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Gazette Extraordinary

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MARITIME CODE OF THE EMPIRE OF ETHIOPIA
PROCLAMATION No. 164 OF 1960



Addis Ababa, 5th May 1960

CORRIGENDA

Before Art. 58, insert:

Section 2. Execution

Art. 86 (1), read:

- (a) where the occurrence has only given rise to property claims, an aggregate amount of Eth. \$160 for each ton of the ship's tonnage;
- (b) where the occurrence has only given rise to personal claims, an aggregate amount of Eth. \$. 516 for each ton of the ship's tonnage;
- (c) where the occurrence has given rise both to personal claims and property claims, an aggregate amount of Eth. \$516 for each ton of the ship's tonnage, of which a first portion amounting to Eth. \$356..... etc.

Art. 97 (2), line 3, read: Art. 15 (5)

Art. 118, line 2, read: in the ship's log - book

Art. 187(2), line 1, read: retained by the carrier

Art. 198 (1), line 1, read: of the carrier

Art. 240, line 2, read: remuneration

Art. 250, line 3, read: as a private owner

Art. 271 (B), line 13, read: machinery; other repairs.... etc.

Art. 287 (1), line 2, read: she was due to arrive

Art. 313 (1), line 2, read: the things insured.... etc.

Art. 316 (1), line 5, read: in proportion to etc.,

Art. 360, heading, read: or Preventing. .. etc.

Art. 371 (2) (h), read: steering

(3), read: Articles 86, 198 and 223.

THE MARITIME CODE
PROCLAMATION OF 1960
CONQUERING LION OF THE TRIBE OF JUDAH
HAILE SELASSIE I
ELECT OF GOD, EMPEROR OF ETHIOPIA

WHEREAS, the development of the ports of Our Empire and the expansion of Our merchant navy require that a comprehensive Maritime Code be enacted; and

WHEREAS, a Maritime Code has been prepared under Our supervision and has received the approval of Our Senate and Chamber of Deputies;

NOW, THEREFORE, in accordance with Articles 34 and 88 of Our Revised Constitution, We approve the resolutions of Our Senate and Chamber of Deputies and We hereby proclaim as follows:

1. This Proclamation may be cited as the "Maritime Code Proclamation, 1960".

2. The Maritime Code of 1960, as published in a separate volume appearing as Extraordinary Issue No. 1 of 1960 of the Negarit Gazeta, shall come into force on the 5th day of May 1960.

3. Nothing contained in the Maritime Code shall affect the nationality of ships registered prior to the coming into force of said Code.

4. The Maritime Proclamation No. 137 of 1953, as amended by the Maritime (Amendment) Proclamation of 1956, is hereby repealed except for Articles 2 to 5 inclusive, paragraphs (e) to (g) inclusive of Article 6, Articles 28 to 31 inclusive, and Articles 36 to 47 inclusive.

Done at Addis Ababa this 5th day of May, 1960.

TSAHAFFE TAEZAZ AKLILU HABTE WOLD
Deputy Prime Minister and Minister of Pen

TITLE I. SHIPS

Chapter 1. General Provisions

Art. 1. *Definition of Ships.*

For the purpose of this Code, a ship is any seagoing vessel, whatever its designation and tonnage, which undertakes or is intended to undertake maritime navigation, whether or not such navigation is for purposes of gain.

Art. 2. *Accessories.*

All accessories required for the use of the ship shall be deemed to be part of the ship.

Art. 3. *Ship Movable Property.*

A ship is movable property under Civil Law subject to the provisions of this Code.

Chapter 2. Nationality of ships

Art. 4. *Qualification for owning Ethiopian Ships.*

A ship shall not be deemed to be an Ethiopian ship unless owned wholly by persons of the following descriptions, namely:

- (a) Ethiopian subjects;
- (b) Bodies Corporate established under, and subject to, the Laws of Ethiopia and having their principal place of business in Ethiopia;
- (c) Foreigners domiciled in Ethiopia and having their principal place of business in Ethiopia.

Art. 5. *Ships treated as Ethiopian Ships.*

The following shall be Ethiopian ships:

- (a) Ships abandoned at sea and salvaged by ships flying the Ethiopian flag;
- (b) Ships confiscated under the provisions of this Code.

Art. 6. *Ethiopian Ships.*

- (1) Only Ethiopian ships shall sail under the Ethiopian flag.
- (2) Coastal fishing, coastal trade between Ethiopian ports and towage in Ethiopian ports shall only be undertaken by Ethiopian ships.

Chapter 3. Ownership

Art. 7. *Ownership of Ship.*

- (1) Instruments setting up, assigning or terminating rights of ownership in a ship or other rights in rem shall be drawn up in a recognized legal form, otherwise they shall be of no effect.

- (2) Where such instruments are made abroad, they shall be drawn up before an Ethiopian consul, or where there is no consul, before the competent authority.

Art. 8. *Third Party Rights.*

The instruments covered by Art. 7 may only be set up against third parties when they have been published as required by law.

Chapter 4. Ships owned in common

Art. 9. *Rights of Part Owners.*

In any matter concerning the common interest of part owners, the opinion of the majority owners shall prevail.

Art. 10. *Liability of Part Owners.*

- (1) Each part owner shall only be liable in respect of the ship in proportion to his share.
- (2) Any part owner who disapproves of an act of management, may free himself from liability under such act by renouncing his share. Such share shall be distributed among the other part owners in proportion to their respective shares.

