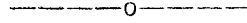


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SOMALI GOVERNMENT



MARITIME CODE

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SOMALI GOVERNMENT

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GOVERNMENT OF SOMALILAND

(Legislative Decree of 31 February 1959, n. 1 rep.)

THE ADMINISTRATOR :

By virtue of powers conferred upon him with the Presidential Decree of 9 December 1952 n. 2357;

HAVING SEEN the Law of 7 May 1956 n. 1 "Establishment of the Government of Somaliland";

HAVING SEEN the Law of 27 December 1957 n. 19 which delegates to the Government of Somaliland the power to enact, among others, the Maritime Code;

HAVING SEEN the definitive text of the Maritime Code of Somaliland elaborated by the Committee referred to sub. Administrative Decree of 10 March 1957 n. 96;

HAVING CONSULTED WITH the Council of Ministers;

ON THE PROPOSAL of the Minister of Economic Affairs ,

D E C R E E S :

Article 1.

The text of the Maritime Code attached herewith is approved and shall enter into force on the 1st of April 1959.

Article 2

A copy of the text of the Maritime Code signed by the Administrator of Somaliland and countersigned by the Prime Minister, by the Minister of Justice and Pardon, and by the Minister of Economic Affairs shall serve as original copy and shall be deposited with and kept at the Ministry of Justice and Pardon.

Article 3

The Maritime Code, published in the Official Bulletin of Somaliland, shall be forwarded to the Regions, District Commissariate, and District Delegations as well as to all Municipalities to be kept there and posted for six consecutive days, for five hours each day, so that all concerned can take cognizance thereof.

Mogadiscio, February 21, 1959

THE ADMINISTRATOR

Signed by : Mario Di Stefano

Abdullahi Issa Mohamud

Abdullahi Issa Mohamud

Hagi Farah Ali Omar

Scaled and Registered, Reg. n. 15, sheet n. 199

Mogadiscio, March 31, 1959

SPADARO

- 1 -

M A R I T I M E C O D E

PRELIMINARY PROVISIONS

Article 1

Territorial Sea

The sovereignty of the Territory embraces the zone of the sea to the distance of six nautical miles along the continental and insular coasts.

The above distance is measured from the coastline marked by the low tide.

The different provisions which might be established by laws, regulations, or international agreements for definite purposes are hereby excluded.

Article 2

Enforcement of the law of the Territory and of the
national law of the vessel

Somali vessels sailing at sea, in a zone or space not subject to the sovereignty of any State are considered as Somali Territory. Within the limits of the territorial sea (see Art. 1), acts and facts performed on board any vessel and relating to penal, police, health, and public security laws are governed by the Law of the Territory.

The national law of the vessel, instead, governs: ownership; joint-ownership; guarantee rights and forms of publicity; shipowner's responsibility for obligations undertaken; powers, duties; and attributions of the ship's Master; employment, hire, affreightment, and carriage contracts; contribution to general averages; obligations connected with collision between vessels out of the territorial waters, unless the judicial authority of the Territory is resorted to; obligations arising out of assistance, salvage, and rescue.

Article 3

Jurisdictional competence

Actions regarding collision of vessels, assistance, salvage or rescue at sea can be brought before the courts of the Territory if the vessel which caused the collision or which has been assisted or salvaged, or the persons or the properties saved or rescued find themselves in the Territory.

BOOK I

ADMINISTRATIVE ORGANIZATION OF NAVIGATION

CHAPTER I

ADMINISTRATIVE BODIES OF NAVIGATION

Article 4

Competent Minister

The administration of Merchant Marine is headed by the Minister of Economic Affairs.

Article 5

Administration of the littoral

To the effects of the maritime administration, the littoral of the Territory constitutes a single Maritime Zone, with Mogadiscio as principal town, the office of which is known as the Port Captain's Office of Mogadiscio.

The Maritime Zone includes the Maritime Boards of Chisimaio, with territorial limits from Ras Chianbone to El Gaschera excluded; of Merca, with territorial limits from El Gaschera to Danane excluded; of Bosaso, with territorial limits from Eil to Bender Ziada; and the Sea-Shore Delegations of Brava, Itala, Obbia, Eil, Bender Beila, Hafun, Bargal, Alula, Habo, Bender Merhagno, and Candala.

The duties pertaining to the Maritime Board for the tract of littoral from Danane to Eil excluded are performed directly by the Port Captain's Office of Mogadiscio.

Article 6

Line of dependence of administrative Maritime Boards

The Port Captain's Office of Mogadiscio operates under the Ministry of Economic Affairs.

The Maritime Boards and the Central Maritime Lighthouse and Signalling Office operate under the Port Captain's Office of Mogadiscio.

Sea-Shore Delegations and District Maritime Lighthouse and Signalling Services operate under the Maritime Boards.

Article 7

Personnel of the Maritime Administration

As a rule, personnel of the Port Captain's Office of Mogadiscio and of dependent Boards and Services is taken from the Roll of Maritime Services.

Article 8

Attributions of Harbour Masters

The Head of the Maritime Zone, the Head of the Maritime Board, and the Sea-Shore Delegate are Harbour Masters in ports in which they have their office.

Over and above the attributions set forth in the present Code and the Regulation, Harbour Masters exercise, within the limits of their respective jurisdictions, all the administrative attributions relating to sailing and traffic which are not specifically conferred on other authorities.

Harbour Masters provide also for the technical employment of agents of the Police Corps assigned to the port in connection with the safeguard and safety of persons, preservation of works, embarking and landing of passengers, goods and ballast, and, in general, supervision of the maritime service.

Article 9

Replacement of Consular Authorities by
Harbour Masters

Harbour Masters can replace foreign Consular Authorities as regards both the visaling of the ship's documents and the possible assistance to foreign merchant vessels, in case there is no Consular Authority and upon express request of the ship's Master.

Article 10

Supervision of shipping and traffic abroad

Supervision of shipping and national traffic abroad is exercised by Consular Authorities.

CHAPTER II

MARITIME DEMESNE

Article 11

Possession, pertinencies, and use of the maritime
demesne

The maritime demesne includes : beaches, shore, ports, bays, inlets, mouths of rivers flowing into the sea, basins of salt or saltish water which directly communicate with the sea, also is not regularly,

Buildings and other works belonging to the Administration,

existing within the limits of the maritime demesne and of the territorial sea, are considered as pertinencies of the same demesne.

The maritime administration regulates the use of the maritime demesne and exercises policing on the same.

Article 12

Zone of the maritime demesne

The shore shall include that portion of the coast-line extending as far as the highest water mark at high tide.

The extension of the shore shall be determined by the maritime offices on the basis of ascertainments carried out locally and of the testimony of elder persons who are familiar with the place.

The beach shall include the land next to the shore, which can be destined for the public use of the sea. Where the extension of the beach is not determined by the subsequent articles, it shall extend as far as the nearest land publicly or privately owned.

Article 13

Delimitation of zones of the maritime demesne

The delimitation of specific zones of the maritime demesne with respect to public or private property referred to sub. Article 12, third paragraph, is effected by the Head of the Maritime Zone any time necessary or deemed advisable. Delimitation, however, can be requested also by the neighbouring proprietors concerned. Preliminary, delimitations, following authorization by the Minister of Economic Affairs, are effected by the Head of the Maritime Zone. Disputes arising in the course of delimitation are decided in an administrative way by the Minister of Economic Affairs in agreement with the Minister of Financial Affairs. In disputes before jurisdictional Authorities, protection of estates pertaining to the demesne

is of the sole competence of the Minister of Financial Affairs.

Article 14

Decree of delimitation

The delimitation of the maritime demesne is provided for by decree of the Minister of Economic Affairs.

Whoever has not put forward any claim before the Administration within 180 days from the notice and publication of the Minister's decree, cannot demand that delimitation be revoked or changed. If so, the Administration can accept his claim and pay an indemnity corresponding to the fair price of the property or of his rights, to be estimated exclusively on the basis of their condition prior to the delimitation decree.

Article 15

Exclusion of zones from the maritime demesne and destination of maritime demesne zones to other public uses

The exclusion from the maritime demesne of zones which cannot be used for public sea uses and the temporary destination of parts of the maritime demesne to other public uses are provided for by decree of the Minister of Economic Affairs in agreement with the Minister of Financial Affairs.

Article 16

Prohibition of occupation of or innovation on properties of the maritime demesne or of the territorial sea

Unauthorized occupation of and innovation on properties of the maritime demesne, their pertinencies, and the territorial sea are prohibited.

The Harbour Master is responsible for ordering to the infringer to restore the properties to their former condition within the time established and, in case of non-compliance, for effecting the same at the expense of the person concerned, after authorization of the Minister of Economic Affairs, save for penal action against the infringer.

Article 17

Concession of demesne properties and extraction and other materials

The Maritime Administration, consistently with the needs connected with public use, can grant the occupation and use, also exclusive of properties of the maritime demesne or zones of the territorial sea for a definite period of time.

Concessions the duration of which exceeds two years, those not exceeding two years but involving installations which are difficult to remove, as well as those for which, in consideration of the object and purpose of the concession, the Administration assumes special obligations before the concessionaire, are granted upon decree of the Minister of Economic Affairs.

Other concessions, including those relating to the extraction and gathering of stones and other materials, are granted upon a license issued by the Head of the Maritime Zones.

In case various concessions requests are submitted, preference is given to the person who offers greater guarantees of profitable utilization of the concession and intends to avail himself of it for an use which, in the judgment of the Administration, is consistent with a more relevant public interest. When the above reasons of preference do not exist, preference is given to the preceding concessionaire.

Article 18

Concession rent

In return for occupation and use of demesne properties, the concessionaire must pay the administration a rent, the amount of which is established in the act of concession.

During the period of validity of the concession, the rent can be adequately reduced only in case of partial revocation of the concession, or when the utilization of the latter is partially limited by natural causes which modify the property conceded. The obligation to pay the rent ceases with the expiration of the concession, or upon renunciation of the concessionaire to the property conceded, or for total failure of utilization owed to natural causes of utilization of the concession, for total revocation and, save for the current year, for cancellation of the concessionaire.

As regards concessions for charity or other purposes of public interest, rents are fixed for the simple recognition of the demesial nature of the properties conceded.

Article 19

Revocation of the concession

All or part of any concession can be revoked for specific reasons connected with the public use of the sea or for other reasons of public interest, at the discretionary judgment of the Maritime Administration.

Revocation is decided by the Authority which has granted the concession.

Unless otherwise provided, in the case of concessions which involved fixed installations, the Maritime Administration is obliged to pay an indemnity equivalent to the reimbursement of as many quota parts of the cost of the installations as the remaining years up to expiration.

In any case this indemnity shall not exceed the value of the installations at the time of revocation.

In case of partial revocation, the concessionaire can renounce to the concession by notifying his decision to the granting Authority within the term of 60 days from the order of revocation.

Article 20Cancellation of the concession

The Maritime Administration can declare the cancellation of the concessionaire:

- a) for non performance of the works ordered in the concession act, or for failure to begin management within the term granted;
- b) for failure to use the concession continually during the period fixed to this effect in the concession act, or for bad use;
- c) for substantial unauthorized change of the purpose for which the concession has been granted;
- d) for non payment of the rent for the number of installments established to this effect in the concession act;
- e) for abusive substitution to other persons in the use of the concession;
- f) for non compliance of the obligations deriving from the concession or prescribed by the provisions of laws or regulations.

In the cases sub. a) and b) the Administration can grant a delay to the concessionaire.

Before declaring cancellation, the Administration fixes a date within which the person concerned can present his defence.

Cancellation is provided for by the granting Authority.

The concessionaire who lost the concession is not entitled to reimbursement either for works effected or for expenses borne.

Article 21Mortgage on works built on demesnial properties and
subrogation in the concession

When the concessionaire intends to constitute a mortgage on works built by him on demesnial properties, and substitute other persons in the use of concession, he must request authorization to the granting Authority.

In case of sale or enforcement, the purchaser or the assignee of the works or installations built by the concessionaire on demesnil properties cannot succeed in the concession without being authorized by the granting Authority.

In case of death of the concessionaire, heirs succeed in the concession but must request its confirmation within six months under pain of cancellation of their right. Provisions regarding revocation are applicable if the Administration does not consider it advisable to confirm the concession for reasons relating to the technical ability and financial standing of heirs.

Article 22

Devolution of fixed works

When the concessionaire is declared cancelled and unless otherwise established in the concession act, at the expiry of the concession, fixed works built on the demesnil zone become owned by the Administration without indemnity or reimbursement; the granting Authority, however, can order their demolition to restore the properties to their former condition, at the concessionaire's expense.

Article 23

Rules governing the use of demesnil properties

In places where it is recognized advisable, the Harbour Master regulates, in agreement with the Custom Authority, the destination and use of areas and pertinencies of the demesne for loading, unloading, and temporary stay of goods or materials for a period of time exceeding that necessary for ordinary port operations.

The Customs Authority is responsible for granting the single authorization and fixing stay duties.

Article 24

Installation and management for factories and storage of flammable products

Concessions for the installation and management of factories and coastal storage of flammable products, located also only

in part within the limits of the maritime demarcation or the territorial sea, are granted in accordance with the provisions of the present chapter upon decree of the Ministry of Economic Affairs, after hearing the Council of Ministers.

Concessions for stations selling fuel, mineral oil and related by-products as well as for coastal storage of flammable products with a capacity not exceeding 105.94 cu.ft. (20 cu.m.) are granted by the Minister of Economic Affairs.

Installation and management of factories, storage, and stations referred to above are subject to the special provisions of the Regulation.

CHAPTER III

ADMINISTRATIVE ACTIVITY, POLICE, AND SERVICE IN PORTS

Article 25

Rules governing ship movements and manoeuvres, and port activities

The Harbour Master regulates and superintends the entry and leaving, shifting, anchorage, and mooring of vessels, use of buoys in ports, loading, unloading and storing of goods, embarking and landing of passengers, operations of the maritime lighthouse and signalling service, fire and measures against fire, taking any step in connection with security and police of port and adjacent areas, with the power of ordering the mooring, unmooring and any other manoeuvre of vessels within the port; the same Authority can carry out itself, in case of need, the manoeuvres ordered, at the expense of the vessels concerned.

Article 26

Removal of submerged materials and vessels

In case of submersion of goods or other materials in ports, the persons concerned must provide for their immediate removal.

Should they fail to fulfil this obligation causing, in the judgement of the Head of the Maritime Zone, danger or hindrance to navigation, the latter authority will order that removal be carried out.

In case of submersion of vessels in ports or any place of the territorial sea in which, in the judgement of the Head of the Maritime Zone, a danger or hindrance for navigation can arise, the latter authority orders the owner to remove the wreck, fixing a date for performance, after hearing the Department of Public Works and the Maritime Technical Office.

Should the owner fail to comply with this order, the above Authority will order that removal be carried out.

The Minister of Economic Affairs decides on removals, procedures for their carrying out and the possible sale on behalf of the Administration of materials and wrecks salvaged, as well as on the amount of reimbursement of expenses due to the Administration by owners who, in case of submerged vessels not exceeding 300 GRT, are obliged to the payment of removal only within the value of the wrecks salvaged.

Article 27

Assistance to vessels in danger

The Harbour Master, if aware of a vessel being in danger or of a shipwreck or other accident must immediately provide for assistance, and, if it has unavailable and cannot find the necessary means, inform authorities who are in condition to effectively intervene.

When the Maritime Authority cannot intervene in time, the first necessary steps are made by any other government authority on the place.

In order to provide assistance, the maritime authority or, in default, any other government authority on the place,

can order that vessels in the port or in its neighbourhood be put at their disposal together with their crews.

Indemnities and rewards for assistance given by these vessels are established and paid according to the provisions governing assistance and salvage.

Article 28

Supervision of port activities - Disorders in ports and on vessels

Activities carried out by anyone in ports or, generally, within the limits of the maritime demesne are subject to the supervision of the maritime authority.

In case of disorders in ports or on vessel staying therein, the maritime authority, when informed, provides to re-establish the order requesting, if necessary, the cooperation of police.

