manning Requirements and Crew Complements**

## Article 56

### *Full complement required*

1. A vessel which is documented under the flag of the Republic shall not be navigated unless she has in her service and on board such complement of officers and crew as are necessary for her safe navigation.
2. The vessels referred to in the previous paragraph shall, in so far as possible, employ Somali crew.

## Article 57

### *Log Books*

An official log book, an engine room log book, and a wireless log book shall be kept in every ship flying the flag of the Republic. Entries in such log books shall be made daily and signed by their keeper.

Article 58

*Officers and crew*

Any person may be engaged as captain, officer or member of the crew provided he has the experience and aptitude to fulfil those tasks designated to him.

Article 59

*File regarding crew*

The captain of any vessel flying the flag of the Republic shall maintain a file on each member of his crew, indicating his nationality, date of birth and any other details relating to his person, including the references on which the captain based his decision to enlist him on the crew.

CHAPTER IX

**Jurisdiction of the Courts of the Republic**

Article 60

*Jurisdiction of the Courts of the Republic*

All causes of action arising out of, or under the terms of this Decree Law, shall be subject to the jurisdiction of the Courts of the Republic.

CHAPTER X

**Final Provisions**

Article 61

*Power to make regulations*

The Minister of Communications and Transport may make regulations for the proper implementation of this decree law.

Article 62

*Interpretation*

On questions of interpretation, the English text of this decree law shall prevail.

Article 63

*Abrogation*

1. Any provision in the Maritime Code approved by Legislative Decree No. 1 of 21 February 1959 or in any other law which is contrary to or inconsistent with this decree law is hereby abrogated.

2. Matters not specifically covered by this decree law shall continue to be governed by the Maritime Code referred to in the previous paragraph.

Article 64

*Entry into force*

This decree law shall enter into force on the day following the date of its publication in the Official Bulletin and shall be presented to the National Assembly for conversion into law under the terms of Article 63 of the Constitution.

Mogadiscio, 1 November 1966.

**ADEN ABDULLA OSMAN**

*The Prime Minister a. i.*

ABDULCADIR MAHAMED ADEN

*The Minister of Communications and Transport*

ADEN ISSAK AHMED

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**PARTE SECONDA**

**DISPOSIZIONI, COMUNICATI, AVVISI, VARIE**

N. N.