Art. 11. *Powers of Operator.*

- (1) An operator appointed by the part owners may undertake all acts of management. His powers may only be restricted by a resolution in writing adopted by the majority owners.
- (2) Third parties shall not be affected by restrictions in the powers of the operator unless notice thereof has been given in the shipping register.

Art. 12. *Assignment and Mortgage of a Share.*

Every part owner may assign his share in the ship. A part owner may mortgage his share with the agreement of the majority owners.

Art. 13. *Pre-emptive Rights of the other Part Owners.*

- (1) Where a part owner sells his share in a ship held in common, the purchaser shall notify such act to the other owners within fifteen days, otherwise the sale shall be null and void.
- (2) Within fifteen days from such notification, the part owners may exercise their pre-emptive right over the share sold, provided that within the same period of time they settle the cost and expenses in cash.
- (3) The part owners, as between themselves, shall distribute the pre-empted share in proportion to their own shares, where all exercise their pre-emptive right, or otherwise in proportion to the shares of those who have exercised such right.

Art. 14. Sale of a Ship under Common Ownership.

- (1) Unless otherwise agreed in writing, the sale of a ship under common ownership shall only be effected with the consent of the majority owners.
- (2) Such sale shall be conducted in the same manner as a sale by order of the court.

Chapter 5. Maritime liens and mortgage of a ship

Section 1. Maritime Lien

Art. 15. Designation and Priority of Maritime Liens.

The following claims shall alone give rise to maritime liens with priority as follows:

- (1) Legal costs and other expenses incurred in the common interest of the creditors, in order to preserve the ship and to procure her sale and the distribution of the proceeds of sale; tonnage, dues, light or harbour dues and other public taxes and charges of the same nature; pilotage dues and the cost of watching and preservation from time of entry of the ship into her last port;
- (2) claims arising out of the articles of agreement of the master, the crew and other persons engaged in the service of the ship;
- (3) remuneration due for assistance and salvage and the contribution of the ship in general average;
- (4) indemnities in respect of collision and other accidents of navigation, as well as for damage caused to works forming part of harbours, docks and navigable waterways, and the cost of removal of objects obstructing navigation, due to the acts of the ship, indemnities for bodily injury to passengers and crew and indemnities for loss of or damage to cargo and baggage;
- (5) claims arising out of contracts entered into or acts done by the master outside the home port within the scope of his authority where such contracts or acts are necessary for the preservation of the ship or the continuation of the voyage, whether or not the master is at the same time owner of the ship and whether or not the claim is his or that of ship chandlers, repairers, lenders or other contractual creditors;
- (6) resulting damages due to charterers;
- (7) the amounts of premium for insurance taken out on the hull of the ship and the fittings and equipment of the ship due for the last voyage insured in the case of a voyage policy or for the last period insured in the case of a time policy, but not exceeding one year's premium in both events;

- (8) any claim based upon an inaccurate or incomplete statement in a bill of lading.

Art. 16. Classification by voyage of claims secured by lien.

Classification of claims secured by lien shall be by voyage. Claims secured by lien in the last voyage of whatever priority shall be preferred against those of previous voyages. Claims arising out of one and the same crew's articles shall be deemed claims in the last voyage, even when they arise out of an earlier voyage.

Art. 17. Classification of Claims arising out of the same voyage.

- (1) Claims arising out of the same voyage shall rank in the order set out in Art. 15.
- (2) Claims arising out of the same voyage and which are of the same priority shall share concurrently and rateably in the event of the funds available being insufficient to pay the claims in full.
- (3) All remuneration for assistance and claims arising out of ships' stores and repairs shall be given priority in the inverse order of the dates on which they came into being.

Art. 18. Date of claims arising out of the same maritime incident.

Claims arising out of the same maritime incident shall be deemed to have come into being at the same time.

Art. 19. Proof.

Liens set forth in the preceding articles shall come into being as soon as the claim is set up; they shall not be subject to any formality nor to any special conditions as to proof, unless the law requires such formalities or conditions.

Art. 20. Priority of Creditors secured by Mortgage.

Creditors secured by mortgage on the ship rank for priority in order of registration immediately after the creditors secured by lien referred to in Art. 15 (1) to (5) (inclusive).

Art. 21. Property to which Liens attach.

- (1) Liens shall attach to the ship, to the freight for the voyage during which the lien came into being and to ships' accessories and freight acquired after the commencement of the voyage.
- (2) The lien set up by Art. 15 (2) shall attach to the whole of the freight due in respect of all voyages made during one and the same articles of agreement.

Art. 22. Definition of Ship's Accessories and Freight.

With respect to the exercise of a lien:

- (1) compensation due to owners for material damage sustained by the ship and not repaired, or for loss of freight;
- (2) contributions due to owners in general average, in respect of material damage sustained by the ship and not repaired, or in respect of loss of freight;
- (3) remuneration due to owners for assistance or salvage services rendered at any time before the end of the voyage, after deduction of any sums allotted to the master and other persons in the service of the ship, are deemed to be ship's accessories and freight.

Art. 23. Amounts deemed freight or excluded from Ship's accessories and freight.

- (1) Passage money and, where appropriate, lump sums due under a ship-owner's limited liability shall be considered to be freight.
- (2) Payments due to the owner under insurance policies, or bounties, subsidies or other State grants shall not be deemed accessories of the ship or freight, with respect to the exercise of a lien.