Article 29

Damages to works and other port or maritime installations

If damages are caused to works or port or maritime installations the maritime authority, after ascertaining their extent through technical bodies, orders the responsible person to carry out, within a determined date, the necessary repairs.

In case of urgency or in case of non-performance on the part of responsible persons, the Maritime Authority carries out itself these repairs which are decided by the Minister of Economic Affairs.

When the above damages are caused by a vessel, the maritime authority must request the deposit of a sum as guarantee for payment of expenses borne to carry out the repairs.

Article 30

Fishing, use of explosives, and lighting of fires
in ports

In ports and other places of call or passage of ships, fishing, deflagration of explosive substances, as well as lighting of lights or fires which are likely to trouble the signalling service, are subject to the authorization of the maritime authority, at its judgement.

Article 31

Personnel not qualified for pilotage

Sea-faring people and fishers required to furnish assistance for guiding a vessel to anchorage or in a given difficult passage, can take up the job provided that as soon as they are on board state their quality and declare that they are not qualified for pilotage; they are liable for damages suffered by the vessel only when it is proved that such damages derive from wrong information and indications given by them to determine the route.

Article 32

Port labour

Port labourers are people with any position in charge of loading, unloading, stowing, unstowing, transshipment, freight handling on quays and in warehouses, shifting of goods and persons in general, as well as complementary operations involving personal work or use of floating or land transportation means, mechanical equipment or implements.

Article 33

Harbour contracting work

The carrying out of port operations on behalf of third parties by business enterprises or individuals, is subject to concession upon decree of the Minister of Economic Affairs.

Concessions can be granted to port labourers cooperatives. Tariffs for port operations are established in accordance with the terms provided for in the concession regulations.

Article 34

Port labour councils

If considered advisable, Port Labour Councils can be set up in ports upon decree of the Minister of Economic Affairs. These Council assist the Harbour Master on port labour matters.

CHAPTER IV

MARITIME PERSONNEL

Article 35

Sea-faring people and personnel employed in maritime activities of ports

Maritime personnel, in relation to the work performed, includes (a) sea-faring people, and (b) personnel employed in maritime activities of ports.

The former category includes people with any rank or position who constitute the crew on ships, dhows, and mechanically propelled craft.

The latter category includes port labourers, boatmen, fishers, and people generally working in the maritime industry.

Article 36

Enrollment and sailing books of sea-faring people

Sea-faring people are enrolled in special registers held by the Head of the Maritime Zone.

People enrolled are furnished with a sailing book, which

is the only document qualifying for maritime activities and is valid as passport for the period and requirements connected with the performance of Maritime activities. In order to enroll in the above registers, sea-faring people are required to :

- a) be Somali citizens;
- b) be domiciliated in the Territory;
- c) be at least 15 years old;
- d) be vaccinated against smallpox;
- e) have the consent of the person exercising paternal authority or tutelage (for minors);
- f) be declared physically fit for sailing;
- g) know how to swim and row;
- h) not to have been sentenced for crimes against properties or people, involving at least one year imprisonment; save for rehabilitation.

Minors who are at least 10 years of age can be enrolled in the above registers to be employed on ships or dhows provided members of their family are also making part of the ship's crew and on condition that they take responsibility for them.

On landing from these vessels, minors are still enrolled in the above registers but they cannot be employed on ships or dhows until 15 years of age, unless members of their family to take responsibility for them are part of the crew on said vessels.

Article 37

Sea-faring people can be cancelled from the official registers for the following reasons :

- a) death of the person enrolled;
- b) statement of the enrolled person's intention to abandon maritime activities;
- c) loss of Somali citizenship;
- d) permanent loss of physical fitness for sailing;
- e) sentence, by irrevocable judgement, for a crime for which the applicant cannot be enrolled;
- f) cessation of sailing for a period of ten consecutive years for the persons enrolled who are in possession of professional titles, and five consecutive years for

Persons cancelled from the official register in accordance to c) and e) can request re-enrollment when the causes which determined cancellation do not longer exist; persons cancelled in accordance to b) and f) can request re-enrollment within a period of time from the day of cancellation, equal to the period of sailing previously carried out.

Article 38

Professional titles of maritime personnel

For sea-faring people and persons working in the maritime industry, professional titles are the following :

a) Deck service :

1. Capitano di lungo corso (master mariner), qualifying for command of any type of vessel for any destination.
2. Padrone marittimo, qualifying for command of any type of vessel not exceeding 1,000 GRT; for sailing from Lourenco Marques to the Arabian coasts, in the Persian Gulf and the Red Sea, as well as for coastal sailing in the Oman Gulf, along the Indian coasts, up to Calicut.
3. Nacuda, qualifying for command of sailing vessels not exceeding 250 GRT or mechanically-propelled vessels as specified sub. 4 bellow, within the same geographical limits.
4. Marinaio autorizzato al traffico, qualifying for command of sailing or mechanically-propelled vessels not exceeding 150 GRT for coastal sailing from Lourenco Marques up to the Arabian coasts of the Oman Gulf, including the Persian Gulf but excluding the Red Sea.
5. Capobarca (head boatman), qualifying for command of sailing or mechanically-propelled vessels not exceeding 50 GRT in the waters of the Territorial sea.

b) Engine service :

1. Capitano di macchina (chief engineer), qualifying for supervision of marine engines of any type, installed on board vessels sailing on any sea.
2. Meccanico navale (engineer), qualifying for supervision of any type of marine engine not exceeding 800 S.H.P. or 900 rated S.H.P., installed on board vessels sailing from Lourenco Marques to the Arabian coasts, in the Persian Gulf and the Red Sea as well as for coastal sailing from the Oman Gulf, along the Indian coasts, up to Calicut.
3. Motorista navale (engine room mechanic), qualifying for supervision of internal combustion engines not exceeding 300 S.H.P. installed on board vessels sailing coastwise within the limits referred to above, including the Persian Gulf but excluding the Red Sea.
4. Fuochista autorizzato (authorized fireman), qualifying for supervision of engines not exceeding 150 rated S.H.P. installed on board vessels sailing as per a), 4).
5. Motorista abilitato, qualifying for supervision of internal combustion engines not exceeding 100 S.H.P. installed on board vessels sailing in the waters of the territorial sea.

c) Shipbuilding personnel :

1. Ingegnere navale (marine engineer), qualifying for designing or supervising the construction, transformation or repair of any vessel.
2. Costruttore navale (shipbuilder), qualifying for designing and supervising the construction, transformation or repair of vessels with wooden hull of any type and tonnage, or with iron hull up to 300 GRT.
3. Carpentiere navale (shipwright), qualifying for construction and repair of wooden vessels not exceeding 150 GRT.

CHAPTER V

ADMINISTRATIVE ORGANIZATION OF VESSELS

Article 39

Ships, dhows and craft

The term "vessel" includes any craft intended for sea transport, fishing, towage, or any other purpose.

Vessels, depending on their technical requisites and type of service which they are called to perform, are registered in :

- a) Register of ship;
- b) Registers of dhows;
- c) Registers of sea craft.

The enrollment of sea craft in their appropriate registers is determined on the basis of their permanent employment in the single ports.

Provisions governing ships apply also to dhows and sea craft, unless otherwise provided.

Article 40

Admission to navigation and identification of ships,
dhows and craft

Vessels enrolled in registers held by the competent Boards and qualified in the form envisaged in the present Code, are admitted to navigation.

Besides tonnage and the place where the Enrollment Board is located, ships are identified by a name, dhows by a name and enrollment number, sea craft by enrollment number.

Article 41

Nationality requisites

Vessels built anywhere, belonging to Somali and foreign citizens can be enrolled in the registers indicated sub. article 39. The term "citizens" includes corporations, business enterprises and associations of individuals. For each not register ton the owner of the vessel must pay:

- a) the duty established by the law, at the time of enrollment;
- b) the annual tax established by the law. The amount of this tax remains the same for twenty years starting from the date of the initial enrollment.

Owners of ships and dhows who are not domiciliated at the place of enrollment must appoint a representative whose residence therein constitutes, before the maritime authority, their actual domicile.

Article 42

Nationality act of ships, dhows permits, sea craft licences

Ships, dhows, and sea craft enrolled in registers are cleared for sailing and are qualified to fly the flag of the Somali Merchant Marine respectively by the nationality act, permit, and license.

The nationality act is issued by the Head of the Maritime Zone and contains the name, type, and major characteristics, gross and net register tonnage, name and domicile of the owner.

Dhows permits and sea craft licences are issued by the authority holding their respective registers and contain their name, enrollment number, main dimensions, gross and net register tonnage, name and domicile of the owner, and the Enrollment Board.

In case of urgency, the nationality act can be substituted by a temporary certificate issued by the Head of the Maritime Zone to new construction vessels, or the Consular Authority, also prior to enrollment, to vessels flying a foreign flag.

This certificate is also issued to vessels whose nationality act has been lost or destroyed.

The above authorities establish the validity of the certificate in relation to the time required to issue the nationality act.

In any case, the duration of the validity cannot exceed one year. Dhows permits and sea craft licences can, in the cases envisaged above, be substituted with a temporary permit or license respectively.

The nationality act must be renewed when the name, tonnage or type and main characteristics of the vessels are changed.

Over and above these reasons, dhows permits must be renewed in case of change of the Enrollment Board and number; sea craft licenses must be renewed also in case of change of the owner.

Article 43

Authorization to abandon the flag

The owner who intends to request cancellation of his vessel from Somali registers in order to enroll it in registers of another State, or if he intends to sell his vessel to another person who does not state that he intends to keep the vessels enrolled in Somali registers, must state this to the Board of Enrollment if the vessel is in the Territory or to the Consular Authority if the vessel is abroad.

The Authority receiving the above statement orders the publication of the latter by affixing it in the Enrollment Board and, if this is the case, also by publication of the Official Bulletin inviting the persons concerned to exercise their rights within 120 days (in case of ships) or within 90 days (in case of dhows or sea craft), and issuing the authorization to abandon the flag.

Nevertheless, if within the term fixed in the preceding paragraph claims are put forward, or if the existence of real or guarantee rights on the vessel is proved, the authorization can be given to the owner only after claims have been rejected by an irrevocable judgement or if creditors have been satisfied or the owner has complied with the provisions issued by the Maritime Authority in connection with crew wages and with the

amounts due to the administration, and by the judicial Authority under request of the most diligent party, for the guarantee of creditors' interests.

The Authority delivering the document authorizing to abandon the flag, withdraws the ships documents.

Article 44

Authorization to abandon the flag in case of succession or sale by auction

The heir or the person acquiring a Somali vessel by auction who does not intend to keep the vessel enrolled in Somali registers, must forward a statement of his will to the Enrollment Board of the vessel or, if abroad, to the Consular Authority.

The Authority receiving this statement takes the steps set forth in the second paragraph of the preceding article.

As for the granting of the authorization, the third and fourth paragraph of the preceding article shall apply.

Article 45

Authority competent for granting the authorization to abandon the flag

The authorization to abandon the flag is of competence of the Minister of Economic Affairs.

Article 46

Voluntary demolition of a vessel

The owner who intends to demolish his ship, or a dhow or sea craft exceeding 50 GRT, must state the same and request the authorization to the Enrollment Board, delivering the ship's documents.

The Authority publishes the statement according to the procedure set forth in Article 43.

If, within 120 days from the date on which the statement was published, creditors put forward claims in this respect, or if the existence of real or guarantee rights on the vessel is proved, the authorization can be granted only after claims have been rejected by an irrevocable judgement, or after creditors have been all satisfied, or rights cancelled, or, in default, if the owner has fulfilled the provisions of the Maritime Authority for crew wages and for the amounts due to the Administration.

The authorization is also granted by the judicial Authority under request of the most diligent party in order to safeguard the creditors' interests.

Nevertheless, demolition can be forthwith authorized when the same is necessary for serious urgency reasons.

Article 47

Presumed loss

After four months from the last news, in case of mechanically-propelled vessels, or after eight months in the other cases, the vessel is presumed to be lost on the day following that in which the last news was received.

After adequate investigations are conducted, the Enrollment Board, upon expiration of the above terms, drafts a note of presumed loss.

Article 48

Cancellation of vessels from registers

Vessels are cancelled from the enrollment register in case of :

- a) Actual loss.
- b) Presumed loss.
- c) Demolition.

- d) Abandonment of the flag.
- e) Change of enrollment board.

Upon cancellation, the Authority withdraws the ship's documents if it has not already done it in accordance with the preceding articles, publishing cancellation as required.

Article 49

Seaworthiness conditions and procedures for their determination

Any vessel commencing sailing must be seaworthy, suitably rigged and equipped, for the employment intended for.

The existence of the above requisites is evidenced by suitable certificates issued by the Maritime Technical Office operating directly under the Minister of Economic Affairs, which arranges visits and inspections necessary to ascertain and control the conditions of seaworthiness and of fitness, in view of the safeguard of human life at sea and of the security of national merchant vessels. Certificates and any other document issued by the Maritime Technical Office are valid as long as the contrary is proved. Certificates issued by legally established foreign agencies are just as valid as are those issued by the Maritime Technical Office.

The Maritime Authority in the Territory and the Consular Authority abroad provide that the ordinary prescribed inspections and visits, at the expiration of the above certificates, as well as special inspections and visits, when they consider it advisable or when averages have occurred which can lessen the seaworthiness of the vessel or the operation of its parts, are made at the shipowner's expenses.

Article 50

Ship's documents

Ship's documents are :

- a) for ships : nationality act, crew roll, log-book;
- b) for dhows : permit and crew roll;

c) for sea craft : license

The above documents must be kept on board.

The crew roll, issued by the Enrollment Board, must contain :

1. Name of ship or dhows;
2. Name of shipowner;
3. Date of fitting-out and laying-up;
4. List of crew members, indicating the individual employment contract as well as the professional title, qualification, duties on board and wages agreed upon in the contract.

In the crew roll, the following data are noted :

1. Visits of the Maritime Technical Office.
2. Payment of Maritime Taxes and Duties.
3. Visa for arrival and departure of the vessel, to be affixed in each port by the Maritime or Consular Authority.

The log-book is filled in daily by the ship's Master who reports any fact relating to sailing, money collected and paid in connection with both the vessel and crew; fulfillment of laws and regulations for the security of navigation; crimes committed on board and steps taken; any special event regarding the vessel, persons on board, and cargo, which happened during the voyage; loading and unloading of goods, indicating the nature, quality and quantity of goods, date and place of loading and destination port, shipper's and consignee's name and the date and place of re-delivery.

The master reports also the hours of sailing, the number of revolutions per minute, consumption, averages and repairs to the power plant on the advice of the Chief Engineer who fills in, daily, a report on the part of his competence.

Reports on the log-book must be signed daily by the Master.

They give evidence also in shipowner's favour, if lawfully made; in any case, they give evidence against the shipowner but no part of their contents can be deleted by the party seeking advantage from the same.

CHAPTER VI

MARITIME POLICE

Article 51

Arrival of vessel

Upon arrival of a ship or dhow flying the Somali flag in a port of the territory, also in case of voluntary or forced refuge, the Master of the ship or dhow, besides complying with health regulations referred to sub. Chapter VII, must :

- a) deliver to the maritime authority going on board a notice evidencing the basic data to identify the vessel, name of the Master, of the owner and of the representative, number of crew members, quantity and quality of cargo on board and of that to be unloaded, number of passengers on board and number of passengers who are landing;
- b) deliver the ship's documents;
The log-book is validated by the maritime authority who affixes a visa after the latest report contained in the book;
- c) declare averages and any special event occurred during the voyage to the ship or dhow, to the cargo and the persons who were on board. For ships, the maritime authority mentions this statement and adds it to the visa affixed on the log-book; for dhows, it drafts the relative note.

The same authority, if considered advisable, starts immediate investigations on the fact denounced drafting a separate note thereon. In foreign ports, operations referred to sub. b) and c) are carried out by the consular authority or by the local authority if authorized by the laws of the country or by international agreements; otherwise they are carried out in the first port of the Territory or in the first foreign port in which resides the Consular Authority.

