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OFFICIAL BULLETIN

SUMMARY

COUNCIL OF MINISTERS:
Legislative Decree no. 14/2010:
Has approved the Maritime Code of Cape Verde

COUNCIL OF MINISTERS:

**Legislative Decree no. 14/2010
of November 15th**

This Maritime Code of Cape Verde arises from the pressing need felt for many years to modernise and systematize the maritime and port legislation that could follow the normative system of maritime law inherited from Portugal, embodied, fundamentally in the Portuguese Commercial Code, at the end of the 19th century (1888), to which several other separate diplomas were added, adjusting materials related to the maritime and port sector that are not included in this code.

This Maritime Code thus emerges as corollary of convenience to recode the existing maritime law normative, by integrating it into a single legislative body, whilst seeking to introduce some institutions, which are until now devoid of regulation but, of indisputable interest to the circumstances of contemporary maritime navigation and the comparative maritime law.

The text of the Maritime Code, that integrates the private and public norms of the sector, aims to be an instrument of easy inquiry, interpretation and application by the judicial and public powers, contributing, sufficiently, for an easy handling by all the operators involved with the maritime traffic.

The text model of the Maritime Code in question consists of a total of 841 articles, structured in twelve Books, which in turn, are divided into Titles, these in Chapters, and, on occasions, taking into consideration the extent of the substance, the Chapters are divided into Sections.

The source primarily used for the preparation of this text was the modern and dispersed national maritime legislation, now subject of redaction.

In the context of comparative law, the Project of General Law of the Maritime Navigation of Spain, the Community Code of Merchant Shipping - CEMAC-2001, the Maritime Code of Croatia, 1994, and the Maritime Code of Sweden, also from 1994 were source of inspiration in creating this Code.

Likewise, the principles of numerous international maritime conventions existent in the sector were taken into account, whether they are specialized agencies of the United Nations, such as the IMO (International Maritime Organization), UNCTAD (UN Conference For Trade And Development) and UNCITRAL (United nations Conference on International Trade Law) or some private bodies, such as the ISC (International Shipping Committee).

It should be noted, for example, that, in relation to the liability limits for maritime claims, subject to Article 679 of the present Code, the amounts of limitation contained in the Brussels Convention of 1957 were updated, through the formula collected from the Convention of London of 1976, on the same subject, so that the amounts are expressed in Special Drawing Rights - SDR of the IMF and not in escudos of Cape Verde, once this limitation is applied to the maritime trade, not only in national but also international practice, which in fact is identical to that found in the establishment of compensation limits in air transport.

The publication of the Maritime Code of Cape Verde constitutes a significant step forward in the legal building of the Republic, constituting mandatory reference for all those directly or indirectly involved in maritime and port activities in Cape Verde.

In these terms:

Under the legislative authorization conferred by Law no. 68/VII/2010, of August 9th;

The use of the power conferred by paragraph b) of number 2 of article 204 of the Constitution, the Government decrees the following:

Article 1

Subject

The Maritime Code of Cape Verde has been approved in Annex to this decree, to which it is an integral part thereof.

Article 2

Review of the maximum amounts of compensation

1. The Government should periodically review the maximum amounts of compensation established in BOOKS VII and IX of the Code.
2. The revisions provided for in the preceding paragraph will be done whenever necessary in order to adapt the respective amounts to

the international conventions in force.

Article 3

Adaptation of legislation

The legislation listed below shall remain in force as long as it is not modified or revoked by the Government, in compliance with the provisions set forth in this Code:

- a) Decree-Law no. 34/98, of August 31st, which approves the Regulation of the Port Authorities of Cape Verde.
- b) Decree-Law no. 37/98, of August 31st, which sets forth the rules of conventional registration of vessels;
- c) Decree-Law no. 41/98, of September 7th which regulates the papers of the vessel.
- d) Decree-Law no. 42/98, of September 7th, which regulates the bare vessels taken by national shipowners.
- e) Decree-Law no. 19/2003, of June 16th, which regulates the registration of chartered fishing vessels;
- f) Decree-Law no. 39/98, of August 31st, which regulates the tonnage of the vessels;
- g) Decree-Law no. 38/98, of August 31st, which determines the entities responsible for the inspection and supervision of the maritime safety conditions of the vessels;
- h) Decree-Law no. 26/93, of May 10th, which defines and regulates the access to the shipping industry.
- i) Decree-Law no. 24/93, of May 10th, which regulates the access to the maritime charterer activities;
- j) Decree-Law no. 45/98, of September 7th, which establishes the requirements to be complied by the entities that carry out the shipping agent activities;
- k) Decree-Law no. 23/2000, of June 5th, which defines the legal regime of freight forwarder.
- l) Decree-Law no. 4/2000, of February 14th, which approves the regulation of marine registration and crew of merchant shipping and fisheries; and
- m) Decree-Law no. 44/VI/2004, of July 12th, which establishes the Legal Regime of property in the public domain of the State.

Article 4

Revoked Legislation

All the laws which contradicts the provisions of this Code are herewith revoked and, particularly:

- a) Law no. 60/IV/92, December 21st, delimiting the maritime areas of the Republic of Cape Verde.
- b) Decree-Law no. 44/98, of September 7th, which establishes the legal status of the vessel.
- c) Decree-Law no. 35/98, of August 31st, which regulates the construction, modification, purchase and sale of vessels;
- d) Decree-Law no. 46/98, of September 7th, which regulates the privileges and the maritime mortgages;
- e) Decree-Law no. 24/2000, of June 5th, which defines the captain's status.
- f) Decree-Law no. 21/2004, of May 31st, which regulates the public service of maritime transport of cargo and passengers.
- g) Decree-Law no. 25/93, of May 10th, which governs the contract of chartering vessels;
- h) Decree-Law no. 25/2000, of August 31st, which governs the transportation contract of goods by sea.
- i) 36/98, of August 31st, which governs the transportation contract of goods by sea.
- j) Decree-Law no. 11/2000, of February 1st, which regulates the approach of vessels.
- k) Decree-Law no. 47/98, of September 7th, which establishes the maritime rescue.
- l) Decree-Law no. 6/2000, of February 14th, which regulates the maritime malfunctions;

- m) Decree-Law no. 7/2000, of February 14th, which regulates the forced entry;
- n) Law no. 48/II/84, of December 31st, which declares the State-owned submarines spoils and findings; and
- o) Decree-Law no. 43/98, of September 7th, where the general scheme of offences applies to infringements of provisions of the maritime legislation and updates the value of the fines.
- p) Book III of the Commerce Code.

Article 5

Entry into force

This Code shall enter into force on January 1st 2011.

Seen and approved by the Council of Ministers.

José Maria Pereira Neves - Manuel Inocêncio Sousa

Enacted on November 4th, 2010.

It is published.

The President of the Republic, PEDRO VERONA RODRIGUES PIRES

Countersigned on November 4th, 2010.

The Prime Minister, *Jose Maria Pereira Neves*

MARITIME CODE OF CAPE VERDE

BOOK I

GENERAL PROVISIONS

TITLE I

SUBJECT, SCOPE, SOURCES AND INTERPRETATION

CHAPTER I

Subject and scope of application

Article 1

Subject

This Code regulates the national maritime areas, ships, vessels and marine artefacts, as well as the situations and legal relations arisen on the occasion of navigation by sea and maritime transport.

Article 2

Scope of applicability

1. Notwithstanding the provisions set in each one of its Books, the provisions of this Code apply to all the vessels, whatever the nationality of the vessel may be or the nationality and residence of their owners or operators.

2. The national vessels wherever they are shall be subject to the provisions of this Code, notwithstanding the powers conferred to other States and ports by international conventions applicable in Cape Verde.

3. The provisions of this Code apply equally to foreign vessels, particularly those that govern the navigation by maritime areas of the Republic of Cape Verde in force in national ports.

4. The provisions of the preceding paragraph, does not prejudice the competencies that can match the flag State or any other State of the port, according to the international conventions prevailing in Cape Verde , as well as what is written in Title VII of Book II of this Code to the foreign ships of the State.

Article 3

Enforcement to vessels, naval artefacts and aircraft

1. Unless otherwise specified, the provisions of this Code referred to the vessels are applicable to naval vessels and artefacts, with the necessary adjustments.
2. The standards of books II and III, are equally applicable to aircraft that are in water, unless expressed otherwise.
3. The Government can, through Regulations, exempt the application of some provisions of this Code to determined classes of vessels or naval artefacts.
4. The regime of floating devices with a length less than 2.5 (two point five) meters used for water transportation is regulated by the member of the Government responsible for the maritime administration.

Article 4

Recreational Boating

1. The recreational boats and its regime of navigation are subject to special legislation, notwithstanding the subsidiary implementation of this Code's provisions, to the extent that they are in conformity with the nature of its activities.
2. All fixtures or equipment of any kind, with a length between 2.5 (Two point five) meters and 24 (twenty-four) meters are considered recreational boats. They are used or likely to be used as transportation means in water, applied in water sports or for simple leisure, they are also non-profit.
3. The water bikes, regardless of its length are the concept of recreational boats for application purposes of this Code.

Article 5

Exclusion of State vessels

1. The provisions of this Code shall not apply to State vessels, except in cases expressly provided for herein.
2. State vessels are considered to be war vessels, yachts, inspection vessels, hospitals vessels, auxiliary vessels, refuelling vessels and other belonging to the State or operated by it and assigned exclusively to a government and non-commercial office.
3. War vessels are those the State linked to the armed forces, which carry the external symbols of distinctive war vessels of their respective nationality and which are under the command of a military officer duly appointed by the Government, whose name is registered in the officers rank or in an equivalent document and whose endowment is subject to the discipline of regular armed forces.

CHAPTER II

Precedence of sources

Article 6

Sources Hierarchy

1. The provisions of this Code are of subsidiary application in regards to matters governed by the international conventions applicable in Cape Verde.
2. In the absence of written standard applicable to matters governed by this Code, one must appeal successively, to the uses of maritime navigation, the principles of maritime law, to the principles of commercial, civil, labour, administrative or procedural law, according to the nature of the matter to be governed.