Art. 24. Duration of Lien on freight and Ship's Accessories.

A lien on freight shall subsist for so long as the freight has not been paid or for so long as the amount thereof is held by the master or by the owner's agent. The same shall apply to a lien on a ship's accessories.

Art. 25. Claims secured by Lien follow the ship.

Claims secured by lien shall follow the ship into whatever hands she may pass.

Art. 26. Limitation.

- (1) All liens set forth in Art. 15 shall be barred after one year with the exception of the lien securing claims attached to ship's stores which shall be barred after six months.
- (2) In the case of liens securing claims in respect of remuneration for assistance and salvage, the period of limitation shall run from the day when the services terminate; in the case of liens securing claims in respect of collision and other accidents and in respect of bodily injuries, from the day when the damage was caused; in the case of liens for the loss of or damage to cargo or baggage, from the day of the delivery of the cargo or baggage or from the day when they should have been

delivered; for repairs and supplies and other cases mentioned in Art. 15 (2), from the day when the claim originated.

- (3) In all other cases, the period shall run from the date when the claim became enforceable.
- (4) The claims as set out in Art. 15 (2) of persons engaged on board ~~shall~~ only be enforceable at the end of the voyage, notwithstanding the right of such persons to request advances or payments on account during the voyage.
- (5) The periods so determined above shall not run for as long as it has not been possible to arrest the ship in the territorial waters of the Empire when the creditor has his domicile or principal place of business in the territory of the Empire, provided that the period of limitation shall not in such event exceed three years from the time when the claim originated.

Art. 27. Other Modes of Extinguishment of Liens.

- (1) Apart from general provisions for the extinguishment of obligations, liens shall be extinguished:
 - by judicial sale under the procedure set forth in this Code;
 - by a voluntary sale of the ship, under the following conditions:
 - (a) The conveyance shall be made in accordance with the provisions of this Code;
 - (b) The conveyance shall be made public by an entry in the Official Commercial Gazette and in a daily newspaper available at the ship's port of registry, as well as by a notice affixed at the entry of the register office, the entry and notice being required to contain an indication as to the domicile of the purchaser;
 - (c) No objection has been notified by the creditor to the purchaser during the month following publication.
- (2) After this period has expired, the creditor's lien shall subsist on the purchase money for as long as such purchase money has not been paid, provided that before payment the creditor has lodged an objection.
- (3) The lodging of an objection as provided in paragraph (2) shall be notified to the creditor.

Art. 28. Registration of a Lien.

Creditors secured by lien may register their lien. It shall be made on the ship's entry in the Register. Such registration shall not affect priority of liens.

Art. 29. Case where a ship is not managed by the owner.

The preceding articles shall apply to ships under the management of a person who operates them without owning them or to the principal charterer, except in cases where the owner has been dispossessed by an illegal act, or where the claimant is not in good faith.

Section 2. Mortgage

Art. 30. *Scope of Mortgage.*

Ships of two tons gross tonnage and above may be mortgaged, but only under an agreement between the parties.

Art. 31. *Mortgagor.*

- (1) A mortgage of a ship may only be contracted by the owner or by his agent acting under a special power.
- (2) Where there are several owners, a ship may be mortgaged by the managing owner for the purposes of fitting out or navigation, with the approval of the majority owners, where such majority also represents three quarters of the interests of the general body of owners. Where a three quarters majority is not obtained, the part owners may request the court to make such order as is in the general interest of the part owners. Where one part owner wishes to mortgage his share, he may only do so with the approval of the majority.

Art. 32. *Property on which mortgage is secured.*

- (1) Unless otherwise agreed, a mortgage granted on a ship or on a share in a ship shall attach to the hull of the ship, and the ship's gear, apparatus, machinery and other accessories.
- (2) A mortgage shall not attach to the freight, nor to Government bounties and subsidies.
- (3) A mortgage shall attach to indemnity for damage, unless such indemnity is used to repair the ship or for her preservation.
- (4) A mortgage shall not attach to insurance compensation. The mortgage deed may by express assignment attach such compensation for the benefit of the secured creditors. Such assignment may only be set up against the underwriters where they have given their approval in writing or where the assignment has been notified to them.

Art. 33. *Mortgage of a ship under construction.*

- (1) A maritime mortgage may be made on a ship under construction.
- (2) A declaration shall be made before mortgage to the port manager within whose area the ship is under construction.
- (3) Such declaration shall indicate the length of the vessel's keel and her other approximate dimensions as well as the estimated tonnage. It shall also indicate the site where the ship is under construction.

Art. 34. *Formalities.*

- (1) A mortgage instrument shall be in writing. It may be by simple contract.

- (2) The instrument creating the mortgage may be transferable. Negotiation by endorsement shall transfer the mortgage claim.

Art. 35. *Limitation of interest rates.*

The rate of interest provided under a mortgage loan on a ship shall not exceed 12%.