In case the statement of average or that relating to special events has not already been received by the local authority, the Master must submit it to the consular authority immediately after clearance for pratique.

The Master must furnish the Maritime or Consular Authority ~~the~~ information requested him on the voyage and to send to the same authority, for investigations that the latter may consider advisable, crew members and passengers.

Foreign ships and dhows must also produce health documents and documents for indentifying the ship, and are also subject to the provisions set forth sub. a), first paragraph, present article.

Article 52

Departure of vessels

Any ship or dhow flying the Somali flag cannot leave ports in the Territory or abroad without having obtained the departure visa to be affixed on the crew roll by the maritime or consular authority respectively.

The visa cannot be issued when both the shipowner and the Master have not fulfilled the obligations established by the Police rules relating to the safety of navigation, or have not complied with health or customs obligations, or else have not paid maritime taxes and duties, fines, or the guarantee deposit under article 29, second paragraph.

The departure visa issued to foreign ships or dhows is evidenced by a departure clearance of the maritime authority which can issue it only if police and customs rules have been complied with and maritime taxes and duties, fines, and the guarantee deposit as per article 29, second paragraph, have been paid.

Article 53

Discipline on board

All persons in any quality on board a vessel are subject to the Master's Authority.

Crew members cannot land without being authorized to do so by the Master.

They must cooperate in saving the vessel, passengers, and cargo until when the Master has ordered to abandon the

vessel.

In case of wreckage, they must give their work for salvaging the wreck if so required immediately after the wreckage either by the shipmaster or by the maritime or consular authority.

Article 54

Complaints of crew members and passengers

Crew members can bring complaints before the maritime or consular authority against measures taken by the Master in respect of the performance of their duties.

The Master cannot prevent the person who intends to make complaints from presenting before the above authorities, unless urgent service requirements make their presence on board necessary.

Crew members, in number not less than one third, can complaint against both quality and quantity of victuals.

The maritime or consular authority, after ascertaining the actual situation, order, if this is the case, the shipmaster to take immediately the most adequate measures and, in case of non-compliance, they provide by office, furnishing the necessary amount by sale or pawn of rigging not indispensable for safe navigation or, subsequently, of items loaded on the vessel, giving previous notice to the shipowner and, whenever possible, to the persons having rights on the above properties.

When goods are sold, the shipowner is obliged to indemnify their owners. Similar steps are made by the maritime and consular authority in case of complaint of passengers.

Article 55

Abusive loading of dangerous goods

When dangerous goods are clandestinely loaded on a vessel, the Master, as soon as he has discovered this fact, must, depending on the circumstances, order that the same be unloaded or, if sailing, must render them inoffensive or destroy

them if it is not possible to suitably held them in custody as far as the first port. The Master must take the same measures when goods are loaded, the transport of which, although not forbidden by specific rules, is or becomes, during sailing, dangerous or harmful to the vessel, persons or cargo, if it is not possible to take the same in custody until the arrival in the port of destination.

Such goods, when kept in custody as far as the first port of call, must be delivered by the Master to the Harbour Master or to the Consular Authority to be stored in customs warehouses and put at the disposal of the persons concerned.

Article 56

Death or disappearance of persons during the voyage

In case of death or disappearance of persons during the voyage the shipmaster must ascertain the causes which determined the death or disappearance, with the assistance of two witnesses. If the death was caused by a disease which can transmit to others, the Master must take care that any item belonging to the persons deceased be destroyed if considered dangerous to the health of the other persons.

Save for this case, the abovementioned items as well as those belonging to persons disappeared, are kept by the Master as far as the first port of call and there delivered to the maritime or consular authority.

After ascertaining the causes referred to sub. the first paragraph of the present article, the Master, in presence of the witnesses who have assisted him, reports the fact to the above authorities which, in turn, draft a notice bearing the personal data on the person deceased or disappeared, as well as the hour, the date, the causes and circumstances of the event reported by the Master.

This notice is forwarded to the municipal or district authority of the place of the last domicile of the person deceased or disappeared and, in case of disappearance, to the judicial authority of the first port of call.

Article 57

Repatriation of Somali seamen and citizens

In foreign countries where no consular authority exists, the Master must give shelter on board and repatriate Somali seamen who are found abandoned.

He must also give shelter on board and repatriate any other Somali citizen whom the consular authority deems, for whatsoever reason, suitable to repatriate.

The Master, however, cannot even if abroad give shelter on board to persons, also if Somali citizens searched for by the competent authority for having committed a common crime.

Article 58

Loss of ship's papers and documents

In case of loss of papers or other ship's documents, the Master must, in the first port of call, report it to the Harbour Master or to the Consular Authority which deliver him temporary documents to continue the voyage.

Article 59

Request to stop by foreign warships

Ships and dhows flying the Somali flag must obey the request to stop made by warships of friendly nations, justifying, if requested, their own nationality.

The above ships and dhows have not the obligation, in peacetime, to undergo any visit or other act of jurisdiction by warships of friendly nations except for what has been internationally agreed to prevent slave trade.

Article 60

Technical provisions

Provisions relative to maritime signalling in general, those to avoid collision as well as those relative to the installation and operation of radioelectric apparatuses on board are established by the Regulation.

CHAPTER VII

HEALTH CONTROL SERVICE

Article 61

Maritime Health Control Service

The Maritime Health Control Service in ports, vessels anchored therein, as well as for arrivals and departures by sea, for the defence against the transmission by such way of infectious diseases, operates under the Department of Public Health through the Maritime Authority and its staff.

In ports of the Territory, where the need arises, a port surgeon is nominated.

Port surgeons effect all the visits and controls connected with their duty established by the present Code and the Regulation, ensuring that all health measures are carried out in both ports and anchored vessels and dhows.

They must immediately inform the Department of Public Health and the maritime authority of any fact relating to public health as well as of any infringement of health provisions, proposing the necessary steps to be made in this connection.

In ports where no surgeons are available, the health control service is entrusted to the auxiliary health personnel in the manner and with the limitations established by the Department of Public Health which nominates also a surgeon in the nearest place to supervise the above-mentioned personnel and intervene in the most serious cases.

Article 62

Request of admission to pratique

The master of national or foreign ships and dhows, including the captain of naval vessels, on arriving in a port of the Territory is obliged to keep the vessel or dhow completely isolated, hoisting the yellow flag indicating quarantine, established by the international signal code, and forbidding any communication before having obtained admission to pratique. To obtain the latter, the Master must request it to the maritime authority which goes on board the infected vessel. To this authority, which must be assisted by the port surgeon or, in absence of the latter, by the auxiliary health personnel concerned, the Master must show besides health documents in his possession, the health declaration referred to sub. article 64.

Article 63

Quarantine in ports

The Master may not request admission to pratique referred to in the preceding article and take the sea freely; in any case, however, he must inform the maritime authority of his intentions upon arrival, submit the document referred to sub. article 51, first paragraph, a) and keep the vessel or dhow in strict isolation, hoisting the yellow flag indicating quarantine for the time of stay which, for foreign naval vessels, cannot as a rule exceed 5 days except for diplomatic understandings or cases of force majeure.

Article 64

Health declaration

Before requesting pratique, the Master must control the health conditions of anyone on board drawing up and signing a health declaration; the latter is signed also by the ship's surgeon, if any. The declaration should indicate the date

and place of departure of the vessel, intermediate ports touched and date, number of passengers and crew, hygienic conditions of the vessel, any disease which occurred during the voyage and information on the health conditions of both passengers and crew received while at sea. The contents of the health declaration cannot be brought to the knowledge of anyone on board. When the maritime authority has doubts about the correctness of the declaration drawn up by the Master, it can question passengers or crew members. For warships, the captain's declaration will suffice.

Article 65

Clearance for pratique

Vessels arriving from countries which are not subject to health treatments, if the voyage was safe and the Master has not received suspect information during the same, are immediately cleared for pratique by the maritime authority after hearing the port surgeon, or, in absence of the latter, the auxiliary health personnel concerned, as soon as the shipmaster has complied with the provisions set forth in the preceding article.

In case :

1. the number of persons on board differs from that shown in the ship's papers;
2. the cargo is all or partly composed of substances which are suspected to jeopardize public health;
3. the Master has received suspect information during the voyage;
4. some case of doubtful disease or death caused by doubtful disease has occurred during the voyage,

the Maritime authority does not issue the clearance for pratique until when the provisions of the Department of Public Health in this respect, following an urgent report by the port surgeon, or, in absence of the latter, by the auxiliary health personnel concerned, have been complied with.

Vessels arriving from intermediate departure or arrival ports subject to health treatment, in order to be cleared for pratique, must comply with the provisions set forth in the Regulation for each particular case.

CHAPTER VIII

SEA FISHING

Article 56

Major and minor fishing activities

Sea fishing falls into two classes: major and minor fishing activities. The former class relates to the activities carried out exclusively by means of fixed plants or large nets for catching largesized fish, including trawling on the high sea carried out with any mechanically-propelled vessel.

The latter class involves the remaining fishing activities, including fishing of mother-of-pearl and other industrially exploitable shells.

Fishing activities are governed by the following articles, which apply to both somali and foreign citizens allowed, in accordance with definite agreements, to fish in the waters of the Territory.

Article 67

Concessions and licence

Major fishing activities on the territorial sea and permanent breeding of fish and other aquatic animals in ~~shore~~ areas, in demesrial maritime waters or in the territorial ~~sea~~ are permitted only to person holding a concession for this ~~purpose~~ issued upon decree of the Minister of Economic Affairs.

Minor fishing activities are permitted only to persons holding a licence for this purpose, issued by the maritime authority upon payment of the relative duty.

The normal validity of licences is of one year and they can be renewed annually.

Licences are not necessary for fishing with conventional means. In concession acts relative to major fishing activities as well as in licences for minor fishing activities, express reservation must be made for uses referred to in the preceding paragraph.

The right to major fishing activities does not prejudice that of minor fishing activities; to this end, any means employed in major fishing activities cannot be used within a line 500 meters from the coast.

Article 68

Concessions for major fishing activities

Concessions to carry out major fishing activities can be granted by the Administration for a period not exceeding nine years and are renewable upon expiration, for another period of the same length.

Concessions may include one or more sea areas; in any case, these concessions do not involve exclusive rights by the concessionaire upon the sea area covered by the concession, since the Administration has the power to determine for each area the number of concessions which can be granted in relation particularly to the exploitation conditions, safeguard of sea fish and the different species of fish, as well as to fix other special rules necessary to the public interest.

When concessions cover trawling on large areas of the territorial sea, the concessionaire must have on land the necessary sea product and by-product preservation and processing plants.

The same rule, however, may be applied also in other cases.

To this end, concessionaires can obtain the occupation and use of available maritime demesne areas necessary to operate a fishing industry. These areas are granted with the same concession act as above or by a subsequent act.

Concessions are subject to the annual payment of a rent which is determined, case by case, according to the nature, importance, and duration of the concession, with special regard to the sea area conceded and to its location with respect to the places of call as well as to the maritime demesne areas conceded pursuant to the preceding paragraph.

Article 69

Applicability

* For any case not specifically contemplated in the present Code, Chapter VIII, relating to concessions referred to sub. the preceding articles, the latter are governed by the provisions of Chapter II of the present Book, insofar as consistent.

Article 70

Prohibition to fish

The Minister of Economic Affairs can prohibit, without paying any indemnity, fishing activities on sea areas conceded or on specific sea zones, for reasons connected with public needs or with sailing or maritime signal requirements.

Article 71

Prohibited fishing means

In any case, fishing by means of dynamite or similar materials, as well as the use of electric current as a direct killing or stunning means, or throwing or dissolving substances in water to enervate, stun or kill fish and other aquatic animals, is prohibited.

Catching and selling animals thus stunned and killed is likewise prohibited.

Article 72

Supervision of fishing

Supervision of fishing and enforcement of the rules governing it are entrusted to the maritime authority.

BOOK II

OWNERSHIP AND FITTING OF VESSELS

CHAPTER I

OWNERSHIP OF THE VESSEL

Article 73

Provisions applicable to vessels

Unless otherwise provided, vessels are governed by the provisions regulating movable property.

Boats, riggings, tools, fittings and, in general, anything durably destined to service or ornament of the vessel are part of the vessel.

Article 74

Joint-ownership

The shares of participation in the ownership of a vessel are expressed in fractions.

For anything that concerns common interest of the joint-owners of the vessel, resolutions taken by the majority bind also the minority.

The majority is formed by the vote of joint-owners representing, as a whole, over one half the value of the vessel; as regards sale and mortgages, the majority is formed by the vote of joint-owners representing, as a whole, at least two thirds of the value of the vessel.

The judicial authority, however, upon request of joint-owners representing at least half the value of the vessel or, in case of serious and urgent motives; at least one fourth the value of the vessel; can authorize the sale or mortgage of the vessel after hearing dissentient joint-owners.

Article 75

Form of acts relating to the ownership of the vessel

Acts of acquisition, transfer, or cancellation of ownership or other real rights on vessels or their fractions must be drawn up in writing under pain of nullity.

Article 76

Publicity of acts relating to the ownership of the vessel

Acts referred to sub. the preceding article have no value before third parties unless they are rendered public through transcription in the registers of the ship, dhow or sea craft.

For ships and dhows, publicity must be completed by noting the above acts on the act of nationality and permit, respectively. Publicity is requested to the Enrollment Board. If the vessel does not find itself in the enrollment place, the above note can be made by the maritime or consular authority of the place in which the vessel finds itself, upon request of the Enrollment Board.

Article 77

Order of precedence and prevalence of transcription

In the case of several acts being published according to the preceding articles, precedence is determined by the date of transcription in the registers of the ship, dhow or sea craft. In case of difference between the transcription in the register and the annotations on the act of nationality for ships or on permits for dhows, the notes of the register shall prevail.

CHAPTER II

OPERATOR

Article 78

Declaration as operator

Operator is the person using a vessel for one or more voyages or for the purposes to which it is destined, providing it with the necessary stores and items, independently of whether he is or not the owner of the vessel, assuming himself or entrusting to others the command of the vessel.

The operator who is not the owner of the vessel, before assuming the operation of the latter, must make a declaration as operator to the Board of Enrollment. If not, the declaration can also be made by the owner of the vessel.

If the declaration is made at the same time by operator and owner, the Enrollment Board can accept the declaration as operator by process verbal which must be signed by the appearance; otherwise the Enrollment Board can accept the declaration as operator only when it receives the original copy of the title

providing for the use of the vessel.

The declaration as operator is noted in the register of the vessel.

Article 79

Presumption of operator

In default of the declaration as operator referred to sub. the preceding article, the shipowner is presumed as operator unless contrary evidence is given.

In case of several owners, they are presumed operators in proportion to their joint-ownership shares, unless contrary evidence is given.

Article 80

Designation of representatives

When the operator is not domiciliated or resident in the enrollment place of the ship or dhow, or when the operator is the Master, the operator must appoint a person residing in that place to represent him before the Enrollment Board.

Article 81

Operator's liability

The operator is liable for the acts of the crew and for the obligations undertaken by the master, as regards both vessel and voyage. Nevertheless, the operator is not liable for the fulfillment by the master of the obligations connected with assistance or salvage nor for the other obligations imposed by law upon the master as "leader" of the voyage.

Article 82

Limitation of the shipowner's debt

Save for obligations deriving from his personal fraud or grave fault and those relating to employment contracts of the crew, the shipowner is liable.

a) up to the value of the vessel or freight :

1. For his share of contribution to general averages;
2. For remunerations of assistance and salvage;
3. Save for his express authorization and ratification in this connection, for obligations resulting from contracts entered into or operations carried out by the Master by virtue of his legal powers, outside the fitting place, for the actual preservation of the vessel or to continue the voyage, provided these needs are not due to insufficiency or defect of fitting or of stores at the beginning of the voyage.

b) up to Sh.So. 160 per GRT of the vessel :

1. For indemnities due to third parties as a result of damages caused by the master or crew on land or at sea;
2. For indemnities due on account of damages suffered by the cargo;
3. For obligations resulting from bills of lading;
4. For indemnities due on account of a nautical fault committed in performing a contract;
5. For obligations deriving from damages caused to harbour works and for the obligation to remove the rest of a sunk vessel and for related operations.

c) up to Sh.So. 160 per GRT of the vessel added to the figure sub. b).

for indemnities due to injured persons or to persons who have right to exact the indemnity for them, in case of death or personal injury to anyone on board caused by the Master or the crew.