Article 7

Uniform Interpretation

In the interpretation of the rules of these international maritime conventions in force in Cape Verde and the interpretation of the provisions of this Code relating to matters governed by the international maritime conventions not in force in Cape Verde, one must seek

to achieve international uniformity.

TITLE II

MARITIME ADMINISTRATION

CHAPTER I

Maritime administrations and its territorial organization

Article 8

Maritime Administrations

1. Unless otherwise specified, the maritime administration shall have the administrative authority on matters subject to this Code.
2. For the purposes of this Code, maritime administration is understood as abbreviated Maritime Institute Port designated by MIP, or other authority, entity or service under the control or authority of the Government which will have duties and shall exercise their responsibility on matters subject to the Code.
3. Notwithstanding the provisions of this Code, the competences of bodies and services of entities provided in the preceding paragraph shall be governed by the respective institutional laws, by their Articles of Association and other foreseen matters in special legislation.
4. For the exercise of its duties and responsibilities, the maritime administration comprises local services, designated by port authorities and maritime delegations, subject to special rules.

CHAPTER II

Duties and responsibilities of other bodies

Article 9

Duties and responsibilities

The provisions of this Code do not affect the duties and responsibilities of fisheries, military or other administrations that are subject to special legislation.

Article 10

Coastguard and police

The coast guard, the national police and the Judiciary police perform in national maritime areas and in ports, the responsibilities that are assigned to them by this Code and the respective institutional laws, in their Articles of Association and the other foreseen matters in special legislation.

BOOK II

MARITIME SPACES AND NAVIGATION REGIME

TITLE I

PUBLIC MARITIME DOMAIN OF THE STATE

Article 11

Fundamental Principles

The legal regime of property in public maritime domain is based on principles of inalienability, the imprescriptibility, unseizability and of simplicity.

Article 12

Remission

1. The legal regime of the definition and delimitation of areas of public maritime domain, its use, inspection and registration is subject to special legislation.
2. The removal of sand, hydrocarbons, minerals or any other non-living resources in areas of public maritime domain is also subject to

special legislation.

TITLE II

NATIONAL MARITIME SPACES

CHAPTER I

Maritime areas

Article 13

Maritime Waters

According to the international law, the maritime areas subject to the jurisdiction of the Republic of Cape Verde are:

- a) Inland waters.
- b) Archipelagic waters;
- c) Territorial sea;
- d) Contiguous area.
- e) Exclusive economic zone; and
- f) Continental platform.

CHAPTER II

Archipelagic waters

Article 14

Delimitation of archipelagic waters

The archipelagic waters of the Republic of Cape Verde comprise the whole maritime area inside the baselines drawn in accordance with Article 28.

Article 15

Sovereignty over archipelagic waters

The Republic of Cape Verde exercises sovereignty over archipelagic waters, particularly on:

- a) The respective column of water, whichever its depth or width;
- b) The overlying airspace, as well as the bed and subsoil of the corresponding sea;
- c) The living and non-living resources within them.

Article 16

Inland Waters

The Republic of Cape Verde can, within its archipelagic waters, draw closing lines to limit inland waters.

Article 17

International Agreements

Notwithstanding the provisions of Article 15, the Republic of Cape Verde respects any existing agreements that relate to its archipelagic waters.

CHAPTER III

Territorial sea

Article 18

Extension of territorial sea

The territorial sea of Cape Verde has a width of 12 (twelve) nautical miles from the baselines defined in Article 28.

Article 19

Sovereignty over territorial sea

The Republic of Cape Verde exercises, in the territorial sea, sovereignty over:

- a) The water column.
- b) The overlying airspace;
- c) The corresponding riverbed, soil and subsoil; and
- d) The living and non-living resources.

CHAPTER IV

Contiguous zone

Article 20

Extension of the contiguous zone

The Republic of Cape Verde establishes a contiguous zone to the territorial sea, whose outer limit is 24 (twenty-four) nautical miles counted from the baselines referred to in Article 28.

Article 21

Jurisdiction in the contiguous zone

The Republic of Cape Verde shall exercise in its contiguous zone, the control necessary to prevent and punish offences committed in its land, inland waters, archipelagic waters and territorial sea, under customs, tax, health and immigration laws and regulations.

CHAPTER V

Exclusive economic zone

Article 22

Extension of the exclusive economic zone

The exclusive economic zone of the Republic of Cape Verde includes the maritime area which its interior limit corresponds to the outer limit of the territorial sea and which the outer limit corresponds to a line where each point is at a distance of 200 (two hundred) miles from the nearest baseline point where the territorial sea width is measured.

Article 23

Sovereign Rights and jurisdiction

The Republic of Cape Verde has in the area defined in the previous article:

- a) Sovereign rights for exploration and exploiting purposes, conserving and managing the living and non-living natural resources of the overlying waters on the seabed and its subsoil; and sovereign rights in regards to other activities of exploration and exploitation of the area for economic purposes, such as the production of energy from water, the currents and the winds; and
- b) Exclusive Jurisdiction, in relation to:
 - i) Placement and use of artificial islands, installations and structures.
 - ii) Marine scientific research.
 - iii) Protection and preservation of the marine environment; and

iv) Any other rights not recognized to third States.

Article 24

Navigation in the exclusive economic zone

1. Notwithstanding the provisions of Article 30, in the exclusive economic area, all the States shall usufruct from:

- a) Freedom of navigation; and
- b) Freedom of overflight.

2. The exercise of freedoms and similar rights to which the preceding paragraphs refers to, one must shall respect the sovereign rights, as well as the laws and regulations of the Republic of Cape Verde.

3. In the exercise of freedoms to which number one refers to, it is prohibited any unauthorised activity of fishing, or research, as well as any activity that causes pollution or offends against the marine environment or is detrimental to the natural resources of the exclusive economic zone or economic interests of the Republic of Cape Verde.

CHAPTER VI

Continental platform

Article 25

Extension of the continental platform

The continental platform of the Republic of Cape Verde includes the seabed and subsoil of submarine areas that extend beyond the territorial sea, up to a distance of 200 (two hundred) miles from the baselines referred to in Article 28.

Article 26

Sovereignty Rights

1. In its continental platform, the Republic of Cape Verde has sovereign rights for exploitation purposes and use of natural resources, living and non-living.

2. The rights referred to in the previous paragraph are exclusive, in the sense that if the Republic of Cape Verde does not exploit the continental platform or does not take advantage of its natural resources, no other State or entity may undertake these activities without the express consent of the authorities of Cape Verde.

Article 27

Drilling on the continental platform

The Republic of Cape Verde has the exclusive right to authorize and regulate the drilling in its continental platform, for whatever purpose may be.

Article 28

Baseline

The baseline from which the width of the archipelagic waters is measured as well as the territorial sea, the contiguous zone, the exclusive economic zone and the continental platform, is formed by straight lines connecting the outermost points of the islands and islets, determined by the following main coordinates:

Point	Latitude N	Longitude W	Comments
A.	14° 48' 43.17"	24° 43' 48.85"	I. Brava
C-P1 the Queen	14° 49' 59.10"	24° 45' 33.11"	-
C-P1 to Fajã	14° 51' 52.19"	24° 45' 09.19"	-
D-P1 Vermelharía	16° 29' 10.25"	24° 19' 55.87"	S. Nicolau
E.	16° 36' 37.32"	24° 36' 13.93"	Ilhéu Raso
F- P1 to the Part	16° 54' 25.10"	25° 18' 11.00"	Santo Antão
F.	16° 54' 40.00"	25° 18' 32.00"	-
G-P1 the Camarim	16° 55' 32.98"	25° 19' 10.76"	-

H-P1 the Black	17° 02´ 28.66´´	25° 21´ 51.67´´	
I-P1 the Mangrade	17° 03´ 21.06´´	25° 21´ 54.44´´	
J-P1 the Portinha	17° 05´ 33.10´´	25° 20´ 29.91´´	
K-P1 the Sun	17° 12´ 25.21´´	25° 05´ 56.15´´	
L-P1 the Synagogue	17° 10´ 41.58´´	25° 01´ 38.24´´	
M-Pta Espechim	16° 40´ 51.64´´	24° 20´ 38.79´´	S. Nicolau
N-Pta North	16° 51´ 21.13´´	22° 55´ 40.74´´	Sal
O-Pta Casaca	16° 50´ 01.69´´	22° 53´ 50.14´´	
P-Ilheu Cascalho	16° 11´ 31.04´´	22° 40´ 52.44´´	I. Boa Vista
P1-Ilheu Baluarte	16° 09´ 05.00´´	22° 39´ 45.00´´	
Q-Pta de Roque	16° 05´ 09.83´´	22° 40´ 26.06´´	
R-Pta Flamengas	15° 10´ 03.89´´	23° 05´ 47.90´´	I. Maio
S.	15° 09´ 02.21´´	23° 06´ 24.98´´	Santiago
T.	14° 54´ 10.78´´	23° 29´ 36.09´´	
U-D.Maria Pia	14° 53´ 50.00´´	23° 30´ 54.50´´	I. de Fogo
V-Pta Pesqueiro	14° 48´ 52.32´´	24° 22´ 43.30´´	I. Brava
X-Pta Nho Martinho	14° 48´ 25.59´´	24° 42´ 34.92´´	
Y=A	14° 48´ 43.17´´	24° 43´ 48.85´´	

CHAPTER VII

Maritime borders and peaceful use of maritime spaces

Article 29

Maritime Borders

In cases in which the outer limit of the exclusive economic zone or the continental platform, defined in accordance with this Code, overlaps with part of an exclusive economic zone or continental platform of a neighbouring State, the maritime border is determined by an agreement negotiated with the State in question, in accordance with the applicable international law.