Art. 36. *Formalities of Registration.*

- (1) Registration shall be effected by an entry in the Register at the port office where the ship is registered. Where the mortgage charges a ship under construction, registration shall be entered in the Register of the register office under whose jurisdiction the shipyard comes.
- (2) Before registration, a certified true copy of the mortgage instrument shall be handed to the register office. The instrument shall have annexed to it two schedules signed by the claimant, containing the following details:
 - (a) Surname and other names, domicile and profession of the mortgagee and mortgagor;
 - (b) date and form of the instrument;
 - (c) amount of the debt as given in the instrument;
 - (d) conditions of interest and repayment;
 - (e) name and description of the ship under mortgage, registration certificate or declaration relating to her construction;
 - (f) the address for service of the mortgagor within the place of registration under the jurisdiction of the register office.
- (3) The register office shall enter in the Register a statement of the details contained in the two schedules. The said office shall return to the claimant one of the two schedules bearing a note as to registration. The office shall make a note of the registration of the mortgage in the ship's registration entry.

Art. 37. *Effect of Registration.*

- (1) Registration shall preserve the mortgage for a period of five years from the date thereof; it shall cease to have effect where not renewed before the expiry of five years.
- (2) Registration of a mortgage shall guarantee at the time of sale two years' interest with the same priority as the capital, in addition to interest for the current year.

Art. 38. *Arrest and sale of a mortgaged ship.*

- (1) Claims secured by registered mortgage of a ship or a share thereof may follow the ship into whatever hands she may pass in order to be classed and paid in the order of registration.

- (2) Where a mortgage charges a share in a ship only, the creditor may only arrest and sell the share to which the mortgage attaches. Where more than a half share in the ship is mortgaged, the creditor may, after arrest, sell the whole ship, it being his responsibility to summon the part owners to the sale.
- (3) Where the ship is sold to a part owner or falls to him after division, even where such owner is a person other than a part owner having contracted during the period of common ownership a mortgage of his share, such mortgage shall subsist as such after division or sale.
- (4) In the event of sale by order of the court for the benefit of a person not being an owner, in the forms determined by law, the rights of creditors secured by mortgage of a share in the ship shall be limited to that part of the purchase money relating to the interest mortgaged.
- (5) The same shall apply to charges on each share of ownership, such charges being transferred as of right to that part of the purchase money representing the value of such shares.

Art. 39. *Discharge of mortgage.*

- (1) The purchaser of a ship or a share in a ship who wishes to secure himself against the proceedings under Art. 38 shall transmit a copy of the certificate of rights in and over the ship to all creditors entered thereon, at the address for service. Such transmittal shall take place before proceedings and within fifteen days, as soon as the purchase has been registered.
- (2) The purchaser shall declare that he is prepared to pay forthwith the mortgage debts, whether or not they are due, up to the amount of the price paid by him.

Art. 40. *Overbid by one tenth.*

- (1) A registered creditor may require the sale by auction of a ship or of a share thereof charged by mortgage by offering to increase the purchase price by one tenth and by giving security for the payment of the price and expenses.
- (2) The request signed by the creditor shall be transmitted to the purchaser within ten days of the notifications. It shall contain a summons to appear before the court having jurisdiction at the place where the ship is, with a view to obtaining an order for sale by public auction.

Art. 41. *Deposit of purchase money where there is no overbid.*

Where no creditor secured by mortgage requests a sale by auction, the purchaser may discharge the mortgages on the ship by paying the amount of his purchase money into court. He may then require that the registration be cancelled.

Art. 42. Sale by auction.

Sale by auction shall take place at the request either of the creditor or of the purchaser, in accordance with the procedure laid down by law

Art. 43. Summary Schedule of Mortgage Registration.

Ship's papers shall include a summary schedule of mortgage registrations entered up to the date of departure, showing the date of registration, the names of creditors and the value of the mortgages.

Art. 44. Prohibition of sale abroad of a ship mortgaged in the Empire.

- (1) No ship mortgaged in the Empire shall be sold outside the Empire without the permission of the mortgagor having first been obtained. Any such sale shall not be entered in the Register.
- (2) An owner who intentionally sells a mortgaged ship abroad without the permission of the mortgagor shall be guilty of an offence and shall be liable on conviction to the penalties specified in Art. 641 of the Penal Code.

Chapter 6. Registration of Ships and of Rights in Rem relating to the Ship

Art. 45. Registers.

- (1) In every port designated by the Government of Ethiopia there shall be kept registers for the purpose of recording the registration of Ethiopian ships and of rights in rem relating to such ships.
- (2) Every entry in such registers shall be given a serial number and initialled by the Registrar. The serial number of the entry shall be the same as the ship's registration number.
- (3) Every ship shall be registered at the port where her owner is domiciled or has his address for service.
- (4) The manner of keeping registers shall be prescribed.

Art. 46. Ship's Markings.

- (1) Every Ethiopian ship shall carry the prescribed clear distinguishing markings and the name of the ship and the port of registry in Amharic and Latin characters.
- (2) The owner and master of an Ethiopian ship shall be responsible for maintaining in proper condition the prescribed distinguishing markings and shall be guilty of an offence if they are obliterated, concealed or covered, or if false marks are carried.

Art. 47. Registration of Ethiopian Ships.

Every Ethiopian ship shall be registered at the time and in the manner prescribed.

Art. 48. Cancellation of Registration.

Where a ship is sold to a foreigner, or has been lost to the enemy or by fire or in any other manner, the owner in whose name she is registered shall without delay return the ship's certificate of nationality to the port register office for the entry of the registered ship in the Register to be cancelled.

Art. 49. Arrest of unregistered Ship.