The latter sum is fixed for vessels of over 300 GRT only.

Article 83

Calculation of tonnage and freight in connection
with the limitation of the shipowner's
debt

To the effects of the provisions set forth in the preceding article, tonnage is calculated as follows:

1. For mechanically-propelled vessels :

on the basis of net register tonnage plus the volume of the enclosed spaces of power plant which is deducted from gross register tonnage to determine net register tonnage.

2. For other vessel :

on the basis of net register tonnage.

To the effects of the provisions set forth sub. article 82, a), freight is calculated, in any case, at 10 per cent of the value of the vessel at the beginning of the voyage.

Article 84

Valuation of the vessel

Shipowners who intend to avail themselves of the limitation of liability up to the value of the vessel or freight are obliged to give evidence of such value.

The valuation of vessel is made :

1. On the basis of the vessel's conditions upon arrival at the first port, in case of collision or other accidents, in favour of all the creditors concerned, also by virtue of a contract, and who were such price to the arrival at the first port touched after the accident, as well as in favour of credits arising out of a general average caused by such accident. If, prior to arrival at the first port, a new accident independent of the former

causes a further diminution of the vessel's value, such diminution of value is not calculated in respect of credits referring to the former accident. For accidents occurring during the vessel's stay in a port, the valuation is made on the basis of the vessel's conditions in this port after the accident.

2. On the basis of the vessel's conditions at the destination port of the cargo or at the place where the voyage is interrupted, if credits relating to the cargo or else credits deriving from a bill of lading are involved independently of the cases envisaged sub. 1) above. If the cargo is bound for different destinations and the damage derives from the same cause, the valuation is made on the basis of the vessel's conditions at the first port of the abovementioned destinations.
3. In any other case contemplated sub. article 82, the valuation is made on the basis of the vessel's conditions at the end of the voyage.

The judicial authority of the place in which the evaluation is made or the consular authority abroad must appoint an expert, if the shipowner or the master request his presence, who will check the value stated by the shipowner.

Article 85

Plurality of creditors

Creditors involved in the same accident and creditors not involved in any accident and for whom the value of the vessel is determined in the same port, have all right to the sum within the limits of which the shipowner is liable before them, taken into account also pre-emption rights which, according to their respective degree of priority, are due to credits guaranteed by privilege.

Article 86

Effectiveness of the guarantee given by the shipowner in case of attachment of the vessel

In case of attachment, the guarantee given up to the maximum limit of the shipowner's liability favours all the

creditors to whom this limit may be applied.

In case the vessel becomes subject to a new attachment proceeding, the judicial authority can revoke the latter if the shipowner gives evidence that he has given guarantee up to the maximum limit of his liability, that this guarantee is satisfactory and that creditors can by all means avail themselves of it.

If the guarantee is given for a lesser amount, or if several guarantees are subsequently requested, the disputes involved are settled by the parties, or, in default to reach an agreement between the latter, by judicial authority to avoid that the limit of liability is surpassed.

Article 87

Unallowed attachment of enforcement

Creditors involved in the limitation of liability cannot request attachment or enforcement; if the latter have already been started they must be stopped by the judicial authority when the shipowner has deposited the sum corresponding to the value referred to sub. article 84, legal interests calculated as of the day of liquidation of creditors up to the day in which the deposit is made, as well as the sum corresponding to legal and liquidation costs. If the shipowner's liability for acts of facts which entitle him to ask limitation is not yet definitely established he can, if authorized by the judicial authority, following the procedure fixed by the latter, replace the above sums with a concrete guarantee.

Article 88

Request to check credits and share of sums due by the shipowner

Within 5 days from the date in which the filling is made or from the date in which the guarantee referred to sub. the preceding article is issued the shipowner must submit to the competent regional Court a request to have credits checked or sums due shared. The shipowner's request must show the names of creditors known to him.

If the shipowner does not submit this request within the term established, it can be submitted by any creditor.

Article 89

Injunction to creditors

The Court must urgently forward to creditors listed in the shipowner's request, by means of a registered letter with return receipt, an injunction to produce, under pain of cancellation, within 30 days, their instruments of credit and the request of inscription in the sharing list. The same injunction must be notified by the Court to creditors unknown to the shipowner, through publicity on the Official Bulletin as well as through other means which are considered appropriate. For creditors residing abroad, the Court must establish, in the single cases, the special procedure to notify or publicize the injunction and fix an adequate term to carry out the provisions referred to sub. the preceding paragraph.

Article 90

Credit check note and sharing list

The Court's note relating to the check of credits is filed with the Chancery. This fact must be publicized also by a notice affixed in the vessel's Enrollment Board. If within 15 days from filing claims are put forward in connection with credits, determination of the vessel's value, and freight, the Court summons the parties at a definite date.

After claims have been settled or after expiration of the term referred to sub. the preceding paragraph without any claim being put forward, the Court draws up the list of sharing of the sums among the creditors concerned, taking into account pre-emption rights.

Such list is filed with the Chancery; anyone who may be interested in it, has right to read it and have a copy of the same.

Article 91

Approval of the sharing list

After 5 days from the date in which the sharing list has been filed with the Chancery, the Court summons the creditors by means of a registered letter with return receipt to discuss and approve the list, inviting also the shipowner to attend. If all the creditors present approve the list and no claim is put forward by the shipowner this fact is noted in the list. If one or all the creditors are not present on the day and at the time fixed, this fact will mean that they have accepted the list.

If any dispute arises on the proposed list among creditors present, or between a few of them and the shipowner, the Court will summon the parties at a subsequent hearing and the sharing of sums will be suspended until a judgement is rendered on the dispute or the latter is settled.

CHAPTER III

MASTER AND CREW

Article 92

Nautical direction of the vessel

The nautical direction of the vessel is of sole competence of the shipmaster. Even when obliged to avail himself of the pilot he must personally direct the maneuver of the vessel entering or leaving ports as well as in any other circumstances in which sailing presents particular difficulties.

In case of death, absence or impediment of the Master during sailing the direction of the vessel is taken over by the deck officer next to the Master in rank.

Article 93

Duties of the Master before and during sailing

Before sailing, the Master must ascertain that the vessel is fit for the voyage, well equipped and rigged, properly loaded and stowed.

If during the voyage events occur putting in danger the vessel, cargo and passengers, the Master must try to ensure their safety by all means at his immediate disposal or which he can obtain either by taking refuge in a port or requesting assistance to other vessels.

If it is necessary to sacrifice or damage parts of the vessel or cargo, he must, as far as possible, proceed commencing with the vessel, passing then to the cargo, giving precedence to items of minor value and to those items for which sacrifice is more useful and preservation less necessary.

In case of abandonment of the vessel, the Master must be the last to abandon it seeing to it that, as far as possible, the ship's papers and books as well as items of value committed to his custody are saved.

Article 94

Keeping of ship's documents

The Master must see to it that documents relating to the vessel, crew passengers, and cargo are regularly kept.

Article 95

Representation and legal powers

The shipmaster is appointed by the operator and represents him. He exercises the powers conferred on him by law in respect of all persons interested in the vessel and cargo.

Out of the place in which the operator or his representative furnished with necessary powers are present, the Master can carry out the necessary acts for the vessel and voyage, he can likewise appoint and dismiss crew members. In the circumstances referred to sub. the preceding paragraph, the Master can, in case of urgency, notify acts or start or continue judicial proceedings in the name and interest of the Operator as regards the vessel and voyage. Out of the abovementioned places, third parties can, likewise, notify acts to the Master personally, or against the latter start or continue judicial proceedings, regarding facts of the crew relative to the vessel and voyage or

obligations undertaken by the Master during the voyage. The operator can resume the summons served by the Master or on him, and besides he can bring claims against judgements issued in proceedings, in contradictory with the Master.

Article 96

Necessity of funds and other items during the voyage

If during the voyage, the need arises of funds for supplies, repairs, or other urgent needs of the vessel or for the continuation of the voyage, the Master must immediately inform the operator. When this is not possible or if the Operator duly informed has neither furnished means or given suitable instructions, the Master can ask authorization, in the Territory, to the judicial authority or to the Consular Authority, if abroad, otherwise to the local authority, to borrow the necessary amounts or to undertake obligations towards those supplying stores, materials, implements or labour, or to pawn or sell stores, implements, or fitting of the vessel not necessary for safe navigation.

If, during sailing, stores and any other item necessary to the continuation of the voyage run short, the Master must take care for their supply. To this end, if necessary, he must request the same to vessels which he may encounter or otherwise call at the nearest place, even if for this purpose a deviation is necessary. In case of extreme necessity, the Master can employ for the needs of the vessel goods carried on board; in this case, however, the operator must reimburse their owners the value which the goods would have had at the time of arrival at the place of destination.

Article 97

Management of interests of the owners of the cargo

When necessary and consistent with the requirements of the common adventure, the Master must protect the interests of the owners of the cargo. If, in order to avoid or reduce damages, special measures are necessary, the Master must, if possible, inform the owners of the cargo or their local representatives, if any, known to him, and abide by their instructions; in default, he must act, according to his opinion, in the best possible manner.

Article 98

Formation of the crew

The crew is formed by the Master and by all other persons employed for the service of the ship. In relation to navigation and services assigned to the ship, as well as to the tonnage, type and power of the engine, the Head of the Maritime Zone, after hearing the operator, established the qualitative and quantitative composition of the crew. The crew of a ship assigned to lines services touching ports of the Territory must be composed of Somali seamen in the proportion established each time by the Minister of Economic Affairs, after hearing the operator, at the time of the initial enrollment in Somali registers. In relation to the nature of the voyage and tonnage, the composition of the crew of each dhow is established according to local customs by the maritime authority of the fitting place, keeping the number of crew members within a minimum level considered indispensable and a maximum level which cannot be exceeded in relation to the safety of sailing and the safeguard of human life at sea. Crew of sea craft must be adequate for ordinary manueveres according to the use to which the craft is destined.

CHAPTER IV

EMPLOYMENT CONTRACTS

Article 99

Types of employment contracts

The employment contract can be stipulated :

- a) for a single or more voyages;
- b) for a definite period of time;
- c) for an indefinite period of time.

Wages due to seamen can be established on the basis of :

- a) a fixed sum for the entire voyage;
- b) a fixed sum per month or other period of time;
- c) a share of voyage profits.

To the effects of the employment contract, a voyage is intended as a crossing between the loading port and the latest port of destination, including intermediate ports, besides the possible crossing in ballast to reach the loading port.

By voyage profits it is meant net freight and other profits resulting from the voyage.

The contract for a definite period of time and that for several voyages cannot be stipulated for a duration exceeding one year: if stipulated for a longer duration they are considered as contracts for an indefinite period of time.

If, by virtue of several contracts per voyage or contracts at definite time, or else several contracts of both types, the seaman uninterruptedly works with the same shipowner for a time exceeding one year, the employment contract is considered to be at indefinite time.

Article 100

Form of the contract

The employment contract between Master and owner or between master or owner and the crew must be drawn up in writing, in presence of the maritime authority, if in the Territory, or in presence of the consular authority, if abroad, who must then record it on the crew roll.

The employment contract must be signed by the Master or by the owner and by the employed person; if the latter cannot or does not know how to sign, two witnesses extraneous to the crew must sign the contract for them.

Employment of minors must be made by those who exercise the paternal authority or tutelage, either by their personal intervention at the moment of employment, or by an authenticated statement of consent to be left with the above authorities.

Persons under eighteen years of age cannot be employed for engine services nor can they be assigned to these services.

Before the signing of the contract, the latter must be read before and explained to the person concerned; fulfillment of this formality must appear in the contract itself.

The employment contract for dhows and sea crafts can be made verbally according to the customs.

Article 101

Keeping of the contract

Original copies of employment contracts are kept by the maritime or consular authorities; authenticated copies of the above contracts are kept with the ship's documents.

If employment is made abroad in a place where no consular authorities exist, the contract must be stipulated in writing, in presence of two witnesses who sign the same. The contract is kept among the ship's documents.

Article 102

Contents of the contract

The employment contract must indicate:

- a) the vessel on which the seaman must work;
- b) personal data on the seaman, domicile, roll number, and his professional titles, if any;
- c) qualification and duties on board;
- d) voyage or voyages to be effected and the day in which the seaman must assume service, if employment is per voyage; commencement and duration of the contract, if employment is at definite time; commencement of the contract, if employment is at indefinite time;
- e) form and amount of wages;
- f) place and data of stipulation of the contract.

The contract is governed by the rules concerning the contract at indefinite time if the same does not evidence stipulation per voyage or at definite time.

Article 103

Duties of persons employed

Crew members are not obliged to render a service different from that for which they have been employed. Nevertheless, the Master in the interest of navigation, has the option of temporarily assigning crew members to a service different from the one for which they have been employed, provided that it is adequate to their professional title and rank on board. In case of need for the security or the voyage, seaman can be assigned to any service whatsoever. Crew members carrying out duties different from those for which they have been employed are entitled to major wages due for these duties.

The Master and crew members cannot load on the vessel goods for their own account without the authorization of the shipowner or his representatives.

The employed person failing to comply with the provisions as per the preceding paragraph is obliged to pay twice the freight current in the place and on the date of the loading for the same voyage and for goods of the same kind of that unduly loaded, without prejudice of the compensation of damages.

Article 104

Treatment of ill or injured seamen

Excluding the cases in which special laws make it compulsory for the shipowner to effect insurances against crew's accidents and diseases, when the person employed falls ill or is injured while in service, he has right to health assistance at the shipowner's expenses for the time necessary to recover but, in any case, for a period not exceeding four months from the date of landing.

Article 105

Death of seamen

In case of death of seamen during the voyage:

- a) if he had been employed on a fixed wage for the entire voyage, half the wage is paid to his heirs if he dies

during the outward voyage or in the port of arrival, the wage is paid to his heirs in its entirety if he dies during the inward voyage;

- b) if he had been employed on a monthly wage or other period of time, the wage is due until the day of his death;
- c) if he had been employed on a profit-sharing basis, the entire wage is due if he dies after commencing the voyage.

Article 106

Expiration of the contract

The employment contract stipulated for a single or several voyages expires with the completion of the voyage or of the last of the voyage foreseen in the contract.

The contract for a definite period of time automatically expires at the expiry of the fixed in the contract.

However, if the date expires during the voyage, the contract is prorogued as far as the port of latest destination.

The abovementioned contracts and the contracts of employment for an indefinite period of time can be terminated at any time for the will of the shipowner or of the seaman, provided due notice is given within the terms established in the contract or, in case of lack of the latter, according to the customs. However, the person employed for an indefinite period of time can avail himself of this power only in a port of latest destination.

Article 107

Termination of the contract

Any employment contract is terminated upon :

1. Total loss or absolute unseaworthiness of the vessel or for a period exceeding 60 days, caused by shipwreck;
2. Loss of the vessel's nationality;

3. Court-ordered sale of the vessel.
4. When the seaman, for illness or injures, must be landed and cannot retake his place at the departure of the vessel from a port of call.
5. Interdiction of trade with the port of destination or stop of the vessel or any other cause not chargeable to the owner, which makes it impossible to commence or continue the voyage.
6. Unfitting of the ship for lack of traffic for a period of not less than 20 days or seasonal unfitting of the dhow or sea craft or else unfitting for repairs not to exceed 30 days.
7. Cancellation from the roll.
8. Revocation on the part of the personal exercising paternal authority or protection of the consent to the enrollment in the rolls of the minor under eighteen years of age.
9. Failure of the seaman, in the cases not foreseen in the preceding paragraph, to assume service on board within the time fixed, prior to the departure of the vessel.
10. Order of the Maritime or consular authority, upon request of the seaman, to disembark immediately from the vessel, if the Master has committed an abuse of power against him or has tolerated that said abuses were committed by other persons, or else he does not furnish him, without justified motive, victuals or health assistance in the due measure.