Article 30

Peaceful use of the seas

Notwithstanding the provisions of this Code, all activities on the part of foreign entities or vessels in maritime areas under the sovereignty or jurisdiction of the Republic of Cape Verde, must respect the principle of peaceful use of the oceans.

TITLE III

GENERAL REGIME OF MARITIME NAVIGATION

CHAPTER I

General provisions

Article 31

Freedom of navigation

All vessels can navigate freely in the maritime spaces of Cape Verde, whether to cross a side passage or to enter or exit the national ports, respecting the restrictions and requirements set out in this Code and in special legislation, particularly those of customs, health and immigration.

Article 32

Exceptions to the rules of freedom

1. The maritime administration, for security and protection reasons, can condition, restrict or prohibit the navigation on certain national maritime areas, particularly in cases of naval exercises and operations of the armed forces or whenever the passage of foreign vessels in territorial sea or archipelagic waters is not harmless.

2. The measures provided for in the preceding paragraph may be adopted also for conservation reasons of the marine biodiversity, when the competent authorities may deem fit in enforcement of fishing or environmental legislation.

3. The measures provided for in paragraph one may be adopted by the competent authorities, without discriminating the flag and in relation to certain categories of ships, when necessary in order to prevent the execution of illegal activities or the exercise of any prohibited traffic.

Article 33

Detention and anchorage

1. The right to navigate does not include detention or anchorage outside port areas, except in cases of force majeure, without the express permission of the maritime administration, or in the case of vessels that are exclusively for recreational purpose that are anchored in coves or in bathing places and do not endanger the safety of human life at sea or inland.

2. The vessels required to stop or anchor in case of danger or of force majeure shall notify immediately and by all means possible the nearest maritime administration of such circumstances,.

Article 34

Mark and flag Display

1. Ships sailing in national maritime spaces must carry a flag of one State as well as carry its name and port of registration.

2. Foreign vessels must hoist, obligatory, the flag of its nationality in a visible place when sailing in inland waters or national port and also hoist the flag of Cape Verde, according to the international maritime uses.

3. Upon regulation approved by the Ordinance, the member of the Government responsible for the maritime administration, they may establish exceptions to obligations provided for in the preceding paragraphs.

Article 35

Submarines

1. Foreign submarines vessels and other submersible vehicles navigate on the surface and with the respective flags hoisted when sailing in inland waters, archipelagic waters or in territorial sea of Cape Verde.

2. Foreign submarines sailing submerged are invited and, if necessary, are forced to emerge, unless they are prevented due to failure, which must to be reported by any means possible.

Article 36

Navigation of fishing vessels

1. The navigation of the national fishing vessels is subject to the special requirements set out, aside of the general provisions of this Code, to the fishing legislation.

2. Unless expressed authorization has been given by the maritime administration, fishing by foreign vessels in inland waters, archipelagic waters and territorial sea is prohibited; all fishing activities performed by such ships in these territorial spaces is prohibited, not considering inoffensive passage.

3. It is up to the maritime administration or entity designated by the Government to ensure that in the exercise of rights and fulfilment of duties in the exclusive economic zone, foreign vessels complies with the laws of the State and also complies with the provisions of this Code and the fishing legislation with respect to international law.

4. Unless expressed authorization by the maritime administration, the foreign ships passing through the maritime areas of Cape Verde cannot have their fishing gear in working order or immediate operability.

Article 37

Navigation of research vessels

1. Conducting scientific research from foreign vessels in national maritime spaces, as well as those done by foreign bodies on board Cape-Verdean vessels in the referred spaces, is subject to authorization from the maritime administration , to be regulated by the Ordinance of the Government member responsible for the maritime administration.

2. The authorization referred to in the preceding paragraph is conditioned to the exclusively peaceful purposes of research and the information of the results thereof, as well as its contribution on the progress of knowledge in regards to marine environment; and does not endanger the safety of ships or the environment nor precludes the exercise of sovereign rights and jurisdiction of the State.

3. The unauthorized investigation cannot be regarded as included in the right of inoffensive passage through territorial sea or archipelagic waters.

Article 38

Completion of research activities

The Maritime Administration may, at any time and without any right to compensate the researchers, suspend or terminate the research activities for not complying with the conditions laid down in the relevant authorization.

Article 39

Liability insurance

1. Notwithstanding the provisions of this Code, shipowners, national ship owners or managers are required to have liability insurance covering any damage caused to third parties as a result of navigating their vessels.

2. The insurance referred to in the preceding paragraph shall be regulated by the joint Ordinance of the Government members responsible for the maritime administration and scientific research areas, taking into account the recommendations of the International Maritime Organization.

3. The Government Members, responsible for the maritime administration and scientific research areas, should also, by joint Ordinance, regulate the liability insurance which the foreign vessels navigating through national maritime areas should have in order to cover any damage to third parties, following the provisions in the final part of the preceding paragraph.

CHAPTER II

The right of inoffensive passage

Article 40

Subjection to inoffensive passage

1. The navigation of all foreign vessels through territorial sea and archipelagic waters, including those of the State are subject to the regime of inoffensive passage.

2. The passage should be quick and uninterrupted, without disrupting peace, public order or the safety of the Republic of Cape Verde.

3. The detention and anchoring while passing are subject to the provisions of Article 33.

Article 41

Compliance with laws and regulations

The ships exercising the right of inoffensive passage must comply with the provisions of this Code, the custom, tax, sanitary, emigration and navigation laws and regulations, as well as those for the protection of the marine environment.

Article 42

Prohibitions

1. Notwithstanding the International Convention in force in Cape Verde and unless authorized by the maritime administration, it is considered harmless and forbidden for foreign vessels to pass through the territorial sea and archipelagic waters, executing underwater activities, as well as those that might damage cables, underwater pipelines or facilities as well as equipment at the service of navigation, exploitation of marine resources.

2. The use of lifeboats or other auxiliary vessels is still prohibited during the passage, except in case of accident or for search and rescue operations, emission of sound or light signals other than those provided for in the rules and regulations of maritime safety and prevention measures or any other activities that are not directly connected with the passage.

Article 43

Ships passing that carry special risks

1. Ships carrying radioactive or other dangerous or harmful substances must have on board the documents and observe special precautionary measures provided for in the international conventions in force in Cape Verde.

2. The vessels referred to in the preceding paragraph shall carry out their passage through the routes, devices and systems established in accordance with Article 58 and follow the special navigation instructions which in this case might be issued by the Maritime Administration.

Article 44

Tax exemption

The right of inoffensive passage is not subject to a payment of tax or fee, however, foreign vessels are required to pay for services that actually may have been provided to them during their passage through territorial sea or archipelagic waters.

Article 45

Suspension of inoffensive passage

1. To defend the general interests and, in particular, navigation safety, the Government may temporarily suspend and without having flag discrimination, the inoffensive passage in certain areas of the territorial sea.
2. The suspension provided for in the preceding paragraph should deserve, from the government, a wide international publicity.

Article 46

Exercising civil jurisdiction

1. Foreign vessels passing through the territorial sea or archipelagic waters cannot be detained or diverted in order to exercise civil jurisdiction over the people that are on board.
2. Precautionary or executive measures can be adopted in relation to foreign vessels when they are detained or have voluntarily anchored during its passage, as well as in relation to those navigating through territorial sea or archipelagic waters after leaving the inland waters of the State.
3. Such measures may also be adopted for vessels in lateral passage, but only by the acquired obligations and the liabilities that have incurred during its passage.

Article 47

Exercise of criminal jurisdiction

1. The criminal jurisdiction of Cape Verde cannot be exercised on board of a foreign vessel that is passing through territorial sea or archipelagic waters without making it into inland waters, in order to detain people or investigate people relating to an offence committed on board ship during its passage, except in cases provided for in international conventions in force in Cape Verde.
2. As provided in the preceding paragraph or upon request of the ship's captain or a diplomatic or consular representative of the flag State, the national judicial authorities may carry out a preliminary inquiry and take coercive measures action related to offences that may have been committed on board a foreign vessel.

Article 48

Notification of diplomatic agent

The competent judicial authority notifies a diplomatic representative or a consular of the flag State, and if possible, immediately after receiving the request of the ship's captain and prior to the start of the due diligence and actions necessary for the exercise of the criminal jurisdiction.

CHAPTER III

Safety of maritime navigation

Article 49

Navigation aids

It is up to the Maritime Administration to establish and maintain in place a maritime signalling, as well as provide the necessary navigational aids in accordance with the requirements of the traffic volume and the degree of risk, in accordance with the international conventions in force in Cape Verde, as well as make the information on aid available to other interested parties.

Article 50

Pilotage service

1. Pilotage is understood by the assistance to captains on board, provided by appropriately qualified personnel for this purpose and aimed for the navigation safety and manoeuvre of vessels on entering or leaving the ports.
2. It is up to the Maritime Administration to organize and ensure the provision of pilotage services.

Article 51

Compulsory pilotage services

1. Pilotage is mandatory for all the vessels in ports and locations so considered by the Maritime Administration.
2. Before entering the piloting areas and with sufficient time to safely proceed the oncoming operations and other required manoeuvres, the captain shall conduct the service request, refraining from carrying out any manoeuvre that requires assisted direction, except in cases of necessity and while the pilot is not on board.
3. By means of regulation approved by the Government member responsible for the maritime administration, exemptions to pilotage service can be established, without exonerating their captains from the requirement to seek accurate information to navigate or manoeuvre without any risk and in general the extreme diligence that a good seafarer commonly uses in the exercise of his functions.
4. The captain of a ship subject to mandatory pilotage is obliged to pay this service even when they perform the manoeuvres without a pilot on board, notwithstanding the sanctions and liabilities that it may incur.

Article 52

Pilotage priority for vessels in danger

Except in cases of force majeure, the pilot should provide priority assistance to vessel in distress, even though such vessel has not required it; however the pilot should be aware of the risk situation, notwithstanding the rights related to the concept of rescue, in the terms provided for in Title III of Book VIII of this Code.