- (1) Any Ethiopian ship which is subject to registration and has not been registered shall be arrested in the first Ethiopian port where she touches; where the ship is met at sea within Ethiopian territorial waters, she shall be brought to the nearest Ethiopian port and shall be arrested by the Port Manager who shall draw up a report. The report shall be communicated to the court having jurisdiction and a copy of the report sent to the Minister.
- (2) Where the owner is intentionally avoiding registration he shall be guilty of an offence and liable on conviction to the punishments provided in Art. 428 of the Penal Code.
- (3) Where the owner acted negligently he shall be liable on conviction to the punishment provided in Art. 758 of the Penal Code.

Art. 50. Effect of Registration.

- (1) Any agreement inter vivos, and all voluntary acts, whether gratuitous or subject to consideration, all judgments which have become final and, in general, all acts having as their object to set up, transfer, declare, modify or extinguish a right in rem in a registered ship, shall take effect from the date of entry in the Register.
- (2) The right to registration of rights in rem in ships arises out of the agreements, acts, judgments or facts set forth in sub-art. (1). Failing voluntary performance by a party, registration in the Register may be ordered by the court, without prejudice to the right of the party aggrieved to compensation for damages.

Art. 51. Conclusive proof of Registration.

Whosoever acquires in good faith a right in a registered ship on the basis of the entries in the Register shall have a valid title.

Art. 52. Cancellation and Modification of Entries.

- (1) A person aggrieved by reason of an entry, alteration or cancellation made

without good cause may obtain the cancellation or alteration thereof, either by agreement between the parties or by order of the court.

- (2) Cancellation or alteration may not be set up against a third party in good faith whose rights were registered prior to alteration or cancellation.

Chapter 7. Arrest of a Ship

Section 1. Detention

Art. 53. *Conditions.*

- (1) Detention of a ship may be ordered by the court on grounds of debts due by the ship.
- (2) Detention may be ordered notwithstanding that the master has received permission to sail or is in a port of call or transit.

Art. 54. *Security and Release.*

- (1) The Court may require the claimant to give security or sufficient bail in order to meet the possible costs or damages arising out of the detention.
- (2) The defendant may lodge a claim with the court for release from the detention. Release shall be ordered where proper and sufficient security is given.

Art. 55. *Service of Warrant of Arrest.*

- (1) A copy of the warrant shall be served forthwith on the master or in his absence on his substitute.
- (2) The person serving the warrant shall at the same time serve a copy thereof on the port manager together with an order to hold the ship under arrest.
- (3) In the case of an Ethiopian ship, the Registrar shall enter the arrest in the Register.

Art. 56. *Summons to appear.*

- (1) The warrant of arrest shall contain a summons to the master to appear before the court having jurisdiction. The hearing shall be fixed upon a day not earlier than the fifteenth day from the arrest nor later than the thirtieth day after the arrest.
- (2) These periods of time shall not be extended or varied.

Art. 57. *Judgment confirming arrest.*

- (1) The judgment confirming the arrest shall include the order for sale, the upset price, the conditions of sale and the date when the auction and sale

shall take place before the court. The judgment is not subject to objection.

- (2) An appeal may be lodged whatever the amount of the claim within fifteen days following delivery of judgment; execution shall be stayed for fifteen days and until the appeal is decided.

Art. 58. Minimum Period before Proceeding to Execution.

A party may only proceed to execution after twenty-four hours following the demand for payment.

Art. 59. No execution in certain cases.

Unless execution relates to debts contracted in respect of the voyage to be undertaken, execution may not be levied on a ship which has had permission to sail or after the master is in a port of call.

Art. 60. Demand for Payment.

- (1) Demands for payment shall be served on the owner in person or at his address for service.
- (2) Where the owner is not present, such demand may be served on the master where the claim relates to the ship or the maritime adventure.

Art. 61. Maximum Period for proceeding to Execution.

Where the claimant allows more than ten days to elapse after demand, he shall renew such demand before proceeding to execution.

Art. 62. Information in the report on execution.

The person drawing up the report shall state therein:

- (a) the names, profession and domicile of the claimant for whom he is acting;
- (b) the basis and amount of the claim;
- (c) that the claimant has an address for service within the jurisdiction of the court before which proceedings for sale are opened, and at the place where the ship under arrest is anchored;
- (d) the names of the owner and the master;
- (e) the names, type, tonnage and nationality of the vessel;
- (f) the particulars and description of the launches, boats, tackle, equipment, supplies and stores,
and shall appoint a caretaker.

Art. 63. Notification and serving of process.

- (1) The person seeking arrest shall, within three days, send to the owner a copy of the report on execution and summon him to appear before the court which may order the sale of the things arrested.
- (2) Where the owner is not domiciled within the court's jurisdiction, service and summons shall be effected on the person of the master of the ship

arrested, or on the person representing the owner or master, within fifteen days.

- (3) Where the owner is a foreigner and is neither domiciled nor resides in the Empire, and is not represented there, service and summons shall be made as provided in the Judicial Code.

Art. 64. Entry of the Report in the Register.

- (1) The report shall be entered in the Register of the ship's port of registry, or at the place where the ship is under construction.
- (2) From the day of such entry, the debtor whose property is arrested may not assign or mortgage the ship.

Art. 65. Notification to Registered Creditors.