Article 108

Wages due to the seaman in case of contract expiration or termination

In the event of expiration or termination of the contract as contemplated sub. articles 106 and 107 :

1. The wage, if fixed on a per-voyage basis, the seaman has right to the part of the amount agreed upon, proportioned to the duration of the service effected in relation to the maximum duration of the voyage which was foreseen at the time of the stipulation of the contract's stipulation.
2. If the wage is fixed per month on the basis of any other period it is due to the seaman until the day on which he has performed his services.
3. If the wage is fixed on a profit-sharing basis, the seaman has right to the part of the quota proportioned to the duration of the service effected, in relation to the maximum duration of the voyage which was foreseen at the time of stipulation of the contract; in the case of termination as contemplated sub. 10) of article 107, the seaman has right to the entire quota.

Article 109

Repatriation of the seaman

If expiration or termination of the employment contract occur in a port other than that of employment, the seaman, has right to the expenses for returning to the port of employment, unless the shipowner does provide, within the terms established by customs, that the seaman is suitably and adequately embarked on another vessel bound for the same port.

In the cases sub. n. 7 and 9 of article 107 and in any other case of contract termination caused by the seaman as well as in case of termination of the contract per voyage or for a definite period of time, by will of the seaman, the shipowner has right to reimbursement, by the seaman, of expenses borne to repatriate him.

Article 110

Change of the shipowner

Save for the case envisaged sub. 2) of article 107, in the event of change of the shipowner, the new shipowner succeeds the preceding one in all rights and obligations arising

out of employment contracts of crew members; the latter, however, can request contract termination upon the arrival of the vessel in a port of the territory or in a port of latest destination.

BOOK III

OBLIGATIONS RELATING TO THE OPERATION OF VESSELS

CHAPTER I

HIRE OF THE VESSEL

Article 111

Hire contracts

A contract for hire of a vessel is one whereby the owner of a vessel commits himself to leave to the other party the possession of the vessel for a certain period of time against a given rent. The hire contract must be proved in writing. The written proof, however, is not required for vessels not exceeding 50 GRT.

Article 112

Hirer's obligations

The Hirer becomes operator of the vessel. The Hirer is obliged to employ the vessel according to its technical characteristics and in conformity with the employment agreed upon.

The Hirer can neither subhire the vessel nor turnover the rights deriving from the contract unless authorized by the Owner. The form of subhire and transfer contracts is regulated by the provisions of the preceding article.

Article 113

Obligations of the Owner

The Lessor is bound to deliver the vessel in good seaworthiness conditions, provided with the documents necessary for sailing as well as to effect any repair caused by wear for normal use of the vessel in accordance with the employment agreed upon.

The Lessor is responsible for damages deriving from faults of seaworthiness, unless he proves that the same derive from a latent fault not ascertainable with the normal diligence.

Article 114

Expiration of the contract

Unless the Owner's express consent is obtained, the contract is not considered as renewed even if the vessel, on finding itself in voyage, cannot be delivered at the expiry of the contract.

In this case, the expiration of the contract is pro-rogued until the end of the voyage.

Article 115

Prescription

Rights deriving from the hire contract are time-barred within one year from the expiry of the contract, or, in the case provided for in the preceding article, from the date of the redelivery of the vessel. In case of presumed loss, the term begins from the date of cancellation of the vessel from the register.

CHAPTER II

AFFREIGHTMENT

Article 116

Contract of affreightment

The contract of affreightment is one whereby the Owner, in return for the freight agreed upon, undertakes the obligation to perform, by means of a specific vessel, one or more pre-established voyages, or such voyages as the Charterer may order within the period of time agreed upon, on the terms fixed by the contract or by customs.

The Charterer does not become the operator of the vessel. The contract of affreightment must be proved in writing. The written proof, however, is not required for vessels not exceeding 50 GRT.

Article 117

Shipowner's obligations

The shipowner is obliged, prior to sailing, to put the vessel in good seaworthiness conditions for the completion of the voyage, to equip it and to provide the necessary documents.

The shipowner is liable for damages deriving from faults of seaworthiness, unless he proved that they derive from a latent fault not ascertainable with due diligence.

Article 118

Charterer's obligations

Unless otherwise agreed upon, in the time-charter, the Charterer, over and above expenses relating to the cargo, must

also bear expenses relative to the commercial employment of the vessel, such as stowage, agency, health and similar duties as well as, if the vessel is of the mechanically-propelled type, fuel, water, and lubricants necessary to the operation of the power plant and auxiliary plants on board.

Article 119

Execution and duration of voyages in the time-charter

In the time-charter, the Owner is not obliged to commence a voyage which places the vessel or the persons in a danger which was not possible to foresee at the time of the stipulation of the contract. Likewise, he is not obliged to commence a voyage the probable duration of which surpasses the expiry of the contract in connection with the duration of the same.

If, in consequence of facts due to the Charterer, the duration of the latest voyage exceeds the expiry of the contract, the Owner has no right to liquidation of damages but he is entitled to a freight in double-measure of that agreed upon in the contract for the period of time exceeding the duration of the contract.

Article 120

Payment of the time-freight

The freight must be paid in advance by monthly instalments, except for contrary agreement or customs. However, the freight prepaid is not earned in any case unless otherwise agreed upon.

Article 121

Sub-charter and turnover of the contract

Sub-charter or total or partial turnover of the rights delivering from the contracts of affreightment is permitted. The Charterer, however, remains liable towards the shipowner for the obligations by him taken over with the contract of affreightment.

Article 122

Prescription

The rights deriving from the charter-party become time-barred within in one year. In case of time charter, the period of one year commences from the expiry of the contract or from the end of the latest voyage if the latter is prolonged according to the last paragraph of article 119; in case of voyage charter, from the end of the voyage. When the voyage has not been commenced or completed the period commences from the day in which the event took place which rendered impossible the performance of the contract or the continuation of the voyage. In case of presumed loss of the vessel, the limitation of time begins from the date of cancellation of the vessel from the register.

CHAPTER III

CARRIAGE OF PERSONS

Article 123

Carriage contracts

By the contract of carriage of persons, the Carrier commits himself, in return of a fare, to transfer persons from a port to another. If performed by means of ships, the carriage contract must be evidenced by a ticket issued by the Carrier indicating the place and date of issue, the place and date of departure, as well as the place of destination and the fare; if dhows are involved, the contract can be made ~~verbally~~ Unless otherwise agreed upon, the fare is paid in advance.

The fare is inclusive of the transport of the passenger's luggage within the limits of quality, weight, and volume established by the carrier or according to the customs. Embarkation and landing of the passenger and luggage are chargeable to the passenger himself, if not included in the fare.

Article 124

Transfer of the right to carriage and contract
termination

The right to carriage cannot be transferred (a) without the express consent of the Carrier, (b) if the ticket bears the passenger's name, or (c) if the latter does not appear on the ticket and the passenger has already commenced the voyage.

If, prior to sailing, the passenger dies, or else an impediment arises for causes not imputable to him, which prevents him from commencing the voyage, the contract is terminated and one fourth of the fare is due, free of victuals if these were included in the fare. If the impediment concerns one of the relatives or persons belonging to the family who were to voyage together, each passenger can request contract termination under the same conditions.

In the cases contemplated in the preceding paragraphs the passenger must inform the Carrier of the impediment before sailing; in default, the entire net fare is due.

The passenger who does not present himself on board within the time fixed must pay the fare, excluding victuals.

The fare, however, is not due if the right to carriage is transferred, with the Carrier's consent, to others upon the passenger's request; in this case, however, a commission is due to the Carrier on the fare, not exceeding 10%. If sailing is delayed, the passenger has right to lodging and victuals if the latter are included in the fare, for the duration of delay. If the Carrier cancels the departure of the vessel and the voyage cannot be made with another vessel belonging to the Carrier, schedule to sail at a later date, the contract is terminated and the Carrier must return the net fare paid by the passenger.

If the voyage is interrupted for causes of force majeure, the fare is due in proportion to the distance already covered. The Carrier, however, has right to the entire fare if, in reasonable time, he makes possible at his expenses for the passenger to continue the voyage on a vessel of similar characteristics, furnishing him in the meantime lodging and victuals if the latter were included in the fare.

If the passenger is compelled to interrupt the voyage for causes not imputable to him, the fare is due in proportion to the distance already covered. If the voyage is interrupted

by the passenger he must also pay the net for the remainder of the voyage. The Carrier is liable for damages to the passenger caused by delay or unfulfillment of carriage, unless he proves that the event is due to a cause not imputable to him.

The provisions set forth in the present article can be derogated, also by means of a written agreement, in relation to the customs, for carriage effected by means of vessels not exceeding 150 GRT.

Article 125

Carrier's liability

The Carrier is liable for accidents hurting the passenger deriving from facts which occurred from the beginning of embarkation up to completion of landing, unless he proves that the event is derived from causes not imputable to him.

The Carrier is also liable, within the maximum limit of Sh.So.120 per kilogram, for the loss or damage of baggages which were delivered to him closed, unless he proves that the loss or damage are derived from causes imputable to him. The loss or damages must be ascertained at the time of redelivery; in default, all rights to claim are lost. The Carrier is not liable for the loss or damages to hand baggages and items not delivered to him, unless the passenger proves that the same have been determined by causes imputable to the Carrier.

Article 126

Prescription

Rights deriving from the carriage contract of persons are time-barred within 6 months from the passenger's arrival at destination or, in case of non-arrival, from the day in which the passenger should have arrived.

CHAPTER IV

CARRIAGE OF GOODS

Article 127

Contracts for the carriage of goods

By the contract for the carriage of goods, the Carrier commits himself, in return of a given price, to transfer goods from one port to another. Any contract to be performed by means of vessels of over 150 GRT must be evidenced in writing, in accordance to the provisions of article 132, last paragraph.

Article 128

Loading of goods

Prior to the commencement of the voyage the Carrier must use due diligence in order that the vessel be prepared in good seaworthiness conditions, suitably rigged and equipped. He must also take care that the holds and any other part of the vessel destined to loading are in good condition for the reception, preservation, and carriage of goods. In default of any contrary agreement the Carrier receives or redelivers the goods alongside under the vessel's tackle.

At the time of loading of goods, and, in any case, before the vessel's sailing, the Shipper must deliver to the Carrier the bills of entry. The Shipper is liable to the Carrier for damages caused to him by non delivery. The Carrier is not obliged to check whether the documents are complete and their indications correct.

On the goods delivered to the Carrier, or on their packings, the Shipper must place identification stamps in a manner that they are visible still at the end of the voyage. The Shipper is liable to the Carrier for damages caused to him imperfect affixture of stamps.

Article 129

Carrier's liability

The Carrier is liable for the loss or damages of the goods carried from the moment of delivery to that of redelivery as well as for the damages caused by delay, unless he proves that the cause of loss, damages or delay was not due to his fault, wholly or partly, or to the fault of his staff.

The consignee, instead, must prove that the cause of loss, damages or delay was due to the fault of the Carrier or to the fault of his staff, when the damage was caused by:

- a) latent vice or unseaworthiness of the vessel not deriving from unfulfillment of obligations provided for in the preceding article, first paragraph;
- b) accidents or perils of the sea;
- c) fire not caused by the Carrier's fault;
- d) piracy;
- e) facts of war, civil riots and revolutions;
- f) orders of authorities having right to do so or otherwise, even for health purposes;
- g) Court-ordered attachment;
- h) strike, lockouts, general or partial impediment to work;
- i) acts or attempts of assistance or salvage or deviation of the voyage for this purpose;
- l) wrong stowage;
- m) vice of the goods, wastage in volume or in weight, insufficiency of packings, insufficiency or imperfection of stamps;
- n) acts or omissions in general of the Shipper or his staff.

In the case of non-liability envisaged in the two preceding paragraphs the advanced freight is not returned.

Indemnization due by the Carrier cannot exceed, however, the real and intrinsic value of the goods and, in any case, it is limited to a maximum of 2,000 Sh.So. for each unit of the cargo, unless the Shipper declared, before loading, the nature and value of the goods and this statement has been included in the Bill of Lading.

Article 130

Derogability of the provisions governing liability

The provisions set forth in the preceding article can be always derogated in favour of the Shipper. They can be derogated also in favour of the Carrier as regards the period of time prior to loading and that subsequent to the unloading; and also for the period between the loading and unloading for the transport of goods loaded on deck or on deckless vessels and for the transport of live animals.

Derogation can also be applied to transport along the coasts of the Territory as well as regards damages arising out of delays. Before third parties, the efficacy of the derogating clauses, save for transports carried out by means of deckless dhows is subordinated to their inclusion in the Bill of Lading.

The above provisions can be derogated also out of the limits envisaged in the preceding paragraph, when a Bill of Lading is not issued.

Article 131

Loading and unloading time

Unless governed by the contract, loading and unloading time is established in accordance with local customs or, in default, by the local maritime authority, which determines it, without any formality, in relation to the meteorological conditions, the available means, the vessel's structure and the nature of goods.

Article 132

Impediment to sail and continue the voyage

If the sailing of the vessel is prevented due to force majeure, the contract is terminated; if the termination occurs after the loading the Shipper must pay unloading expenses.

If the sailing of the vessel or the continuation of the

voyage are temporarily prevented for causes of force majeure, the contract remains in force and the Shipper has no right to request freight reduction.

If the impediment to sail is excessive or become definitive before the vessel's sailing, the first paragraph of the present article shall apply; if the impediment becomes definitive during the voyage the Shipper must pay unloading expenses and freight in proportion to the distance already covered, provided the Master has made everything in his power to transfer the goods to the destination place by means of other vessels. The provisions set forth in the present article are derogable by means of a written agreement in relation to the uses to be expressly indicated if transport by means of dhows is involved.

Article 133

Shipper's withdrawal and incomplete loading

Before the sailing of the vessel, the Shipper can withdraw from the contract paying half the freight agreed upon as well as loading and unloading expenses.

Nevertheless the Shipper can free himself, wholly or partially, of such obligation by proving that the Carrier has suffered no damage or a minor damage.

If the Shipper delivers a lesser quantity than that agreed upon, he must pay the entire freight, unless otherwise agreed upon.

During the voyage, the Shipper can withdraw the goods loaded, paying the entire freight and reimbursing the Carrier any possible special expense connected with unloading operations.

Article 134

Impediment upon arrival and delay in withdrawing the cargo

If the call is prevented or excessively delayed due to force majeure, the Master, if he has not received orders or the orders received cannot be carried out, must provide in the best possible way in the interest of the vessel and cargo, calling at another nearby port or returning to the port of departure.

When the Consignee delays to withdraw the cargo or when a dispute arises as to the carrying out of the delivery, the Master can request authorization to the judicial authority to unload and deposit in a place established by the latter the goods on board, or, in case of failure of the Consignee to pay the freight due, to deposit as much of the goods as it is necessary to cover the freight by subsequent sale.

Article 135

Loss or damages to the goods

Loss and averages suffered during the carriage by the goods carried must be notified by the Receiver, in contradictory to the Master or the Carrier's Representative, at the time of their redelivery, if loss or averages are apparent, or within three days from the redelivery, if the same are not apparent.

In default of the ascertainment in contradictory, the goods are presumed redelivered by the Carrier in accordance with the indications contained in the transport document or with what was agreed upon in connection with the transport.

Article 136

Prescription

Rights deriving from the carriage contract of the goods are time-barred within one year from the redelivery of the goods, or in case of total loss, from the day in which the goods should have arrived at destination.