Article 53

Rules of steer and govern and navigation in areas of ice

1. All vessels, without exception, must adjust its navigation lights in order to comply with the rules, signs, steer and govern contained in the applicable regulations, in particular the International Regulations in order to prevent approaches at sea.
2. The captain of any national vessel that has been informed of the presence of ice on its route or close to it, is obliged during the night, to sail at a moderate speed or to modify its route in order to distance itself from the danger zone.

Article 54

Advertising the dangers and aids to navigation

1. The Maritime Administration is required to periodically give notices to navigators in which states the produced shipwrecks, objects known to drift and any other circumstances that may have affected the navigation safety on national maritime spaces.
2. The Maritime Administration shall ensure regular publication of books and documents of lights, signs and official letters of navigation in which must state the shipwrecks, shoals and other obstructions affecting the continuity of its safe navigation.

Article 55

Notices from Captains

1. The captains of national vessels must inform the maritime administration of failures or deficiencies verified on the maritime signals and other navigational aids, as well as give notice of the presence of objects drifting noticed during its voyage and can be of an immediate danger.
2. The captains of national vessels must also give notice, if they meet extraordinary storms and any other causes that can be of danger.

Article 56

Routing systems and vessel traffic services

1. In the interest of navigation safety and in accordance with international standards in force in Cape Verde, the Government establishes the procedure in which they are assigned, replaced or supplied in national maritime spaces, the ship's routing systems, including, if necessary, the archipelagic sea lanes, as well as the mandatory reporting systems for ships and vessel traffic services.
2. These referred systems and services can be of mandatory use for all vessels or for certain classification, without flag discrimination and once they have obtained the approval and international publication, as deemed necessary.
3. In any case, the vessel traffic services in exclusive economic zone may only be of mandatory employment when they have been duly

approved and published by the International Maritime Organization.

Article 57

Navigation in bathing areas

1. The navigation is prohibited in duly buoyed bathing areas, where the launch or stranding of vessels may be done through channels defined and marked for this purpose.

2. In the stretches of the coast that are not marked as bathing areas, it is understood that it occupies a contiguous water fringe to the coast with width of 200 (two hundred) meters on the beaches and 50 (fifty) meters around the rest of the coast or rivers, in which one cannot sail faster than 3 (three) knots, precautions should be taken in order to avoid risks to human safety.

Article 58

Safety area

It is up to the Maritime Administration to establish the safe areas for anchorage, navigation channels, areas adjacent to ports, facilities and places of exploration of natural resources in national maritime areas, in order to preserve the navigation safety, as well as the entry and departure of vessels that operate within those areas.

Article 59

Placement and removal of marine artefacts

1. Placing naval artefacts and platforms or artificial fixed structures in national maritime spaces must be properly marked out and in accordance with the instructions from the Maritime Administration.

2. Safety areas for navigation shall be established around the artefacts, platforms or structures, within a radius not exceeding 500 (five hundred) meters from its outer edge, notwithstanding the applicable international standards.

3. The facilities that are no longer used must be dismantled and removed by the owner within a reasonable period set by the maritime administration, always guaranteeing the navigation safety, notwithstanding Chapter V of Title IV of Book VIII of this Code.

Title IV

MARINE POLLUTION PREVENTION

CHAPTER I

Concept and marine pollution classes

Article 60

Pollution concept

For the purpose of this Code, pollution is understood as the direct or indirect insertion of substances or forms of energy by vessels on maritime waters, inland and subsoil or in the overlying atmosphere, that are or could be a danger to human health, which harms or may harm the marine ecosystems, tourism resources or landscape, deteriorate the quality of sea water and reduces or may reduce the chances of relief or causes hindrance to other legitimate uses of the seas or coastal waters.

Article 61

Operational pollution

Operational pollution is understood as any discharge from the cleaning of tanks and bilges, dirty water or ballast, as well as wastes or of engines gas fumes and, in general, all those produced by the normal operations of life or activity on board vessels.

Article 62

Pollution by spillage

1. Pollution is understood as spillage coming from the deliberate disposal of substances and materials from ships, when received on board aimed to carry out its disposal by prior execution of a treatment or transformation method on board.

2. Pollution from spillage is considered also as the deliberate sinking of ships, aircraft, facilities or structures at sea.

Article 63

Accidental pollution

Accidental pollution is understood by the pollution derived from an accident suffered by a ship making it wreck, , sink or may cause a fire; or throwing its cargo or other substances, materials that are or have been on board into the water or fire.

CHAPTER II

Unlawful acts of pollution

Article 64

Illegal pollution

All intentional or negligent acts of pollution are considered illegal, including incineration, in national maritime spaces, as well as outside these caused by Cape Verdeans vessels.

Article 65

Unlawful discharges or spilling

1. Unlawful discharges or spilling to the extent allowed by international conventions in force in Cape Verde are considered when carried out with prior permission of the Maritime Administration, granted in accordance with those agreements.

2. Also unlawful discharges or spilling are considered to be those carried out by force majeure in which the act of pollution is necessary for the safety of human life or ships, where there doesn't seem to be another way to avoid the threat and possible damage appear to be, in all probability, below those that can cause any other result of such action.

3. In any case, the discharges or spilling mentioned in this article should be taken into account in order to minimize as much as possible, the probability to cause harm to humans or to the ecosystems of the maritime waters, notwithstanding the civil liabilities that may arise as provided in Title V of Book VIII.

Article 66

Loss of the right of inoffensive passage

1. Passage of foreign ships when passing through territorial sea or archipelagic waters is not considered inoffensive as long as they do not do any unlawful pollution act intentionally and may cause severe results for the environment.

2. It isn't also considered as inoffensive the passage of foreign ships whose failure state or whose navigation conditions constitute a serious threat to the environment.

CHAPTER III

General duties of the maritime administration

Article 67

Supervision and cleaning measures

1. It is up to the Maritime Administration to monitor the compliance of all applicable standards, pursue and punish the misdemeanours, as well as seek to adopt the technical and operational measures that lead to the preservation of the marine environment and navigation safety.

2. It is also up to the maritime administration, in case of consummated pollution, to take such measures as it considers precedent for the cleaning of the maritime waters and to avoid or prevent damage to the marine ecosystems and the coast.

Article 68

Control of operating activities of natural resources

During the drilling operations, exploration work or other activities related to the use and exploitation of natural resources in the national maritime spaces, the maritime administration oversees the compliance of the requirements and conditions imposed to the activity holders in order to prevent pollution, as well as its disposal.

CHAPTER IV

Contingencies Planning

Article 69

Preparation plans and fight against pollution

1. It is up to the Maritime Administration to establish a national preparation plan and fight against marine pollution in order to promptly and effectively deal with the pollution incidents done by oil or other harmful substances.

2. Notwithstanding to the provisions in the international conventions in force in Cape Verde, the plan provided for in the preceding paragraph, should establish coordination and interconnection rules between different entities and public bodies called to intervene.

3. The national preparation plan and fight against pollution and the national rescue plan provided in Article 74 of this Code, shall be prepared in close collaboration between the departments responsible for preparing such plans.

Article 70

Emergency plans on board

1. It is up to the maritime administration to inspect ships carrying oil or other harmful substances or potentially dangerous and demand that they carry on board a complete list of the cargo, as well as an emergency plan in case of pollution adjusted to the requirements contained in the applicable law.

2. The preceding paragraph shall also apply to foreign ships docked in port areas, enabling the maritime administration to request to view the emergency plan in the framework of its inspecting powers as the port of the State.

3. The vessels are exempted from the obligations under the preceding paragraphs.

CHAPTER V

Notification duties and international cooperation

Article 71

Obligation to notify acts of pollution

1. The captains of national vessels must notify the Maritime Administration and the competent authority of the nearest coastal State, of any pollution acts occurred by oil or hazardous substances or potentially dangerous to which they have learned whilst navigating.

2. The notification referred to above is extended to captains of foreign ships navigating through national maritime spaces.

3. The notification referred to in this article is subject to regulation by the Government member responsible for the maritime administration.

Article 72

International collaboration

1. Whenever assistance is requested from the Maritime Administration by other coastal State in whose waters a pollution act has occurred, it should cooperate with the authorities of the requesting State if possible and reasonable.

2. The assistance referred to in the preceding paragraph may equally be provided at the request of the flag State.

3. Assistance may consist of participation in operations to fight pollution or intervention in the due diligence in the accident investigation and the inspection of documents or of the ship presumably responsible for the pollution when docked in a port or in inland waters.

4. Where there is a real danger of pollution in national maritime areas, which may extend to the waters of another State, the latter shall be informed immediately.

5. The cooperation provided for in the preceding paragraphs may, in any case, be subordinated to the principle of reciprocity.

TITLE V

SEARCH, RESCUE AND ACCIDENT INVESTIGATION

CHAPTER I

Public service of maritime search and rescue

Article 73

Content and scope of the service

1. It is up to the Maritime Administration to provide the public services of search and rescue by any means necessary in order to ensure the provision of assistance to anyone that is in distress at sea.

2. The services provided in the preceding paragraph shall include all national maritime areas and, if necessary, to the search and rescue region that can be attributed to Cape Verde in the current international conventions, which must be properly marked in the rescue plans and publications and corresponding official nautical letters.

3. The maritime administration must provide prompt and effective assistance regardless of the nationality of the persons in distress or the circumstances in which they meet and the sanctions that may lie with the captain of the vessel for acts or omissions that endanger the safety of the ship or navigation .

CHAPTER II

Rescue Planning

Article 74

National rescue plans

1. As proposed by the Maritime Administration, the Government must periodically approve a national rescue plan, stating all the available means, the essential procedures, coordination and interconnection between different entities and public bodies called to intervene.

2. When preparing the plan referred to in the preceding paragraph, it shall take into account the international Conventions in force in Cape Verde, as well as the collaboration agreements and existing coordination with the rescue services of neighbouring states.