- (1) Within three days from the entry in the Register, the Registrar shall deliver to the registered creditors a schedule of entries, and within eight days thereafter the person seeking arrest shall transmit to such creditors, at the registered address for service, the summons referred to in Art. 63. The creditors may enter appearance within fifteen days of such service.
- (2) Where the ship is a foreign ship, notice shall be given, within eight days from transmission of the schedule of mortgage by the consulate, to the registered creditors shown in such schedule, as provided in the Judicial Code. Such creditors may enter appearance within fifteen days, which period may be extended.

Art. 66. Sale by Auction.

- (1) The Court at the place of arrest shall fix the date and the upset price, and the conditions of sale at the request of the party seeking arrest.
- (2) Where no offer is made at the sale, the court shall fix a fresh upset price, lower than the first, and another date for the sale.

Art. 67. Applications to withdraw execution or alleging defects.

- (1) Applications to withdraw execution or alleging defects shall be lodged before sale.
- (2) Where such application is lodged after sale, such application shall be treated as an objection against the release of the sums arising out of the sale.
- (3) Such applications shall not be entertained unless they have been entered in the Register.

Art. 68. Procedure on applications under Art. 67.

- (1) The claimant or party objecting shall file his reasons for objection within three days. The defendant shall file his reply within three days.

- (2) The case shall be heard on summons. Execution shall not be stayed unless the Court so orders.

Art. 69. Sale of Ship under arrest.

Fifteen days after the affixing of the bills referred to in Art. 70 and the publication of a notice in two local newspapers and such other publications as the court may order, the sale shall take place in court.

Art. 70. Particulars in Notices and Bills.

Notices and bills shall contain the following particulars:

- (a) the name, profession and domicile of the party bringing the suit;
- (b) the basis of the claim;
- (c) the value of the amount due;
- (d) that the claimant has an address for service in the place where the court presides and where the arrested ship is anchored;
- (e) the name, profession and domicile of the owner of the arrested ship;
- (f) the particulars of the ship entered in the Register;
- (g) the name of the master;
- (h) the place where the ship is;
- (i) the upset price and conditions of sale;
- (j) the date, time and place of sale.

Art. 71. Prohibition against overbids.

Overbids are not permitted on sale by the Court.

Art. 72. Payment of Purchase Price.

The purchaser shall pay the purchase price, without any deduction for costs, to a government designated bank within twenty-four hours after sale, subject to resale by auction.

Art. 73. Resale by auction.

Where the purchase price is not paid, the ship shall again be put up for sale by auction, three days after fresh notices and bills have been published as provided in Art. 69. The original purchaser shall be liable for the payment of any deficit, damages and costs.

Art. 74. Recourse.

No application under Art. 67 (2) may be made in respect of a judgment under Art. 73: Provided that an appeal by way of summons may be made to the Court of Appeal within five days from the sale solely on the ground that there is procedural irregularity on the face of the judgment. The date of hearing shall be mentioned in the summons to be three days after the issue of the summons.

Art. 75. *Registration of Sale by the Court in the Register.*

Sale by the court shall be entered in the Register at the request of the Court Registrar, as soon as it has become final.

Art. 76. *Effect of Sale.*

The sale frees the ship from all liens, mortgages or actions for rescission held by persons having received the notification referred to in Art. 63. Entries regarding such liens, mortgages and actions shall be struck off upon the lodging of the judgment by the purchaser with the register office, together with a certificate issued by the registry of the court having passed judgment, certifying that the judgment is final.

Art. 77. *Distribution of the Residue.*

Any residue arising out of the sale shall be distributed in accordance with the provisions of the Code of Civil Procedure.

TITLE II

SHIPOWNERS, MANAGERS AND THE MASTER

Chapter I. Liability of Shipowners and Managers

Art. 78. *Definition of Manager.*

A manager is a person who operates the ship. The shipowner shall be deemed to be manager unless otherwise evidenced.

Art. 79. *Acts resulting in the liability of the Shipowner.*

A shipowner shall be liable for the default of the master, the members of the crew, the pilot or any other person in the service of the ship, in the discharge of their duties. The shipowner shall also be liable in respect of obligations undertaken by the master in matters relating to the ship and the maritime adventure.

Art. 80. *Limitation of liability.*

(1) The owner of a seagoing ship may limit his liability in accordance with Art. 86 in respect of claims arising from any of the following occurrences:

- (a) Loss of life of, or personal injury to, any person being carried in the ship, and loss of, or damage to, any property on board the ship;
- (b) Loss of life of, or personal injury to, any other person whether on land or on water, loss of or damage to any other property or infringement of any rights caused by the act, neglect or default of any person on board the ship for whose act, neglect or default the owner is responsible or any person not on board the ship for whose act, neglect or default the owner is responsible: Provided, however,

that in regard to the act, neglect or default of this class of person, the owner shall only be entitled to limit his liability when the act, neglect or default is one which occurs in the navigation on the management of the ship or in the loading, carriage or discharge of its cargo or in the embarkation, carriage or disembarkation of its passengers;

- (c) Any obligation or liability imposed by any law relating to the removal of wreck and arising from or in connection with the raising, removal or destruction of any ship which is sunk, stranded or abandoned (including anything which may be on board such ship) and any obligation or liability arising out of damage caused to harbour works, basins and navigable waterways.
- (2) In this Chapter the expression "personal claim" means a claim resulting from loss of life and personal injury; the expression "property claim" means all other claims set out in sub-art. (1) of this Article.