CHAPTER V

BILL OF LADING

Article 137

Issue and indications of the Bill of Lading

been loaded on the vessel, must issue the Shipper a Bill of Lading. The Bill of Lading, dated and signed by the Carrier, or by his Representative, or the Master, must indicate:

1. The vessel;
2. The Carrier's name and domicile;
3. The Shipper's name and domicile;
4. Place and date of loading of the goods;
5. Destination place of the goods, and, when the Bill of Lading is nominative, the name or domicile of the Consignee;
6. The nature, quantity and quality of the goods to be carried as well as of the number of packages and their stamps;
7. The apparent condition of the goods and packages.

The Carrier or his Representative, or the Master, issuing the Bill of Lading has the option to include his remarks in the same when he cannot carry out, wholly or partially, a normal verification of the indications furnished by the Shipper on the nature, quality and quantity of the goods as well as on the number of packages and stamps.

In default or remarks, the above data are presumed to be in conformity with the indications of the Bill of Lading, unless otherwise proved.

Article 138

Originals of the Bill of Lading and transfer of the original Bill of Lading delivered to the Shipper

The Bill of Lading is issued in two originals. The original kept by the Carrier is signed by the Shipper or by his representatives, is not negotiable and contains the indication of non-negotiability.

The original issued to the Shipper is signed by the Carrier or his representative or the Master, and confers on the holder, entitled in accordance with article 140, the right to the delivery of the goods thereby specified, the possession to the same and the right to make use of them by disposal of the title. The original of the Bill of Lading can be to the bearer, to the order, or nominative.

The transfer of this original is effected by the delivery

of the title, if to the bearer; by endorsing the title and signing of the endorser, if to the holder; by transfer made by noting on the title the name of the acquirer to be made by the person who has issued the Bill of Lading, or by endorsement authenticated by a notary, if nominative.

Article 139

Duplicates of the Bill of Lading and delivery orders

Duplicates of the original Bill of Lading issued to the Shipper can be issued on request of the person having right to dispose of the title; duplicates, however, do not attribute the rights indicated sub. article 138, third paragraph.

Duplicates are not negotiable, must contain express mention of non negotiability and bear each the number of issue. The Carrier or his representative, when this has been agreed upon in the carriage contract, are obliged to issue, on demand of the person having right to dispose of the goods by disposal of the title, delivery orders on the Master or on the representative relative to single lots of the goods covered by the Bill of Lading.

In this case, the Carrier or his representative is obliged, at the time of issue of the delivery orders, to take note of the same on the negotiable original of the Bill of Lading, with the indication of the nature, quality and quantity of the goods specified in each delivery order, and with his own signature and that of the applicant. They are also obliged to withdraw the negotiable original of the Bill of Lading when the entire cargo covered by the Bill of Lading is divided among various delivery orders.

Delivery orders issued in accordance with the preceding paragraphs attribute the rights indicated in the third paragraph of article 138; they can be to the bearer, to the order or nominative. The provisions on the issue and negotiation of the Bill of Lading are applicable to the above-mentioned delivery orders.

Article 140

Legitimacy of the holder of the representative titles of
the goods

The holder of the negotiable original of the Bill of Lading or of the delivery order is entitled to the exercise of the rights mentioned in the title, upon presentation of the same or of an uninterrupted succession of endorsements or in consequence of the heading in his favour if the title is, respectively, to the bearer, to the order, or nominative.

CHAPTER VI

CONTRIBUTION TO GENERAL AVERAGES

Article 141

General averages

Expenses and damages directly caused by measures reasonably taken according to article 93 by the Master for the safety of the vessel, persons, and cargo are general averages, whenever the damage voluntarily caused is not the same which would necessarily occur according to the natural course of events.

Article 142

Damage sharing

Unless otherwise agreed upon, in the transports carried out by means of dhows or ships not exceeding 150 GRT, damages to the goods are shared only among Shippers, according to the customs; any other expense is chargeable to the owner.

In default of special agreements between the parties, for transports to be carried out by means of vessels exceeding 150 GRT, both the Shipper and the owner contribute the general averages; pursuant to the York-Antwerp Regulations (1950).

Article 143

Liquidation

Unless otherwise agreed upon, the description, estimate, and sharing of general averages are made on an amicable basis at the unloading place of the vessel by means of one or more "average liquidators" jointly appointed by the Parties, or, in default, by the judicial authority or, if the unloading place is abroad, by the Consular Authority, or, in default, by local authorities.

The damage sharing proposed by liquidators appointed by the above authorities must be submitted to the latter for consideration.

Article 144

Prescription

Action for contribution to general averages is time-barred within one year from the date of the unloading of the goods.

CHAPTER VII

RESPONSIBILITY FOR COLLISION OF VESSELS

Article 145

Collision: accidental, for doubtful causes, or for
common fault

If the collision took place due to an accidental case or force majeure, or if it is not possible to ascertain the cause of the same, damages remain at charge of those who suffered the same.

If the collision occurred for fault of one of the vessels,

indemnification of damages is at charge of the vessel in fault.

If the fault is common to several vessels each of them is liable in proportion to the gravity of its own fault and to the extent of the relative consequences. Nevertheless, the refund is due in equal parts in the event that it is not possible to determine the proportion due to particular circumstances.

The vessels in fault are jointly liable for damages deriving from death or injuries of persons.

Article 146

Obligation of assistance in case of collision

After a collision between vessels, the Master of each is obliged to assist the other vessel, its crew and passengers, provided he can do so without serious danger to his vessel or the persons on board. Likewise, the Master is obliged, as far as possible, to give to the other vessels the necessary information for the identification of his own vessel.

Article 147

Contract relations

Save for the obligation of the vessels in fault to indemnify the damages arising out of death or injuries of persons, contemplated in sub. article 145 last paragraph, the provisions regulating the liability for damages from collision do not apply to the relations of liability between persons bound by labour or carriage contracts or by any other contract.

Article 148

Prescription

The right to obtain the indemnification of damages caused by collision of vessel is time-barred within two years from the day in which the damage occurred. The right to recourse for vessels which paid the whole indemnification, pursuant to article 145 last paragraph, is time-barred.

Article 149

Damages deriving from actual collision

The preceding provisions are applicable to the damages caused from displacement of water or other similar cause, from one vessel to another or to the persons or things on board of the latter, even if no actual collision occurred.

CHAPTER VIII

ASSISTANCE AND SALVAGE

Article 150

Obligation of assistance and salvage

Assistance to a vessel in danger of being lost is compulsory, as far as possible, without serious risk to the assisting vessel, its crew and passengers besides the case contemplated sub. article 146, when persons are in danger on board the vessel. The Master of a vessel, during the voyage or ready to sail, who has knowledge of a vessel being in danger, is bound, under the above circumstances, when he can reasonably foresee a useful result, unless he is aware that the assistance is given by other vessels in conditions more suitable or similar to those in which he could give it.

When the vessel in danger is completely unable to maneuver, the Master of the assisting vessel is bound, under the circumstances and within the limits above, to attempt the salvage of the vessel or, if not possible, to attempt the rescue of persons on board. It is likewise compulsory, within the same limits, to attempt to save persons who find themselves in the sea, in danger of life.

Article 151

Indemnity and reward

The assistance and salvage of a vessel which is not effected against the express and reasonable refusal of the Master, give right, within the limits of the value of the properties assisted or salvaged, to the indemnification of the damages suffered and to reimbursement of expenses borne, as well as to reward, if the same have given an also partially favourable result.

The reward is fixed in proportion to the success obtained, the risks run, efforts made and time employed as well as in proportion to the danger in which the properties assisted or salvaged were and to the value of the same.

No reward is due by persons saved. In cases of assistance and salvage involving at the same time more vessels to be assisted or more assisting vessels, a fair sharing of damages, expenses and rewards envisaged sub. the above paragraph is effected, within the limits referred to in the preceding paragraphs.

Article 152

Sharing of the reward

When the vessel is not rigged and equipped for the purpose of giving assistance, the reward for assistance of salvage is due to the Shipowner by one third and to the crew by two thirds, among whom the amount is shared in proportion to the wage of each member, taking into account also the efforts made by each member.

Article 153

Charge of expenses for indemnity and reward

In case of assistance or salvage of a vessel, expenses for indemnity and reward due to the assisting vessel are shared among the parties concerned in the vessel assisted, in accordance with the provisions of the contribution to general averages, also when the assistance was not requested by the

Master of the vessel in danger or was given against his refusal.

Article 154

Prescription

Any claim for indemnities and reward of assistance or salvage is time-barred within one year from the day in which operations were completed.

CHAPTER IX

SALVAGE AND FINDING OF SEA-WRECKS

Article 155

Salvage and salvager's obligation

Without prejudice to the right of the Owner to provide directly, in the concurrence of several persons who intend to undertake the salvage of a wrecked vessel or other flotsam, preference is given to the person who, after locating the flotsam, has first denounced it to the Maritime Authority provided that, within one year from location, he begun salvage operations without subsequently stopping the same for a period exceeding one year.

After commencing salvage, operations cannot be stopped or abandoned without justified motive when a damage can derive to the owner of the wreck.

Within ten days from the arrival of the vessel which has effected the salvage or within ten days from the completion of operations in case the salvage was made without using nautical means, the salvaged property must be delivered to the owner, or, if the latter is unknown to the salvager, to the nearest maritime authority.

Article 156

Indemnity and reward

When obligations are carried out in connection with the delivery of the property salvaged, the salvage gives right within the limits of the value of the property salvaged, to indemnification of damages and reimbursement of expenses. The salvager is also entitled to a reward established in proportion to the value of the property salvaged, efforts made and risks run, to the value of means and materials employed and, if the vessel is rigged and equipped for the purpose of effecting salvages, to the general expenses borne by the Enterprise.

As for the sharing of the reward, the provisions of Article 152 shall apply, in case the salvage was effected by nautical means; otherwise, the reward is shared among the persons who cooperated in the salvage, in relation to the efforts made and risks run by each.

Article 157

Salvage effected by the shipmaster

Remaining firm the provisions of Article 155 first paragraph, in any case the Master is preferred who immediately after the wreck declares his will to become chief salvager.

In default of agreement with the shipowner, the reward to the Master and to the other crew members who cooperated in the salvage is fixed by the maritime or consular authority in proportion to the value of the property salvaged, efforts made and risks run.

Article 158

Finding of sea-wrecks

Anyone who fortuitously finds wrecks on the sea, or by the sea thrown in a place belonging to the maritime demesne, must denounce the same to the nearest maritime authority within ten days from the finding or within three days from the arrival of the vessel if the discovery occurred during sailing.

The discoverer must also, whenever possible, deliver the property found to the owner or if the latter is unknown to

him and the value of the wreck exceed 5 Sh.So., to the above-mentioned maritime authority. The discoverer who fulfills the obligations of denunciation and delivery is entitled to the reimbursement of expenses and to a price equal to the third part of the value of the property found, if the discovery occurred at sea, or to the tenth part up to 800 Sh.So. and to the twentieth part of the amount in excess, if the finding occurred in an area of the maritime demesne.

Article 159

Cetaceans stranded

Cetaceans stranded on the coastline of the Territory belong to the Administration. The discoverer who has denounced it to the maritime authority within three days from the discovery has right to a price equal to the twentieth part of the value of the cetaceans.

Article 160

Custody and delivery of the property salvaged

The maritime authority which, pursuant to article 155 and 158, receives from the salvager or the discoverer any property which cannot be delivered to the owner because he is unknown, publishes a notice inviting the persons concerned to put forward their claims, within one year, in order to obtain the delivery of the property. The Head of the Maritime Zone, depending on cases, can also order that the above notice be published in the Official Bulletin. After one year has elapsed without the persons concerned having put forward their claims or else if claims have been rejected with an irrevocable judgement, the property to delivered to the salvager or to the discoverer.

Any item of artistic, historic, archeological, or ethnographic interest as well as arms, are delivered to the Administration, save for, in any case, the right of the discoverer to indemnities and rewards provided for by the preceding articles.

Article 161
Prescription

The right to indemnities, rewards and prizes is time-barred within two years from the day in which salvage operations were completed or from the day of finding.

CHAPTER X

PRIVILEGES

Article 162
General provisions

Privileges established in the present Chapter are preferred to any other general or special privilege. In case of deterioration or diminution of the property on which a privilege exists, this is exercised on that which remains or is saved or salvaged.

The creditor having privilege over one or several properties, in the event that he finds himself losing due to the fact that another creditor, whose privilege of superior rank is extended to other properties of the same debtor, has been wholly or partially satisfied on the price, can subrogate himself in the privilege belonging to the creditor satisfied, with preference to creditors having privileges of inferior rank.

The same right belongs to creditors losing in consequence of said subrogation. The transfer of the preferred credit produces also the transfer of the privilege.

Article 163
Privileges on vessel and freight

The following credits have privilege on vessel, property referred to sub. article 73, second paragraph, freight of the voyage during which the credit has arisen :

1. Legal expenses due to the Administration or made in the common interest of the creditors for attachment or enforcement proceedings on the vessel; maritime duties; expenses for the custody and conversation of the vessel after arriving in the latest port;
2. Credits deriving from the employment contract of the Master and of other crew members;
3. Credits for the amounts advanced by the maritime administration or by the consular authority to repatriate crew members; credits for compulsory contributions due for the social assistance of sea-faring people;
4. Indemnities and rewards for assistance and salvage, and the amounts due for contribution of the vessel to general averages;
5. Indemnities for collision or for other accidents occurred during sailing and those for damages to harbour facilities and installations; indemnities for death or injuries to passengers and crew and those for losses and damages to cargo and luggage;
6. Credits deriving from contracts stipulated and from operations carried out by the Master by virtue of his legal powers, even if he is the Operator of the vessel, for conservation of the latter or for the continuance of the voyage.

The privilege on freight established in favour of the crew is extended to all the freights due for the voyages carried out in the course of the same contract of employment. If the vessel is lost or damaged, or the freight is partially or entirely lost, the following amounts and indemnities are bound to the payment of the credits indicated above:

- a) indemnities for material damages suffered by the vessel and not repaired or for loss of freight;
- b) amounts due for contribution to the general averages suffered by the vessel, to such an extent that the same constitute material damages not repaired or loss of freight;

- c) indemnities and rewards for assistance given up to the completion of the voyage, after deduction of the amounts attributed to the persons on duty on the vessel.

Article 164

Plurality of privileges relative to vessel and freight,
and their order of priority

Preferred credits of the latest voyage have privilege on those of the preceding voyage. Nevertheless, credits deriving from a single contract of employment, including several voyages, concur in the same rank with the credits of the latest voyage.

Credits relative to the same voyage are preferred in the order in which they are listed in the preceding article concur together, in proportion to their amount, in the event of insufficiency of price.

Nevertheless, in the case indicated in the preceding paragraph, indemnities for damages to the persons, foreseen sub. n. 5 of said article, have preference on the indemnities for damages to the properties, foreseen in the same number.

Credits indicated in N, 4 and 6, in each of the respective categories, have preference in the inverse order of the dates in which the same have arisen. Credits depending upon the same event are considered as arisen at the same time.

Article 165

Exercise of the privilege on vessel and freight

Preferred credits are applicable to vessels also when a third party becomes the Owner of the same. The privilege on freight can be exercised so far as the freight is due or the amount is in possession of the Master or the representative,

Article 166

Extinction of privileges on the vessel and freight

Privileges become extinct not only for the extinction of the credit but also upon the expiry of one year, except

those regarding credits indicated sub. art. 163, n. 6 which become extinct at the expiry of the period of 180 days.