Article 75

Facilitating the employment of foreign means

1. The Government may, by regulation, establish a system to facilitate the entry, use and exit of the ports and national airports of ships and foreign aircraft destined to participate in operations in order to combat pollution or to rescue people in national maritime spaces.

2. The regime referred to in the preceding paragraph may equally cover the necessary facilities to speed up the entry, exit and quick passage through national territory of personnel, goods, materials and equipment intended for such operations.

CHAPTER III

Rescue documentation and use of signs

Article 76

Rescue documentation on board

1. The national vessels must carry an organic framework of exercises, missions and procedures in case of an on board emergency and evacuation of the ship.

2. National passenger vessels operating on fixed routes still have on board a cooperation plan with the relevant search and rescue services in case of an emergency.

3. The vessels are exempt from the obligations laid down in the preceding paragraphs.

Article 77

Usage of distress signals

It is forbidden the use of international distress signs as well as the use of any sign that may be confused with an international distress signal, except when indicating that a ship, aircraft or person is in danger.

CHAPTER IV

Investigation of maritime accidents

Article 78

Obligation to investigate

The maritime administration should investigate the accidents suffered by all ships in accordance with the procedure laid down in the provisions on the subject, approved by the Government and if it considers that an investigation can help to determine changes appropriate to be introduced in the international conventions in force in Cape Verde in regards to maritime safety, pollution prevention or sea rescue.

TITLE VI

EXECUTIVE POWERS OF THE MARITIME ADMINISTRATION

CHAPTER I

Nature of authority and general powers

Article 79

Authority powers

1. The staff of the Maritime Administration, when exercising supervisory functions, is equated to the law enforcement officers and has the following privileges:

- a) Enter and inspect at any given time and without prior notice, the facilities, equipment and services of the shipping companies, ports and ships;
- b) Notify all the individuals who are in flagrant violation of the rules to which they should comply with, when the intervention of police authority is not possible in due time;
- c) Request for analysis to the equipment and documents;
- d) Request assistance of the police authorities when deemed necessary for the performance of its duties;
- e) Determine on a precautionary basis and with immediate effect by a written and grounded order, the suspension or termination and cessation of activities, when the non-application of these measures may result in imminent threat to maritime safety and navigation safety and the marine environment; and
- f) Use weapons for self-defence, the service objects and installations and values entrusted to their care when properly authorized;

2. The provisions of subparagraphs a), c) and d) of the preceding paragraph shall also apply to entities and agents accredited by the Maritime Administration to exercise the inspection functions.

3. The suspension, termination or discontinuance referred to in subparagraph e) of paragraph 1 is drawing up in an official report, which is subject to confirmation by the Board of Directors of the maritime administration, no later than 10 (ten) days, under penalty of expiry of certain preventive measure.

Article 80

Identification

1. The personnel of the maritime administration that performs supervisory functions is assigned with an identification card, whose model and issuance conditions is subject to the Ordinance of the member of Government responsible for the maritime administration.

2. The identification card shall be worn when exercising the corresponding supervisory functions.

Article 81

Policing of areas under the jurisdiction of the Maritime Administration

1. The policing of areas under the jurisdiction of the maritime administration is the responsibility of the National Police.
2. The policing service in the areas referred to above, is aimed at helping to prevent and fight illegal activities, ensuring compliance with the laws and maritime regulations.

Article 82

Collaboration with other police forces

In performing its functions in the areas defined in the preceding article, the service of the national police should collaborate with the customs authorities and the judicial police in preventing and fighting crime always provide knowledge of its performances to the captain of the respective port.

CHAPTER II

General intervention measures on vessels

Article 83

General measures of executive intervention

1. To safeguard the navigation safety preventing the pollution of sea waters and supervising the compliance of applicable laws and regulations, the maritime administration can intercept, request information, visit, inspect, stop, navigate to port and adopt any other measures that are deemed necessary in relation to national vessels that infringe or may infringe those legal interests or undermine such laws.
2. The actions provided for in the preceding paragraph are extendible to foreign vessels that are on national maritime areas, notwithstanding the provisions in this Code for foreign vessels and the right of pursuit.
3. The action referred to above is preceded by information of the adopted measures and as early as possible to the diplomatic or consular representative of the flag State.

Article 84

Access on board and use of force

1. To pursue the purposes set forth in the preceding article, the maritime administration staff may order the detention and access on board the ship on which they have to carry out evidence search and corresponding actions.
2. Notwithstanding the use of police authority whenever possible, when needed, the maritime administration staff may adopt coercive measures that prove to be useful and are proportionate in order to stop the offending vessel from escaping the incurred obligations, penalties and liabilities.

CHAPTER III

Special intervention measures on vessels

Article 85

Special measures to adopt in the contiguous area

1. The maritime administration or any competent public authority in the matter, having knowledge that a foreign ship is docked in a contiguous zone, seeking to infringe, is infringing or has infringed the laws and regulations referred for in Article 21, can intercept it, request information or perform proper inspection.
2. When needed, the maritime administration should adopt the measures that prove to be useful and proportionate to prevent or prosecute the offence, including the arrest and arrival to the port.

Article 86

Special Measures in the event of pollution

1. In the event of pollution or pollution danger on national maritime sea, the maritime administration must take all reasonable steps for

its cleaning or to prevent, reduce or eliminate the danger and request if necessary, collaboration with other entities and public agencies.

2. The maritime administration may also, in an urgent situation, agree with third parties for the execution of preventive and sanitary measures, and shall reimburse directly to contractors hired and regardless of the payment to impute the value of guarantees and other resources obtained from the responsible according to the law.

3. The maritime administration has the same powers in case of pollution done by accident at sea, where in the case of foreign vessels it may pose a danger of serious damage to the national maritime areas or in the coast or that undermines against the related interests.

Article 87

Obstruction of waterways

1. In the event of one or more vessels prevent or make the free access to a port difficult or free navigation in its waters, the Maritime Administration shall, without delay, take all the measures that are deemed useful and appropriate in re-establishing the free navigation.

2. To comply with the provisions of the preceding paragraph, the ship's captain and all those who are on board must promptly comply with the orders under penalty to upcoming sanctions by the injured parties, regardless of the related exercise of actions pursuant to the law.

3. When needed, the Maritime Administration may transfer and detain a ship in a certain place and for such time in order to restore normality.

4. The provisions of this article shall notwithstanding the provisions of Book III and Chapter V of Title IV of Book VIII of this Code relating to removals.

Article 88

Imposition of obligations on shipowners and captains

1. The Maritime Administration may establish obligations paid by the shipowners and captains of national ships for rescue, maritime safety, pollution control, sanity purposes or other serious reasons of public utility or social interest.

2. They may also order the participation in operations of rescue and, in the event of serious risk to navigation safety or the environment, the cooperation in rescue of goods or pollution control operations.

3. The preceding paragraphs shall extend to foreign vessels that are docked in ports, inland waters, archipelagic waters and territorial sea and whenever necessary to prevent the loss of lives or serious pollution incidents of maritime public domain, subject to the provisions of Title VII of this Book for foreign government ships.

CHAPTER IV

Compensation for undue damage

Article 89

Unjustified detentions and compensation

1. The maritime administration must take all the measures in order to prevent unnecessary detentions or vessel delays due to the measures taken in accordance with the provisions of this Title.

2. The detentions or unnecessary delays referred to above, when properly supported, determine the compensation of damages caused by the entity that have originated them.

Article 90

Compensation for the fulfilment of imposed obligations

Notwithstanding the right to compensate for damages caused by third parties, the shipowners may claim directly from the maritime administration the payment of the expenses incurred as well as the compensation for the damage suffered as a result of compliance with the obligations imposed under Article 89.

CHAPTER V

Persecution and visit rights

Article 91

Exercise of persecution and visit rights

1. The persecution and visit rights are exercised by the causes and as set forth in the international conventions in force in Cape Verde.
2. The exercise of these rights is incumbent upon the coast guard, subject to the necessary cooperation with the maritime administration or other relevant government departments in the matter.

Article 92

Leading the national port

In accordance with the provisions of this Title, the detained ship can be driven to the nearest national port, in order to perform the instructed investigation of facts, imposing the sanctions and demanding responsibilities which, in this case, correspond.

TITLE VII

FOREIGN STATE VESSELS

CHAPTER I

General provisions

Article 93

Immunity

With the exceptions provided for in international conventions in force in Cape Verde and in this Code, the foreign state vessels shall usufruct from immunity and are only subject to the jurisdiction of their respective State flag.

Article 94

Special regulations

Notwithstanding the international law and this Code, the Government should regulate the navigation system, admission and dockage of foreign State vessels in national maritime areas.

CHAPTER II

Navigation and entry regime in port

Article 95

Navigation in inland waters and entry into port

1. Foreign warships may enter the inland waters and visit the open ports, with prior authorization, to be granted case by case by the Ministry of Defence through diplomatic channels and in accordance with the respective conventions in force in Cape Verde.
2. Other State ships require only the authorization granted case by case by the maritime administration and the arrival of the ship must be requested in advance.
3. Cases of failure, bad weather or other urgent and decisive cause that may depend on forced entry for safety reasons, are excepted. In such cases, the captain will immediately inform and by all possible means, the closest authority of the Maritime Administration and Coast Guard if it is a warship and must follow the instructions received in order to obtain the corresponding authorization through diplomatic channels.
4. Vessels and submarines of the State entailing nuclear risks are subject to authorizations under this Article, notwithstanding the provisions of Article 128.

Article 96

Forbidden activities

1. Except by expressed authorization of the Ministry of Defence, the passage of foreign State vessels through territorial sea or archipelagic waters is not considered inoffensive and is forbidden, when performing manoeuvres or other exercises with weapons of any class or launch, receipt or boarding any aircraft or military device.

2. In the exclusive economic zone, it is also forbidden to perform, without prior authorization, the activities referred to in the preceding paragraph when they can contaminate the marine environment or harm the natural resources of the area.