Art. 81. Liability by reason of ownership, possession, custody or control of the ship.

An owner shall be entitled to limit his liability in the cases set out in Art. 80. even where his liability arises, without proof of negligence on the part of the owner or of persons for whose conduct he is responsible, by reason of his ownership, possession, custody or control of the ship.

Art. 82. Cases where liability is not limited.

Nothing in Articles 80 and 81 shall apply:

- (a) to claims for salvage or to claims for contribution in general average;
- (b) to claims by the master, by members of the crew, by any servants of the owner on board the ship or by servants of the owner whose duties are connected with the ship, including the claims of their heirs, personal representatives or dependents;
- (c) if the claimant proves that the occurrence giving rise to the claim resulted from the actual fault or privity of the owner.

Art. 83. Balance.

If the owner of a ship is entitled to make a claim against a claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Title shall only apply to the balance, if any.

Art. 84. Non-admission of Liability.

The act of invoking limitation of liability shall not constitute an admission of liability.

Art. 85. Limitation Fund.

- (1) The limit of liability prescribed by Art. 86 shall apply to the aggregate of personal claims and property claims which arise on any distinct occasion without regard to any claims which have arisen or may arise on any other distinct occasion.
- (2) When the aggregate of the claims which arise on any distinct occasion exceeds the limits of liability provided by Art. 86, the total sum representing such limits of liability may be constituted as one distinct limitation fund.
- (3) The fund thus constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.
- (4) After the fund has been constituted, no claimant against the fund shall be entitled to exercise any right against any other assets of the shipowner in respect of his claim against the fund, if the limitation fund is actually available for the benefit of the claimant.

Art. 86. Amounts of Limited Liability.

- (1) The amounts to which the owner of a ship may limit his liability under Articles 80 and 81 shall be:
 - (a) where the occurrence has only given rise to personal claims, an aggregate amount of Eth. \$ 516 for each ton of the ship's tonnage;
 - (b) where the occurrence has only given rise to personal claims, an aggregate amount of Eth. \$ 516 for each ton of the ship's tonnage; property claims, an aggregate amount of Eth. \$ 516 for each ton of the ship's tonnage, of which a first portion amounting to Eth. \$ 336 for each ton of the ship's tonnage shall be exclusively appropriated to the payment of personal claims and of which a second portion amounting to Eth. \$ 160 for each ton of the ship's tonnage shall be appropriated to the payment of property claims: Provided, however, that in cases where the fixed portion is insufficient to pay the personal claims in full, the unpaid balance of such claims shall rank rateably with the property claims for payment against the second portion of the fund.
- (2) In each portion of the limitation fund the distribution among the claimants shall be made in proportion to the amounts of their established claims.
- (3) If before the fund is distributed the owner has paid in whole or in part any of the claims set out in Art. 80, he shall pro tanto be placed in the same position in relation to the fund as the claimant whose claim he

has paid, but only to the extent that the claimant whose claim he has paid would have had a right of recovery against him.

- (1) Where the shipowner established that he may at a later date be compelled to pay in whole or in part the claims set out in Art. 80, the court may order that a sufficient sum shall be provisionally set aside to enable the shipowner at such later date to enforce his claims against the fund in the manner set out in the preceding paragraph.

Art. 87. Procedure.

The rules relating to the construction and distribution of the limitation fund, if any, and all rules of procedure shall be as prescribed.

Art. 88. Calculation of tonnage burden.

For the purpose of the preceding Articles, tonnage shall be calculated as follows:

In the case of steamship or other mechanically propelled ships there shall be taken the net tonnage with the addition of the amount deducted from the gross tonnage on account of engine room space for the purpose of ascertaining the net tonnage.

In the case of all other ships there shall be taken the net tonnage.

Art. 89. Arrest of the ship, bail or other security.

- (1) Whenever a shipowner is entitled to limit his liability under this Chapter, and the ship or another ship or other property in the same ownership has been arrested or bail or other security has been given to avoid arrest, the court may order the release of the ship or other property or of the security given if it is established that the shipowner has already given satisfactory bail or security in a sum equal to the full limit of his liability under this Chapter and that bail or other security so given is actually available for the benefit of the claimant in accordance with his rights.
- (2) The provisions of sub-art (1) shall apply likewise if the bail or other security already given is in a sum less than the full limit of liability under this Chapter provided that satisfactory bail or other security is given for the balance.
- (3) Where the shipowner has given bail or other security in a sum equal to the full limit of his liability under this Chapter such bail or other security shall be available for the payment of all claims arising on a distinct occasion and in respect of which the shipowner may limit his liability.

Art. 90. Liability of the Ship.

In this Chapter liability of the shipowner includes the liability of the ship herself.

Art. 91. Application to other persons than the Shipowner.

Subject to Art. 92, the provisions of this Chapter shall apply to the charterer, manager or operator of the ship, and to the master, members of the crew and other servants of the owner, charterer, manager or operator acting in the course of their employment, in the same way as they apply to an owner himself: Provided that the total limits of liability of the owner and all such other persons in respect of personal claims and property claims arising on a distinct occasion shall not exceed the amounts determined in accordance with Art. 86.

Art. 92. Actions against the Master.