The period runs, for privileges on credits for assistance or salvage, from the day in which operations are completed; for privileges or indemnities due following to collision or other accidents as well as on those for personal injuries, from the day in which the damage was caused; for the privileges relative to loss or averages to cargo or baggages, from the day of the redelivery or from that in which the redelivery should have been effected; for privilege of credits arising out of contracts stipulated or from operations carried out by the Master for the conservation of the vessel or for the continuance of the voyage, from the day in which the credit has arisen; for privileges arising out of employment contracts, from the day in which the crew member was repatriated to the place of employment. In all the other cases the period runs from the day in which the credit falls due. The power to request advances or partial payments has not as effect to have the credits under n. 2 of article 163 considered as collectible. The aforesaid periods are suspended until the vessel burdened with privileges could not be seized or distrained in the territorial waters of Somaliland; such suspension, however, cannot exceed three years from the date in which the credit has arisen. Privileges on the vessel become also extinct :

- a) upon decree by which, in the case of Court-ordered sale of the vessel, the latter is transferred to the acquirer;
- b) with lapse of 60 days, in case of voluntary sale. This period runs from the date of registration of the instrument of sale, if the vessel is lying at the moment of registration in the registration place, and from the date of its return to said place, if the registration of the sale takes place after the departure of the vessel.

Article 167

Vessel managed by Operator - not Owner

The provisions of the preceding articles apply also in case the vessel is managed by an Operator-not Owner, except for the case that the latter has acquired the availability following an illicit act and the creditor is aware of the same.

Article 168

Privileges on the properties loaded

The following credits are privileged on the properties loaded :

1. Legal expenses due to the Administration or made in the common interest of creditors for attachment or enforcement proceedings on the properties;
2. custom duties due on the properties in the place of unloading;
3. indemnities and rewards for assistance and salvage and the sums due for contribution to general averages;
4. credits arising out of carriage contracts including unloading expenses and the rent of warehouses in which the properties are stored;
5. amounts of capital and interest due for obligations undertaken by the Master on cargo in the cases envisaged sub. article 96.

The credits indicated in the above numbers are preferred to those guaranteed by pawn on the properties loaded.

If the properties loaded are lost or damaged, the amounts due for indemnities of the loss or averages, including those due by the Insurers, are bound to the payment of the preferred credits indicated above, unless the same amounts are used to repair the loss or average.

Article 169

Order of priority and extinction of privileges on the properties loaded

Preferred credits on the properties loaded have preference in the order in which the same are listed in the preceding article. Credits indicated sub. n. 3 and 5, in each of the respective categories, have preference in the inverse order of the dates in which the same have arisen. Credits indicated in the other numbers have preference, in each of the respective categories, in the inverse order of the dates only when the same have arisen in different ports.

Privileges on the properties loaded become extinct if the creditor does not intimate opposition to the Master or does not start action within fifteen days from the unloading and before the legal transfer of the properties loaded to third parties.

CHAPTER XI

MORTGAGE

Article 170

Concession, form and publicity

Mortgage on the vessel can be granted only if voluntary. Unless otherwise agreed upon, the mortgage does not extend to freights.

The concession of a mortgage must be made, under pain of nullity, by public deed or private instrument containing the specific indication of the data to identify the vessel. The mortgage has no effect towards third parties if not made public in accordance to articles 76 and 77.

Article 171

Subrogation of the indemnity to the vessel

If the vessel is lost or damaged, the following indemnities and sums are bound to the payment or mortgage credits, unless the same are employed in repairs of averages suffered by the vessel :

- a) indemnities due to the owner for damages suffered by the vessel;
- b) sums due to the owner for contribution to general averages suffered by the vessel;
- c) indemnities due to the owner for assistance or salvage, in the event that assistance or salvage took place after the transcription of the mortgage and the sums have not been collected by the owner before the distraint of the vessel;
- d) indemnities relating to insurance.

Article 172

Rank of mortgage and extension of the effects of transcription

The mortgages taken rank from the moment of transcription in the register of the vessel.

The mortgage takes rank following the privileges indicated sub. article 163 and is preferred to any other general or special privilege.

Transcription of mortgage puts on the same rank expenses borne for the instruments of constitution of mortgage, those for transcription and renewal, and ordinary expenses to intervene in the enforcement proceedings. For greater legal expenses the parties can extend the mortgage, following a specific agreement, provided the relative transcription is made.

Transcriptions of a mortgage producing interests puts on the same rank the interests due, provided their extent is shown by the transcription. The calculation of interests is limited to the preceding year and to the year of the day in which the vessel has been distrained. The parties, however, can agree that such calculation extend only to the interests relative to one year.

Article 173

Prescription

The rights deriving from the concession of mortgage are time-barred within two years from the expiration of the obligation.

B O O K IV

PROCEDURAL PROVISIONS

CHAPTER I

INQUIRIES AND LAWSUITS FOR MARITIME ACCIDENTS

Article 174

Summary inquiry

The authorities indicated sub. article 27, after completion of assistance operations, must make summary inquiries on the causes and circumstances and take the necessary measure to keep under control things and elements useful for further investigations.

If the vessel involved in the accident flies a foreign flag, the above authorities can proceed as indicated above only if Somali vessels are also involved or if damages to the Administration have arisen. The inquiring authority draws up a report regarding the investigation made and measures taken in order to keep evidence of the accident.

Article 175

Report to the Judicial Authority

If the above-mentioned report drawn up by the inquiring authority or the investigation report referred to sub. c), first paragraph, article 51, both to be forwarded to the Head of the Maritime Zone, evidence that the shipwreck or abandonment of the vessel, death or injuries to the persons are presumed to be caused by fraud or fault of anyone, these reports accompanied by further details from investigations considered necessary, must be forwarded by the Head of Maritime Zone to the Judicial Authority.

Article 176

Amicable settlement of lawsuits for maritime accidents

For lawsuits concerning :

- a) damages resulting from collision;
- b) damages caused by vessels while anchoring and mooring or engaged in any other manœuvre in ports;
- c) damages caused when using loading and unloading facilities, when handling goods for embarkment and disembarkment operations, including transhipments;
- d) damages caused by vessels to fishing nets and facilities;
- e) indemnities and rewards for assistance, rescue, and salvage;
- f) reimbursement of expenses and prizes for the finding of wrecks.

The parties, before resorting to the judicial authority, must request the intervention of the Harbour Master who must try to induce the parties to come to an amicable settlement.

If the latter is reached, a proces verbal is drawn up, signed by the parties and other appearances, constitutes an enforceable title. If the settlement is not reached, a procès verbal is drawn up, enclosing also all the papers relative to possible findings of facts, which is signed by the parties and other appearances.

Article 177

Probatory effectiveness of the inquiry shown by reports drawn up in case of maritime accidents and averages

In lawsuits for maritime accidents, the judicial authority resorted to orders that the reports resulting from summary inquiries and those showing failure to reach an amicable settlement be officially recorded.

For the examination of the sharing of general average pursuant to article 143, the judicial authority orders the official recording of reports resulting from investigations in accordance

with the provisions of article 51, first paragraph, c).

Facts evidenced by the above reports are considered as ascertained but the parties concerned can afford evidence to the contrary.

CHAPTER II

LABOUR DISPUTES

Article 178

Amicable settlement of disputes

In disputes concerning :

- a) labour relations of sea-faring people, also if the dispute is brought by persons of the family of the seaman or by other persons entitled to do so;
- b) performance of port activities and relative wages;
- c) wages due to the operators of sea craft and facilities employed in loading and unloading operations of goods and embarkment and disembarkment of persons.

The parties before resorting to the judicial authority, must submit the dispute to the competent "labour office" which, whenever possible, will be assisted by the Harbour Master in order to possibly reach an amicable settlement.

CHAPTER III

ENFORCEMENT AND OTHER COURT -ORDERED STEPS

Article 179

Object of enforcement and other steps

Enforcement and other Court-ordered steps can have as object ships, dhows, and sea craft or their fractions of property. If the object of such steps are fractions, the competent Judge can, after hearing the joint-owners not debtors, authorize the distraint or seizure of the entire vessel when the fraction of the joint-owner debtor exceeds half the property; in this

case, the right competent to the joint-owners not debtors on their fractions is converted into a right on the corresponding part of the award price and is exempt from any participation to the expenses of the enforcement or other Court-ordered procedures. Ships and dhows ready to sail or while sailing cannot be object of enforcement provided that debts deriving from the voyage they are about to commence or which they continue, are not involved. Ships and dhows are considered to be ready to sail when they have received clearance in accordance to article 52.

Article 180

Procedure

Enforcement and other Court-ordered steps are authorized and directed by the competent judicial authority, according to the original procedure foreseen for immovable property and the provisions set forth in the subsequent articles.

Article 181

Injunctions

Injunctions, the term of which is reduced to 24 hours, become null and void after thirty days have elapsed without the distraint has been carried out.

Article 182

Contents and notification of the act of distraint and of the attachment order

The act of distraint and the order authorizing to effect a Court-ordered attachment must contain also the data to identify the vessel and the order to the Master not to let the vessel sail. They must be notified at the behest of the creditor to the owner and the Master of the vessel.

Article 183

Enforcement against the Owner-not Operator

When actions are instituted by the creditors of the Operator not Owner, who have a maritime privilege, the enforceable title, the injunction, and other authorising Court-ordered

attachment, must be notified also the Owner not Operator.

In the above case, the distraint and, in general, enforcement steps are fulfilled in respect of the Owner not Operator, to whom all the provisions regarding the debtor are applied, except for the prohibition to make offers to purchase the vessel.

Article 184

Notification to the Enrollment Board and steps to prevent the vessel from sailing.

The distraint order and the authorization to attach are notified, by the creditor, to the Enrollment Board.

The competent judicial authority, and, after notification, the maritime authority can take the necessary measures to prevent the vessel from sailing.

Article 185

Administration of the vessel distrained and attached

On the request of the party concerned and who advances the sums necessary, the competent judicial authority, after hearing the mortgages and prescribing the guarantees and other measures considered suitable, can authorize the vessel distrained or attached to effect one or more voyages.

The freight, after deducting the expenses to be reimbursed to the applicant within the limits of the deposit effected, increases the award price.

Article 186

icity of the transfer of the awarded vessel

The decree whereby the Judge, after the sale, transfers the vessel to the acquire and orders the Enrollment Board to cancel the transcription of mortgages must be made public pursuant to article 76.

B O O K V

MARITIME CRIMES

CHAPTER I

CRIMES AGAINST THE SHIP'S AND NAVIGATION POLICE

Article 187

Non-compliance of orders by crew members

Any crew member who fails to comply with an order given by a superior concerning a technical service of the vessel, is punished by imprisonment up to 3 months. Should not compliance concern a service relating to the manoeuvre of the vessel, the punishment is imprisonment from 1 to 6 months.

Should this fact cause a remarkable trouble to sailing or a danger to the life and safety of persons or to the security of the vessel, the punishment is imprisonment from 4 months to 2 years. If the order given relates to the safety of the vessel or to assistance to another vessel or persons in danger, the punishment is imprisonment from 1 to 3 years.

Article 188

Non-compliance of orders by passengers

Any passenger who fails to comply with an order concerning the security of the vessel is punished by imprisonment up to 3 months or by a fine up to Sh.So. 160.-

Article 189

Abandonment of the vessel by the Master or by crew members

The Master who, in case of abandonment of the vessel, does not leave it last, is punished by imprisonment up to 2 years.

Crew members who, without the consent of the Master abandon the vessel in danger are punished by imprisonment up to 1 year.

Article 190

Loading of arms, ammunition, and persons for criminal purposes

The Master of a vessel, also if foreign, who loads arms, ammunition, or persons, in order to commit a crime is punished, if the latter is not committed, by imprisonment from 6 months, to 2 years, save for the case that this fact constitutes a crime subject to other regulations.

CHAPTER II

CRIMES AGAINST SHIP'S AUTHORITIES OR AGAINST CONSULAR AUTHORITIES

Article 191

Offence against the Master or a superior

Any crew member who offends the honour or prestige of a superior, in presence of him, owing to or in the performance of his duties, is punished by imprisonment from 3 months to 2 years.

The same punishment is inflicted upon anyone who commits this fact by telegraph or telephone, in writing or by drawing addressed to a superior and relating to his duties.

Punishments are increased up to one third when this fact is committed with violence or menace or when the offence is made in presence of one or more persons.

Article 192

Mutiny

Crew members are considered mutinied and are punished by imprisonment from 3 months to 2 years, when, in number not less than one third of the entire crew, they :

1. do not comply with an order given by the Master, collectively or after agreement;
2. collectively abandon themselves to tumultuous disturbances. Crew members who upon the first intimation carry out the order or desist from participating in the disturbance, are subject only to punishment for acts which they have already committed, whenever the same constitute a different crime.

The punishment is increased from 6 months to 4 years:

1. if the mutiny is committed under such conditions that it is not possible to resort to police;
2. if non-compliance concerns an order relative to a service connected with the safety of navigation or else if the fact is committed with the purpose of interrupting the voyage, changing its route or threatening the security of both vessel and cargo;
3. if any of the persons is manifestly armed or the fact is committed by threat.

For promoters, organizers, and heads, the punishment is increased up to one third.

Article 193

Failure to prevent a crime

Any crew member who, on being present to acts of threat or violence against a superior in the performance of his duties, fails to give assistance or help, is punished by imprisonment up to 1 year or by a fine up to Sh.So. 400.-

The same punishment is inflicted upon any crew member who, on being present to the mutiny referred to in the preceding article does not make everything in his power to break up the meeting or thwart the disturbance.

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Article 194

Plot against the Master

Crew members who, in number of three or more, agree with the purpose of committing a crime against the life, safety, individual freedom or the performance of the Master's powers, are punished, if the crime is not committed, by imprisonment up to 3 years. For promoters and organizers the punishment is increased up to one third. Crew members who, having knowledge of the plot, fail to inform the Master of the same, are punished by imprisonment up to 1 year. The punishment to be applied, however, is in any event less than half of that established for the crime to which the plot refers.

Article 195

Non repatriation of citizens

The Master of a vessel bound for a port of the Territory who, without justified reason, fails to comply with the request of the Consular Authority for the transportation of citizens in accordance with Art. 57, second paragraph, is punished by imprisonment up to 6 months or by a fine up to Sh.So. 800.-

CHAPTER III

CRIMES AGAINST THE SAFETY OF NAVIGATION

Article 196

Performance, arbitrary removal, and omission of
signals

Anyone who arbitrarily orders or makes some of the signals used for sea navigation or removes these signals is punished by imprisonment up to 1 year or by a fine up to Sh.So. 800.-

The same punishment is inflicted upon anyone who, on being obliged to do so, fails to place the above-mentioned signals or fails to take the measures required for this purpose.

If this fact causes danger of fire, shipwreck or submersion of a vessel, the punishment is imprisonment from 1 to 5 years. The provisions of the present article do not apply if the fact is contemplated as a graver crime by other provisions of the Law. If any of the facts envisaged in the present article is committed by fault, the punishment is reduced by one half.

Article 197

Failure to give assistance

The Operator or the Master of a vessel who, on being so requested by the competent authorities pursuant to article 27, third paragraph, fails to cooperate in assisting a vessel in danger or damaged, is punished by imprisonment from 1 to 3 years.

Article 198

Abandonment of command and of place

The Master who without necessity abandons the nautical direction of the vessel in such conditions that the same must be taken by a person not qualified to replace him, is punished by imprisonment up to 1 year or by a fine from Sh.So. 200 to 800.--

The punishment is increased up to one third if this fact is committed in those cases in which the Master has the obligation of personally directing the manoeuvre.

Crew members who, during the performance of a service pertaining to the safety of navigation, abandon their place, are punished by imprisonment from 3 months to 1 year.

Article 199

Conditions for greater punishment

In the cases foreseen in article 196 and 198, the punishment is imprisonment from 2 to 8 years, if the fact causes fire, shipwreck or submersion of the vessel.

CHAPTER IV

CRIMES AGAINST PUBLIC FAITH

Article 200

False statements

The Master of a vessel, who, with the purpose of obtaining for himself or others an advantage or of causing to others a damage, makes false statements in reports to authorities as well as in the log-book saying that a fact was by him performed or done in his presence, or reports statements which he never received, or else deletes or alters the statements received, or falsely confirms facts contained in the aforesaid reports or in the log-book which are destined to serve as evidence, is punished, when the fact does not constitute a graver crime, by imprisonment from 6 months to 4 years.