Article 97

Submarines of the State

In inland waters, territorial sea and archipelagic waters, foreign submarines of the State must comply with the provisions of Article 35.

Article 98

Measures for non-compliance

1. The foreign state vessels that violate the provisions of this Code are requested by the Coast Guard to change its attitude and, if necessary, to immediately leave the national maritime areas.

2. In accordance with international law, the vessel with a foreign flag state is responsible for any loss or damage as a result of the breach of national laws and regulations, especially those concerning passage through territorial sea as well as the dockage in ports and inland waterways.

BOOK III

PORTS

TITLE I

PORT ORGANIZATION AND ACTIVITIES

CHAPTER I

General provisions

Article 99

Applicable regime

The public domain regime and organization of national ports, as well as port operations, water port services, other activities and uses of the ports, are subject to special legislation, notwithstanding the subsidiary application of the rules contained in this Code.

Article 100

Port management and port area

1. Port administration is understood as an authority responsible for the management and operation of one, several or all national ports, in accordance with the provisions within the port legislation.

2. Port area is understood by all the maritime area designed for entry, dockage and exit of ships and the adjacent anchorages, as well as all land area where they carry out the port operations and other activities relating to the movement of passengers and goods.

3. The port authority exercises its functions in the entire port area, notwithstanding the powers of the Maritime Administration under this Code.

CHAPTER II

Port operations and nautical port service

Article 101

Port Operations

1. Port operations are considered as all the load and unloading activities, stowage and unstowage, overflow, formation and decomposition of cargo units, reception, transportation, storage and delivery of goods taking place in the port area.

2. Port operations can only be carried out by the companies or other legal entities of public or private law, duly licensed for such purpose.

Article 102

Water port services

1. Water port services are piloting, towage, mooring and unmooring of ships and other services provided in the port area to facilitate docking manoeuvres, undocking, mooring or anchoring.

2. Piloting services may be required, in accordance with Article 51 of this Code.

3. The towing and mooring and unmooring is required in all ports for all gross tonnage of vessels of more than 2,000 (two thousand) tons.

TITLE II

PORT SECURITY AND PROTECTION

CHAPTER I

Prevention and suppression of unlawful acts

Article 103

Protection of maritime transport

1. Protection of maritime transport is understood as the combination of measures, human and material resources intended to protect shipping and port areas against threats of intentional unlawful acts, in accordance with the international conventions in force in Cape Verde.

2. The Maritime Administration is the competent authority in the field of maritime protection and as such is responsible for the protection of ships and national port areas.

Article 104

Conduct of police forces

1. The police force occupy themselves with the surveillance, prevention and repression operations of any intentional unlawful acts in port areas, as set out in the legislation in force, in coordination with the maritime and port administration.

2. Notwithstanding the preceding paragraph, the police forces are subject to the planning and instructions issued by the Maritime Administration in the field of international protection of maritime transport.

CHAPTER II

REGULATION AND PLANNING

Article 105

Special regulation

The Government regulates the organization, means and scope of the protection of maritime transport, thus complying with the obligations assumed by the Republic of Cape Verde on this matter in accordance with the international conventions in force.

Article 106

Planning

The regulation mentioned in the previous article should enable the Maritime Administration to adopt a national plan for the protection of maritime transport as well as issuing newsletters or directives aiming at the effective compliance with international instruments in this matter.

TITLE III

REGIME OF VESSELS IN PORTS

CHAPTER I

Arrival and entry into port

Article 107

Entry into port

1. Any vessel may enter the national ports open to national and international shipping and shall be subject to the provisions contained in this Code and special legislation, namely, port, security, customs, immigration and police.

2. The authorization or order to enter the port is granted by the port administration at the request of the captains, ship owners and shipping agents and is subject to comply with the legislation referred to in the preceding paragraph.

3. The foregoing shall not affect the power of the national maritime administration established in this Code to refuse or restrict the entry of ships in national ports.

Article 108

Notice of arrival

1. The captains, ship owners and shipping agents who enter national ports must give notice to the port administration and the local maritime administration with at least 48 (forty-eight) hours when entering from abroad, the estimated day and time of arrival of the ship, its dimensions, quiet on arrival, quantity and nature of merchandise to load or unload and other supplement information.

2. The vessel assigned to national coast must comply with the provisions of the preceding paragraph with a minimum of 12 (twelve) hours.

3. The preceding paragraphs shall not apply to national ships operating regular shipping service and local or coastal fishing.

4. The port administration promptly informs the local Maritime Administration of the planned scales and granted entry permits and, if necessary, any circumstances that provide for the case of ships which carry special risks.

Article 109

Entry clearance documents

1. The Government regulates the documents to be submitted for dispatch of ships entry in national ports.

2. Notwithstanding the provision in the fisheries legislation in the previous Title, and in this title regarding vessels which involve special risks, the following documents are not required anymore for foreign vessels:

- a) Five copies of the general statement.
- b) Four copies of the cargo declaration.
- c) Four copies of the statement of on board supplies;
- d) Two copies of the declaration for purposes and goods of the crew;
- e) Four copies of the crew list;
- f) Four copies of the passenger list; and
- g) A copy of the maritime health declaration.

Article 110

Closing of Ports

1. The Maritime Administration may decide, for reasons of necessity or public interest, the temporary closure, for strictly necessary time, in certain areas of the inland sea, ports and terminals, navigation of ships, and take the necessary steps to give those decisions the right of international publicity.

2. The maritime administrations may temporarily prohibit navigation in ports and their access channels, as well as the entry and exit of ships, when advising the weather or river conditions, that there are obstacles or that public policy reasons may intervene.

Article 111

Forced entry

1. For forced entry of a ship, the captain, shipowner or shipping agent must report its causes to the local maritime administration, which checks the reasons therefore and indicate the formalities and special requirements that must be met in that case.

2. In the case of ships which involve special risks, the provisions of Chapter III of this Title shall apply.

CHAPTER II

General dockage regime in the port

Article 112

General visit and dockage regime

The visiting and dockage regime of ships in port areas is subject to the provisions of this Code, the port legislation and other applicable laws and regulations.

Article 113

Control by the Maritime Administration

1. The ships at anchor in inland sea or docked in national port areas shall be subject to the controls and other measures of the maritime administration that deem useful and necessary for the exercise of its powers in matters of maritime safety, protection of maritime transport and pollution prevention.

2. In the exercise of activities under the preceding paragraph, the National Maritime Administration may exercise the intervention skills, visit and inspection on board, detention and application of the penalties provided for in Title III of Book IV of this Code.

Article 114

Captains' Duties

The ships' captains docked in national ports are responsible for the safety and protection of their ships and shall take the necessary precautions to avoid risks of any kind, including the conditions of weather and sea, marine pollution, fire, explosion or intentional unlawful acts on board, such as theft or sabotage.

Article 115

Security crews and mandatory manoeuvres

1. While docked in port area, the ships shall keep on board, the crew needed to perform any movement or manoeuvre that the Maritime Administration or the port administration may order or when needed for port security or to avoid the risks to which are mentioned in the previous article.

2. When security reasons so require, the Maritime Administration or the port administration may, on the ships account, exchange place of dock or mooring or performing any manoeuvre, being able to reach, in urgent cases, the cutting of shackles or chains.

Article 116

Use of radio equipment on board

1. The use of radio equipment on board the ships in ports and national maritime areas is subject to the provisions of this Article and in the radio regulations of the vessels.

2. Except for the immunity provided for in this Code for government ships, the use of navigation radio or radio while docked in inland sea and in national ports is prohibited from foreign ships, unless it is strictly necessary for navigation safety or to execute rescue operations and to communicate with pilots, maritime administration or the port administration.

Article 117

Stowaways on board

1. Stowaway is understood by anyone who hides within the ship without consent of its owner, operator or captain.

2. The ship's captain that is heading to national port must inform the national maritime administration, as early as possible, of the presence of stowaways on board.

3. The ship's captain shall also adopt measures to ensure that the stowaways on board, food and accommodation are in decent

conditions till the arrival of the vessel at port and deliver them to the competent authorities, according to the immigration legislation in force.

4. The shipowner of the vessel which transported the stowaway is jointly and severally bound to assume the cost of food, housing, legal aid and interpreter and repatriation in the event that the stowaway arrives due to inhuman or degrading situation on the ship, needing medical or humanitarian assistance or to be repatriated by the competent authorities.

5. In order to ensure the compliance with this obligation, the national maritime administration may order the provision of sufficient guarantee under penalty of retention of the ship docked at port.

Article 118

Crew's responsibility

The captains and members of the ship's crew are not subject to criminal or administrative liability if there is connivance by the shipowner in illegal boarding of a stowaway or when the measures in the previous article are not adopted.

Article 119

Jurisdiction over foreign ships in port

1. Notwithstanding the government ships, the foreign ships whilst docked in national ports or inland sea, are subject to civil and criminal jurisdiction of Cape Verdean courts.

2. The judicial authorities may order the practice on board of investigations, entry and inspection on the ship, including the cabins, which should be communicated to the flag consul, as fast as possible.

3. The jurisdiction of Cape Verdean courts remains after foreign ships leave the inland sea and are navigating through archipelagic waters or territorial sea as well, when held outside of the latter, in the exercise of the right of pursuit.

CHAPTER III

Entry and dockage of vessels in case of special risks

Article 120

Prohibition or conditioning of entry

1. The Maritime Administration may prohibit or condition the entry of vessels in national ports and inland sea for emergency reasons, or risks specific for public health and, for vessels which, because they have serious navigation deficiencies, could pose a threat to the safety of people, property or the marine environment.

2. The Maritime Administration may also prohibit or condition the ports and inland sea the entry of various ships whose failure state or facilities or cargo do not ensure the compliance with applicable rules on pollution prevention, according to the applicable international conventions.