When actions are brought against the master or against members of the crew, such persons may limit their liability even if the occurrence which gives rise to the claims resulted from the actual fault or privity of one or more of such persons. If, however, the master or member of the crew is at the same time the owner, co-owner, charterer, manager or operator of the ship, the provisions of this Article shall only apply where the act, neglect or default in question is an act, neglect or default committed by the person in question in his capacity as master of or member of the crew of the ship.

Art. 93. Ships of Less than 300 tons Burden.

The owner of a ship of less than 300 tons burden may limit his liability either to an amount not exceeding the amount provided in Art. 86 or to an amount corresponding to the value of the ship at the time of the occurrence giving rise to the claim.

Chapter 2. The Master

Art. 94. Appointment and Duties of Master.

- (1) The master shall be appointed by the manager or by the charterer to whom the ship is demised. He shall be solely responsible for the maritime adventure.
- (2) In the event of his death, absence or incapacity due to illness or any other cause the command of the ship shall pass to the next senior officer after the master. The person who appointed the master shall be given notice thereof forthwith so that a new master may be appointed.

Art. 95. Termination of Master's Appointment.

The person who appointed the master may at any time terminate the appointment of the master.

Art. 96. Powers of the Master.

- (1) The master is the agent of the manager, subject to the provisions of Art. 97.
- (2) He may represent him in legal proceedings.
- (3) He shall exercise the powers conferred upon him by law in respect of all parties having an interest in the ship and cargo.

Art. 97. Scope of the Master's Agency.

- (1) The master may only represent the manager where the manager is not present or is not represented by attorney. Such representation shall extend to all acts necessary in respect of the ship and the adventure.
- (2) Contracts entered into, and dealings made by the master shall give rise to a lien on the ship and on the freight on the conditions specified by Art. 5 (5). Such contracts and dealings, if made with a view to preserving the cargo, shall in addition give rise to a lien on the cargo, which shall rank after the liens specified by Articles 249 (2) and 283.
- (3) In any place where the manager is present or is represented by attorney, the master may only carry out day to day acts of management of the ship, as well as minor repairs. He may dismiss members of the crew.
- (4) The presence of the manager or his attorney may only be set up against third parties who know of such presence.

Art. 98. Liability of the Master.

- (1) The master shall be liable for his default. He shall also be liable in respect of goods in his charge.
- (2) The liability of the master shall be as prescribed.

Art. 99. Duties of the Master.

The master shall remain on board his ship from the beginning of the voyage until arrival in port and shall perform such other duties as shall be prescribed.

Art. 100. Duty of the Master in case of Pilotage.

Even where pilotage is compulsory, the master shall be responsible for the navigation of the ship.

Art. 101. Liability in case of Pilotage.

The ship shall be liable towards third parties in respect of all damage or loss, even though due to the negligence of the pilot.

Art. 102. Ship's Papers.

During the voyage the master shall keep on board the ship's papers regarding the ship, the crew, passengers and cargo, and such other papers and documents as may be prescribed.

Art. 103. Ship's Log-book and engine-room Log-book.

The master shall keep such log-books as are prescribed and they shall be kept in the manner prescribed.

Art. 104. Stamping of Log-book in Port.

Upon arrival at the port of destination or at a port of call the master shall have the ship's log-book stamped within twenty-four hours by the port manager, or, if abroad, by the Ethiopian consul or in his absence by the competent local authority.

Art. 105. Maritime Declaration.

The master shall make the prescribed maritime declaration where prescribed exceptional circumstances occur.

Art. 106. Verification of the Maritime Declaration.

The prescribed authority on receiving the maritime declaration shall carry out its prescribed duties.

Art. 107. Borrowing and Sale of goods by the Master in Case of Urgency.

- (1) In case of pressing need during the voyage the master may borrow upon the ship, and if the amount raised is insufficient, upon the cargo. He shall obtain the authorisation of the president of the court of the place where such loan is made, or otherwise of the administrative authorities and where abroad of the Ethiopian consul or otherwise of the competent local authority.
- (2) Where he is unable to borrow he may, with the same authorisation, sell goods up to the amount recognised as being required.
- (3) The manager or the master shall account to the owner in respect of goods sold, on the basis of the price fetched for goods of the same kind and quality at the place of unloading of the ship at the time of arrival.

- (4) Shippers or persons claiming under them may object to the pledging or sale of their goods and require their unloading provided they pay the whole freight.

Art. 108. Sale of ship by the Master in the event of Unseaworthiness.

- (1) Unless a ship be proved to be unseaworthy, the master may not sell her except under special powers given by the owner, subject to the sale being declared void.
- (2) Unseaworthiness shall be shown in a report drawn up by sworn experts appointed by the president of the court or by the administrative authorities and, where abroad, by the Ethiopian consul or by the competent local authority.
- (3) A sale consequent on unseaworthiness shall be by public auction.

Art. 109. Master sailing for Joint Profit.

When a master sails for joint profit on the lading he may not undertake any trade on his own behalf, unless otherwise agreed. In the event of a breach of this provision, he shall lose his share in the common profit, without prejudice to resulting damages where appropriate.

Art. 110. Discharge of a Master who is a part owner of the Ship.

Where a master who is discharged is a part owner of the ship, he may give up his share and require repayment of the capital amount thereof, which shall be determined by experts appointed by agreement or by the court. Such right of renunciation may not be exercised after a period of thirty days from the date of the interpellation made by the other part owners. Where the right of renunciation has been exercised within this period of time, the part owners shall repay the master's share within thirty days following the expert determination of the amount.