Article 201

Abusive use of the flag

Anyone hoisting or using the flag of the Somali Merchant Marine on a foreign vessel is punished by imprisonment up to 1 year or by a fine from Sh.So. 200 to 1,000.-

Article 202

Use of false identification marks

Anyone who, with the purpose of obtaining for himself or for others an advantage or of causing to others a damage, affixes on the vessel a false identification mark is punished by imprisonment up to 1 year. The punishment is imprisonment up to 2 years and fine up to Sh.So. 400 if the culprit employs the documents of the vessel the mark of which he has abusively used.

Article 203

Abusive concession of name for the construction of a vessel

Anyone who, on being qualified to the construction of vessels, consents the use of his name for such construction to a

person not authorized, is punished by a fine from Sh.So. 280 to 800. The same punishment is inflicted upon anyone who uses the name of others. If the construction has already been started, the punishment is increased up to one third.

Article 204

Abusive use of sailing books

Anyone who, with the purpose of obtaining for himself or for others and advantage or of causing to others a damage, uses a sailing book belonging to another person, is punished by imprisonment up to 1 year unless the fact constitutes a different crime against public health.

CHAPTER V

CRIMES AGAINST THE OWNERSHIP OF THE VESSEL OR CARGO

Article 205

Piracy

The Master or officer of Somali or foreign vessels who commit acts of depredation to the damage of a Somali or foreign vessel or its cargo, or for this purpose commit violence against persons on board Somali or foreign vessels, are punished by imprisonment from 10 to 20 years.

Article 206

Taking possession of the vessel

Crew members of a vessel who take possession of the same are punished :

1. by imprisonment from 10 to 20 years if the fact is committed with violence or threath against the Master or the other officers;
2. by imprisonment from 3 to 10 years if the fact is committed clandestinely or by fraudulent means.

For promoters and heads the punishment is increased up to one third.

If the fact is committed by a person extraneous to the crew the punishment is reduced by one third.

Article 207

False route

The Master of a vessel who, in order to obtain for himself or for others an unfair benefit or to cause to others a damage, takes a false route, is punished by imprisonment from 1 to 6 years and a fine up to Sh.So. 800. If the fact causes a danger of fire, shipwreck, or submersion of the vessel, the punishment is increased by one third. If the fact causes fire, shipwreck or submersion, the punishment is imprisonment from 2 to 10 years.

Article 208

Embezzlement of wrecks

Anyone who embezzles the wreck indicated sub. article 158 in the cases in which he has the obligation of denunciation, is punished by imprisonment up to 2 years or by a fine up to Sh.So. 1,000/-.

Article 209

Taking possession of a shipwrecked vessel

Anyone who takes possession of a shipwrecked, submerged or abandoned vessel is punished by imprisonment from 1 to 4 years and by a fine from Sh.So. 160 to 800.-

CHAPTER VI

CRIMES AGAINST PERSONS

Article 210

Abuse of authority

The Master who subjects to rigorous measures not permitted by the Law a crew member or passenger or a person imprisoned and entrusted to him in custody or for transport, is punished by imprisonment up to 30 months, provided the fact does not constitute a graver crime. The same punishment is inflicted upon those to whom said person has been entrusted.

The punishment cannot be less than 6 months when the fact is committed for personal reasons or against an ill person or a minor or a major of seventy or against women.

Article 211

Disembarkment and arbitrary abandonment of persons

The Master of a ship who arbitrarily disembarks a crew member or a passenger out of the territory, or abandons them avoiding their return on board or anticipating the ship's departure, is punished by imprisonment from 6 months to 3 years and a fine from Sh.So.80 to 240/-.

The punishment cannot be less than 1 year if the person disembarked lacks the necessary means of subsistence or to repatriate. The punishment is imprisonment from 1 to 6 years if the fact causes personal injuries; from 3 to 8 years if it causes the death. The above punishment are reduced to two thirds in case of disembarkment or abandonment within their national territory.

Article 212

Failure to give assistance

The Master who, on finding abandonment a Somali Seaman in a foreign country in which there is no Consular Authority, fails without justified reason to give him assistance on board and repatriate him, is punished by imprisonment up to 6 months or a fine up to Sh.So. 240/-. If failure of assistance involves several persons, the punishment is doubled.

The punishment is imprisonment from 1 to 6 years if the fact causes personal injuries; from 3 to 8 years if it causes the death.

Article 213

Failure to assist vessels or persons in danger

The Master of a national or foreign ship, dhow or craft who fails to give assistance to vessels or persons in danger or else fails to attempt salvage in cases in which he is obliged to do so under the present Code, is punished by imprisonment up to 2 years.

The punishment is imprisonment from 1 to 6 years if the fact causes personal injuries; from 3 to 8 years if it causes the death.

If the fact is committed by fault, the punishment is imprisonment up to 6 months; in the cases indicated in the preceding paragraph the punishment therein foreseen are reduced to the half.

Article 214

Lack of necessary victuals

The Master of a ship who causes the lack of victuals necessary to the persons embarked, is punished by imprisonment from 1 to 6 years.

If the fact is committed by fault, the punishment is imprisonment from 1 month to 1 year or a fine up to Sh.So. 500/-.

CHAPTER VII

INFRINGEMENT OF THE PROVISIONS GOVERNING THE MARITIME
DEMESNE

Article 215

Abusive occupation of demesnial areas

Imprisonment up to 6 months or a fine up to Sh.So. 400, if the fact does not constitute a graver crime, are inflicted upon anyone who arbitrarily occupies an area of the maritime demesne, prevents public use, or makes unauthorized innovations on the same.

Article 216

Abusive extraction of stone and other materials

Anyone who extracts materials referred to sub. Article 17 without a licence to do so, is punished by imprisonment up to 2 months or a fine up to Sh.So. 80/-.

Article 217

Abasive storage of goods and failure to remove the
same

1. Anyone who stores goods and other materials in the places indicated sub. Article 23 without being authorized by the Customs Authority.
2. Anyone who does not comply with the order of removal of the material stored :

a fine up to Sh.So. 400 is imposed upon.

CHAPTER VIII

INFRINGEMENT OF THE PROVISIONS GOVERNING POLICE, PORT
SERVICES, AND PORT OF CALL

Article 218

Fishing, use of explosives, and lighting of fires in
areas in which they are prohibited

Anyone who, in the areas indicated sub. article 30, carries out fishing activities without being authorized by the maritime authority is punished by a fine up to Sh. So. 40. Anyone who, in the same areas, without being authorized by the maritime authority uses explosives or lights fire and lights which can interfere with the maritime signalling service; is punished by imprisonment up to 3 months or by a fine from Sh. So. 16 to 300/-.

Article 219

Abusive harbour contracting

Anyone who performs harbour contracting work without having the concession indicated sub. article 33, is punished by imprisonment up to 1 year or a fine up to Sh. So. 800.

CHAPTER IX

INFRINGEMENT OF THE PROVISIONS GOVERNING THE EMPLOYMENT
OF SEAFARING PEOPLE

Article 220

Employment and undue assignment of minors

The operator or the master of the ship, dhow or sea craft referred to sub. article 35, second paragraph, who employs a person under fifteen years of age, out of the cases

envisaged sub. article 36, fourth paragraph, or else who assigns a person under eighteen to engine services is punished by a fine from Sh.So. 40 to 400/-.

CHAPTER X

ENFRINGEMENT OF THE PROVISIONS GOVERNING THE OWNERSHIP
OF THE VESSEL

Article 221

Non compliance with the provisions relating to the
abandonment of the ship's flag

Failure to comply with the provisions sub. article 43 and 44 is punished by imprisonment up to 6 months or by a fine up to Sh.So. 800/-.

Article 222

Non compliance with the provisions governing the demolition
of the vessel

Anyone who carries out demolition as per article 46 without being authorized to do so, is punished by a fine from Sh.So. 40 to 400/-.

CHAPTER XI

INFRINGEMENTS OF THE PROVISIONS GOVERNING NAVIGATION POLICE

Article 223

Non compliance with the provisions governing the use of
flag, identification mark, and ship's documents

A fine up to Sh.So. 160 is imposed upon :

1. The ship's Master who does not hoist the flag when required;
2. The Shipowner or Master who does not comply with the provisions on the use of the name and identification mark of the vessel;
3. The Master who sails without having the required ship's documents on Board.

Article 224

Failure to renew ship's documents

The Owner of a vessel who does not timely renew the ship's documents is punished by a fine up to Sh.So. 400/-.

Article 225

Non compliance with formalities at the departure or arrival
in ports

The Master of a Somali or foreign ship or dhow who at departure or arrival does not comply with the required formalities is punished, when the fact does not constitute a graver crime, by a fine up to Sh.So. 400/-.

Article 226

Refusal to cooperate in the salvage

Crew members, in case of shipwreck of the ship, on being requested by the Master or by the competent authority, who refuse to cooperate in the salvage of the wreck, are punished, if the fact does not constitute a graver crime, by a fine up to Sh. So. 160/-.

Article 227

Presentation of claims

The Master who, without justified motive, prevents a crew member or a passenger from landing to present claims to the authority concerned, is punished, if the fact does not constitute

a graver crime, by a fine from Sh.So. 8 to 400.

Article 228

Prohibition of shelter

The Master who, abroad, gives shelter on board to persons, also if Somali citizens, searched for by the competent authority for having committed a common crime, is punished by a fine up to Sh.So. 800/-.

CHAPTER XII

INFRINGEMENTS OF THE PROVISIONS GOVERNING THE SAFETY
OF NAVIGATION

Article 229

Unauthorized sailing

The Operator who uses a ship, dhow or sea craft not qualified for sailing or prior to the issue of the documents evidencing the seaworthiness requisites, is punished by a fine up to Sh.So. 800. The same provision applies to the Master but the punishment is reduced by not less than one third.

Article 230

Failure to comply with maritime signalling rules

The Master of Somali or foreign ships, dhows or sea craft who does not comply with maritime signalling rules, is punished by imprisonment up to 6 months or by a fine from Sh.So. 40 to 800/-.

Article 231

Non compliance with the rules on the composition of the
crew and undue assignment of duties

The Operator or Master who does not comply with the rules

set forth in article 98 on the composition of the crew is punished by a fine from Sh.So. 24 to 240. The Operator or Master who, without justified motive, assigns certain duties to persons who are not qualified to carry out the same, is punished, if the fact does not constitute a graver crime, by a fine from Sh.So. 40 to 400/-.

CHAPTER XIII

INFRINGEMENTS OF THE PROVISIONS GOVERNING THE MARITIME HEALTH CONTROL SERVICE

Article 232

Failure to take prophylactic measures

The Master who does not take adequate prophylactic measures to safeguard the health of passengers and crew in infected ports is punished by imprisonment up to 1 year or by a fine from Sh. So. 40 to 400/-.

Article 233

Abusive embarkment of ill passengers

The Carrier or Master who, without being authorized by the competent authority or with disregard to the precautionary measures established by the latter takes on board a passenger manifestly affected by a serious disease or by a disease dangerous to the safety of navigation or to the passenger's health, or else a person who was forbidden, by the competent authority, for health reasons, to embark, is punished by imprisonment up to 6 months or by a fine from Sh.So. 40 to 400/-.

CHAPTER XIV

INFRINGEMENT OF THE PROVISIONS GOVERNING SEA-FISHING

Article 234

Abusive fishing

Anyone who, without the concession or licence referred to sub. article 67 :

1. Carries out major fishing activities, is punished by a fine from Sh.So. 80 to 800/-;
2. Keeps breeding installations for fish and other aquatic animals, is punished by a fine from Sh.So. 30 to 80/-;
3. Carries out minor fishing activities, is punished by a fine from Sh.So. 30 to 300/-.

Article 235

Fishing with prohibited means

Anyone who fishes in the manner specified sub. article 71, first paragraph, is punished by imprisonment up to 3 months or by a fine up to Sh.So. 160. Anyone who collects and sells fish and aquatic animals caught in the above manner is punished by a fine from Sh.So. 30 to 80/-.

BOOK VI

PROVISIONS GOVERNING DISCIPLINE

Article 236

Disciplinary power

The disciplinary power is exercised by :

1. The Master over crew members and passengers, also if foreign;
2. Harbour Masters on sea-faring people, people in charge of maritime services in ports and persons indicated in article 28, first paragraph;
3. Consular Authorities abroad on crew members.

Article 237

Disciplinary infringements

The following facts represent disciplinary infringements for sea-faring people, persons in charge of maritime services in ports

and persons indicated sub. article 28, first paragraph, when the infringement does not constitute a crime under the present Code;

1. Refusal or delay to comply with an order given by the Master or other superior;
2. Non compliance with the provisions governing the performance of the port activities;
3. Negligence in the performance of one's own duties;
4. Lack of respect towards superiors;
5. Absence from board without authorization;
6. Lack of respect towards maritime or consular authorities;
7. Disorders on board and, in general, behaviour causing disorder and indiscipline on board or inconsistent with the requirements of order and discipline.

Article 238

Disciplinary punishment for crew members

Disciplinary punishment for crew members are :

1. Confinement on board from 1 to 5 days.
2. Non-payment of the wage from 1 to 10 days or of a share of profit from 2 to 24 Sh.So.

The punishment sub. 1 is enforced by the Master or by the Harbour Master as well as by Consular Authorities abroad. The punishment sub. 2 is enforced by the Harbour Master.

Article 239

Disciplinary punishment for people in charge of port services

The disciplinary punishments for people in charge of port services is non payment of a quota of their wage from 2 to 24 Sh.So.; the above provisions is enforced by the Harbour Master.

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Article 240

Disciplinary punishments for persons exercising an activity
in ports

The persons indicated sub. article 28, first paragraph, for disciplinary infringements, can be prevented from accruing up to 10 days by the Harbour Master.

Article 241

Disciplinary infringements of passengers

If the fact does not constitute a crime, disciplinary infringements of passengers are the following :

1. Lack of respect towards the Master of other persons in charge of ship services;
2. Trouble to other passengers and crew;
3. Trouble in whatever manner to the order of the ship.

Article 242

Disciplinary punishment for passengers

Disciplinary punishments for passengers are :

1. Simple warning;
2. Public warning.

Passengers can also be prevented from remaining on deck for over 5 hours a day, for not over than 3 days.

Article 243

Disciplinary power in case of loss of the vessel

In case of loss of the vessel, persons who constituted the crew remain subject to the disciplinary rules so long as they are under the Master's authority for salvage operations.

Article 244

Prohibition of a cumulation of disciplinary punishments

Disciplinary punishments cannot be enforced cumulatively. In case of plurality, the gravest is applied.

TRANSITORY AND FINAL PROVISIONS

Article 245

Demersial concessions

Maritime demersial concessions and fishing concessions already implemented at the time of the entry into force of the present Code are in full force until expiration established in the relative instrument.

Article 246

Port tariffs

Port tariffs in force at the time of the entry into force of the present Code are considered as fully valid pursuant to previous legislative provisions.

Article 247

Tax exemption for the enrollment of sea-faring people
and employment contracts

Application for the enrollment of sea-faring people and employment contracts of sea-faring people, including all the related acts and documents, are tax free.

Article 248

Temporary qualification of unlicensed shipwrights

Until when there will not be maritime shipwrights in sufficient number, the construction of wooden vessels not exceeding 100 GRT can be supervised by the present unlicensed shipwrights.

Article 249

Temporary assignment of an expert to the duties foreseen
for the Maritime Technical Office

Until when the Maritime Technical Office will be regularly established as per article 49, the relative duties envisaged by the present Code with respect to vessels will be carried out by an expert appointed by the Minister of Economic Affairs.

Article 250

Validity of employment contracts

Employment contracts entered into until the date of the entry into force of the present Code are recognized fully valid until the expiration foreseen in the relative instruments.

Article 251

Privileges

The provisions of the Code relating to the rights of preferred credits, to the order of privileges and their effectiveness in respect of mortgage and other real rights, are applied also for privileges which have arisen prior to the entry into force of the present Code.

Article 252

Abrogated provisions

By the entry into force of the present Code, any other provision regulating the subjects governed by the present Code, or contrary, or conflicting provisions, is hereby abrogated.

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