Article 121

Nature of entry requirements

1. The conditions or requirements referred to in previous articles may include, among others, the duty of previously entering a particular place of refuge, while carrying out inspections, repairs, ballast and de-ballast, transhipments, tank exchanges or re-stowage or in provision of a sufficient guarantee by the shipowner, owner, agent, carrier or charterer of the vessel to respond to possible damage that the ship may have caused.

2. The Government must regulate the criteria, procedures, guarantees and other necessary elements to improve the provisions of this article.

Article 122

Prevalence of life-saving duty

The provisions of the two preceding articles do not preclude the duty to proceed the rescue of people on board, which has priority over any considerations of property protection or environment.

Article 123

Ships that have nuclear or radioactive risks

1. Nuclear-powered ships and any other that take on board substances that are radioactive or nuclear hazards may enter the inland sea and visit the open ports in accordance with the technical and operational requirements set by the Government.

2. Before the vessel enters the port area, the competent bodies of the Maritime Administration must control the ship's safety documents, the dosimetry control and others that are deemed necessary for the protection of the environment and can carry out additional checks during the ship's dockage on port.

3. If, following the planned control in the preceding paragraph or for any other reason, it is considered that the ship's dockage can have dangerous effects, the maritime administration services may require the vessel to abandon the waterfront and inland sea within a specified period, without this fact deriving any asset responsibility for the administration.

Article 124

Other dangerous goods

1. The handling and transport of dangerous goods must comply with the provisions of the International Maritime Code of Dangerous Goods.

2. The Government regulates the special conditions for entry and dockage in the port for ships carrying such goods, as well as their loading, unloading, stowage and handling on board and ashore.

CHAPTER IV

Inactive or abandoned ships

Article 125

Mooring of inactive ships

1. The port administration, in coordination with the Maritime Administration, authorizes the temporary mooring or anchoring of inactive ships in the port area, designating the place, time and other conditions of dockage, provided that they do not impair the operations or port services or endanger people or property.

2. It is up to the Maritime Administration to determine the safety crew referred to in Article 115 and may require sufficient guarantee to cover the damages that may arise during the time of mooring and expenses necessary for the maintenance and adequate housing of the people on board.

3. If the ship constitutes, at any moment, danger to the port area, the provisions of the following article apply.

Article 126

Intervention among potential shipwrecks

1. Where a ship presents danger of sinking in the port area or presents a serious risk to people or property, the Maritime Administration requested the captain, shipowner or sea agent to leave the port or to adopt remedial measures and others in the deadline set for that purpose.

2. The non-compliance with the preceding paragraph, gives the Maritime Administration the power to proceed to change the ship or its cargo, or the grounding, sent to scrap or sinking in a place authorized by the international conventions in force and which does not prejudice the sailing, fishing or the environment, where the expenses are on the shipowner.

3. The preceding paragraphs shall apply equally in situations where the ship that is in danger of sinking is outside the port area, the inland sea or other national maritime spaces.

Article 127

Ships held by judicial or administrative proceedings

1. When a detention, preservation or storage of a ship in the port area has been ordered by a judicial decision or administrative procedure, the maritime administration may request the corresponding authority of the ship sinking or its sale by auction, when the dockage of the ship in the port presents a real or potential danger to people or property or causes serious injury for the operation of the port.

2. The judicial or administrative authority may order the sinking or sale according to the legally prescribed procedure, unless it is considered essential to its conservation for education purposes process and for a strictly needed time.

3. The auction sale can still be required and ordered, in cases where the expected duration of the inquiry or proceedings presents a risk of considerable depreciation of the ship, depositing the selling product for process purposes.

4. In cases of judicial or administrative detention of ships, the port administration can change the Ship's location in the port area, advising the new location to the competent authority.

Article 128

Ownership of abandoned ships in port

1. The abandoned ships in the port area belong now to the state.

2. For the purposes of the provisions of this Code, ships are considered abandoned when they remain docked, moored or anchored for more than 6 (six) months in the same place in the port area without externally appreciable activity, without having paid the corresponding rates and declaring so to the maritime administration.

3. Such abandonment statement in the preceding paragraph, is preceded by a simple administrative process, in which it shall specify the location and the ship's condition, the amount of outstanding fees, the danger of the ship for the activity and exploration port, the notification made to the owner, operator or shipping agent if known and a final abandonment decision.

4. When the ship is declared as abandoned, the maritime administration may make its sale at an auction, they should reverse the alienation product to the Public Treasury, removing the overdue credits on the ship, including the costs of the procedure referred for in the preceding paragraph and port taxes.

Article 129

Shipwrecks in harbour

The shipwrecks that occurred in the port area are regulated by the provisions of Chapter V of Title IV of Book VIII of this Code.

Article 130

Ship dismantling

1. The ship dismantling must be authorized by the maritime administration in a place and time determined in the authorization, provided that they do not adversely affect the navigation, the environment or port services.

2. The authorization of the ship's dismantling is preceded by previous casualty in the registry, as well as the constitution of sufficient guarantee in order to cover the expenses that may occur for damages caused to the waterways, the port facilities or the environment, the removal of debris and cleaning the area where the operations have been conducted.

CHAPTER V

Compensation for damage

Article 131

Damage caused by ship manoeuvres

1. The captain or shipowner responsible for any damage caused by the ship, including cables, pipes, chains and shackles, piers, beacons, buoys, canals, enclosures, port facilities, caused by the exercise of navigational manoeuvres, anchoring, mooring or un-mooring of the ship in the port area.

2. The liability provided for in the preceding paragraph shall cease if the captain or shipowner prove that the damage was caused by negligent acts of providers of nautical port services or other causes not attributable to them.

Article 132

Damage caused by loading and unloading operations

1. The captain or shipowner shall compensate the port administration for damage to the docks, cranes and other port facilities as a result of the fall or leakage of the cargo, by rupture or failure of the paraphernalia, straps, slings or ship pipes, also outbursts or fire originated inside the ship.

2. The liability provided in the preceding paragraph will cease if the captain or shipowner proves that such damage was caused by negligent acts or lack of expertise by the port workers.

3. The damages provided for in paragraph one, are the responsibility of the port operator, when caused by negligent acts or lack of expertise by the port workers.

Article 133

Liability and detention of a ship

1. The Maritime Administration may require the captain, shipowner or ship's agent for the immediate provision of adequate guarantee for the compensation for the damages referred to in the previous articles.

2. Failure to comply with the provisions of the preceding paragraph within the period prescribed for this purpose, gives the Maritime Administration the power to retain, in the port, the ship causing damage or any other of the same shipowner, until the guarantee is provided.

Article 134

Compensation for damage caused to the ship

1. The port operator must compensate the owner for damage to the ship, for negligence or lack of expertise of the port workers while performing the port operations.

2. To make the liability referred to in the preceding paragraph effective, the captain, owner or shipping agent should immediately communicate the damage incurred and also in writing to the port operator.

3. Failure to communicate the provision referred to in the preceding paragraph exonerates the port operator from any liability.

4. Providers of nautical port services of pilotage, towage, mooring and un-mooring and the corresponding port administration must also compensate the damage caused to vessels for negligence or malpractice of its employees, subject to the notification requirements laid down in number two.

CHAPTER VI

Exit dispatch

Article 135

Ships dispatch

1. In order to go to sea, each ship requires the prior approval or exit clearance, granted by the maritime administration and which serves to verify that the ship is in good navigation conditions under the applicable law.

2. The order is granted, at the request of the captain, shipowner or ship's agent, where the vessel presents and has the general documentation referred to in the following article, which can be denied for legal reasons, by court order or at the request of the competent authority.

3. The ships dispatch system mentioned in this article should be regulated by the Government, notwithstanding the intervention of the customs and health authorities, as well as fisheries administration, in the case of fishing vessels.

4. The regulation approved by the Government should establish a simplified regime for local fishing vessels or coastal or local navigation or fishing and for all who perform short, high-speed journeys.

Article 136

Documents required for exit

1. The Government regulates the documents that should be submitted for the dispatch of ships.

2. In any case, notwithstanding the certification of safety and competence of seafarers to which respectively relate to Title III of Book IV and VI of Book Title V of this Code, the following documents are no longer required from foreign ships:

- a) Five copies of the general statement.
- b) Four copies of the cargo declaration.
- c) Three copies of the statement of on board supplies;
- d) Two copies of the crew list; and
- e) Two copies of the Passenger List.

Article 137

Breach of dispatch standards

1. When a ship starts its navigation without a dispatch or in breach of the dispatch standards, the National Maritime Administration may order its owner and its captain to suspend navigation, return to the exit port or entry to the nearest and convenient port, aiming to correct the defects and restoring the legality situation.

2. The shipowners and captains must immediately comply with the orders received notwithstanding the exercise of the corresponding actions.

3. In case of default, the maritime administration may order the interception and detention of a ship or vessel and apply coercive measures provided for in this Code, the expenses incurred are on the account of the shipowner and the ship may be retained as long as they are not paid or guaranteed.

4. Failure to comply with the preceding paragraph, may result in the application of administrative sanctions and the captain, being a Cape Verdean citizen, may also be sanctioned with the temporary suspension of professional titles for up to 3 (three) years.

BOOK IV

SHIPS, BOATS AND NAVAL ARTEFACTS

TITLE I

CONCEPTS, NATURE AND CLASSES

CHAPTER I

Concepts

Article 138

Ship

For the purposes of this Code, a ship is all floating machines destined for water navigation, with an indoor cover no longer than 24 (twenty four) meters.

Article 139

Vessel concept

For the purposes of this Code, a vessel is all the floating machines destined for water navigation, with no indoor cover, as well, for those having a cover, its length is greater than 2.5 (two point five) meters but less than 24 (twenty four) meters.

Article 140

Naval artefact

1. For the purposes of this Code, naval artefact is any floating construction not intended for navigation, with a capacity and structure to house people or things and situated at a fixed point of water.

2. Naval artefact is further understood as the ship that has lost this condition for being tied, docked or anchored in a fixed place, it is intended permanently for activities other than navigating.

CHAPTER II

Nature and legal traffic of ships

Article 141

Nature

1. The ship is a movable property subject to registration and publicity in accordance to the terms of this Code.

2. The main engine and auxiliary machinery, gears, anchors, chains, appliances, rescue facilities and other objects existing on board and necessary for its operation, are the integral parts of the ship or vessel, in addition to the distinct elements that integrate its structures.

3. Accessories, provisions, fuel, lubricants, paints, or other fungible goods are considered and consumables for consumption existing on board.

Article 142

Legal traffic of ships

1. The vessels may be subject of transfer, disposal and charges by all means allowed by law.
2. Unless otherwise agreed, the acts and contracts relating to real rights on the ship, as well as those relating to the chartering and marine insurance are extended to the constituent parts.
3. Contracts involving constitution, modification, transmission or extinction of real rights to the ship shall be in writing, with notarized recognition of the grantor's signature.

CHAPTER III

Classification of national vessels

Section I

Classification depending on the activities in which they engage

Article 143

Classes

1. National vessels in accordance with the activities that are intended, are classified as follows:
 - a) Trade;
 - b) Fishing;
 - c) Recreation;
 - d) Towing;
 - e) Research;
 - f) Auxiliary; and
 - e) Others of State.
2. The vessels referred to in paragraphs a), b), d) to f) above, are part of the merchant shipping and are called merchant ships.
3. The vessels referred to in subparagraphs a), b) and c) of paragraph 1 constitute, respectively, marine trade, fishing and boating.
4. The ships may be classified according to others criteria as well as be subject to additional ratings, according to the provisions of special legislation.

Article 144

Commerce ships

The commerce ships are used to transport people and goods, even when devoid of means of propulsion, considering as such those who can only navigate through tugboats, subject to the following provisions.

Article 145

Fishing vessels

Fishing vessels are equipped or used commercially in the extractive industry of fishing, to catch ichthyologic species, marine plants or other living resources of the sea, or the transport or processing of species caught by the main ships.

Article 146

Recreation ships and vessels

1. Recreation boats are used as a means of water travel, for the enjoyment of water sports, or sport fishing or for simple entertainment, without any profit to its owners or users.

2. The recreational boats are defined in Article 4 of this Code.

Article 147

Tow boats

1. Tow boats are ships or power-driven vessels destined to lead others with cables or other non-permanent means.
2. The tows specially prepared for the rescue of ships in distress or their crews as well as passengers are called rescue tows.

Article 148

Research vessels

Research vessels are those equipped with mechanical means of propulsion, intended, according to their aptitude technical, scientific, oceanic and coastal research.

Article 149

Auxiliary ships

Auxiliary ships are those who are employed in services not covered in previous articles, even lacking its own means of propulsion, and whose designation is given to them as the special service to which they refer.

Section II

Classification of merchant vessels due to the navigation area

Article 150

Classification

The merchant vessels, as for the area in which they can operate, are classified as:

- a) Coastal shipping;
- b) Cabotage; and
- c) Long haul.

Article 151

Coastal shipping vessels

Coastal shipping vessels are those that can only operate along the national coasts, generally within sight of land, merely to climb on national ports.

Article 152

Cabotage vessels

Cabotage vessels are those that can operate on the high seas in areas whose boundaries are established by the Ordinance of the Government member responsible for maritime administration.

Article 153

Long haul ships

Long haul ships or vessels are those that can operate without operation area limit.

Section III

Classification of merchant ships based on the nature of transport it exercises

Article 154

Passengers and cargo ships or vessels

1. The nature of transport that the national ships exercise, are classified as:

- a) Passengers, for the transport of more than twelve passengers;
- b) Cargo, who are not passengers; and
- c) Mixed, those for freight and passengers.

2. Cargo ships are divided into:

- a) General cargo, for carrying goods of various kinds; and
- b) Specialized, those who offer their entire load capacity for transport of goods with uniform characteristics for the shipping needs.

3. The classification referred to in this Article may be amended by the Ordinance of the Government member responsible for the maritime administration.

Section IV

Classification of fishing vessels depending on the area of operation

Article 155

Classes

Fishing vessels, as for the area in which they can operate, are classified into:

- a) Local fishing;
- b) Coastal fishing; and
- c) Deep-sea fishing.

Article 156

Local fishing vessels

1. The local fishing vessels are those that, in general, operate only within the area the jurisdiction of the respective local maritime administration and adjacent areas.

2. Local fisheries are defined by the Ordinance of the Government member responsible for the maritime administration.

Article 157

Coastal fishing vessels

1. Coastal fishing ships or vessels are those that operate along the national coasts, staying generally within sight of land.

2. The areas where they can operate the coastal fishing vessels are defined by the Ordinance of the Government member responsible for the maritime administration.

Article 158

Deep-sea fishing vessels

Deep-sea ships or vessels are those that can operate without area limit.

Section V

Classification of recreational boats, tow and auxiliary boats depending on the area of operation

Article 159

Local ships or port, coastal and deep-sea

1. As for the area in which they can operate, recreational ships, tows and supply vessels, are classified as:

- a) Local or port, operating within the port area;

- b) Coastal, those operating along the national coasts, staying generally in sight of the land; and
- c) Deep sea, operating without area limitation.

2. The classification referred to in this Article may be amended by the Ordinance of the Government member responsible for the maritime administration.

TITLE II

REGISTRATION, NATIONALITY, MARKING, DOCUMENTATION AND TONNAGE

CHAPTER I

Ship registry

Section I

General Provisions

Article 160

Conventional registration and international registration of ships

1. National ships and legal facts are subject to registration in accordance with this Code and alternatively, the relevant provisions of the commercial registry.
2. The registries are made in the Conventional Shipping Registry or the registration of ships, abbreviated as CVR.
3. The International Shipping Registry is regulated by special legislation.
4. The ships are not subject to commercial registration.

Article 161

Vessel exempted from registry

1. Small vessels existing on board are exempt from registration, including boats or life rafts, fishing auxiliary vessels and small boats without engine dock or sailing, such as boats, cigars, canoes, rafts and pneumatic wind sails with pedals, for use up to 300 (three hundred) meters counted from the low-water line.
2. The vessels referred to in the preceding paragraph, are nevertheless subject to the jurisdiction of the local maritime administration, which is responsible for issuing licenses for its exploitation.

Article 162

Registration of State ships

The registration of State ships is subject to the provisions of this Chapter, and however, the initial request replaced by letter authenticated with its seal, the service of the vessel, requesting the registration and containing the same information.

Article 163

Facts subject to registration

1. When referring to ships, they are subject to registration:
 - a) The legal facts that imply recognition, acquisition or division of property rights;
 - b) The legal facts that imply recognition, creation, acquisition, modification or termination of the right of use;
 - c) Construction contracts;
 - d) Mortgages, its modification or termination, as well as the assignment of the mortgage or the degree of priority to its registration;
 - e) The mortgages lien;
 - f) The attachment, seizure and inventory of ships or mortgages, and any other acts or measures which may free their position;

g) The assignment of mortgage and subrogation to them; and

h) actions and judicial decisions which have as their purpose, main or auxiliary, declare, recognize, establish, modify or terminate any of the rights referred to in the preceding paragraphs or reform, the declaration of nullity or annulment of a registration or its cancellation.

2. The registrations relating to ships based on the following facts are considered only as temporary:

a) Judicial proceedings;

b) Conventional or contractual transmission mortgage before their contracts have been drawn;

c) Judicial mortgage or transmission held in judicial inventory, before the sentence has been given;

d) Processing by judicial auction before the title of auction has passed;

e) Foreclosure or arrest or the money to be used on which to subsist domain registration or transfer on behalf of several people of the executed or arrested person; and

f) Ship construction contract and mortgage constituted on the ship under construction.

3. Provisional records referred to in subparagraphs a), c) and f), if they are not also temporary due to doubts, they remain until they have been converted into definitive or cancelled.

4. Provisional records referred to in subparagraphs a) and c) of paragraph 2 as well as the arrest can only be converted into definitive within 60 (sixty) days from the date of the final judgement of its outcome.

5. This provisional registration in f) of paragraph 2 automatically expires but is converted into a definitive within 30 (thirty) days from the expiry of the deadline for the fulfilment of its construction contract and once converted into definitive, it serves for all purposes as an acquisition registry of the respective vessel.

Article 164

Competence and organization

1. The ship registration is done in the Conventional Shipping Registration, whereby the maritime administration is the competent authority to issue the registry.

2. The application and the required registration documentation are delivered in the Conventional Shipping Registration or at the local maritime administrations.

3. The local maritime administrations should check the regularity of the presented documents and, being in order, should send them, in the quickest way to the Conventional Shipping Register.

Article 165

Legitimacy

1. Natural or legal persons who have permanent residence or registered office in Cape Verde may obtain the vessels registry.

2. In reciprocity, natural or legal persons with permanent residency or headquarters abroad may still obtain registration of vessels, as long as they have a permanent representative in Cape Verde.

3. The preceding paragraphs shall not prejudice the requirements applicable to the operation of merchant vessels provided for in Book VI, the nationality requirements and others who may be required from the shipowners in compliance with the fisheries legislation.

Article 166

Requirements from the Representatives

1. The permanent representative referred to in the previous article may be physical or legal person domiciled or headquartered in Cape Verde, with powers to represent the owner and or the vessel's shipowner.

2. The representative responds subsidiary by its represented with the fulfilment of judicial or administrative resolutions and the legal obligations of the owners and shipowners of the domestic vessels.

3. The repeal of the representative's powers does not produce effects before the administration or judicial authorities, while not

designated another that replaces the previous one.

Article 167

Registry and first registration

1. The registry is intended to identify the ship, corresponding to each vessel a single registry.
2. The first registration of ships is of its construction or acquisition.
3. The provisional mortgage of ships under construction or to be constructed, as well as its attachment, arrest or enrolment, may, however, be registered, regardless of the prior registration in the preceding paragraph.

Article 168

Temporary registration

The temporary registration of bareboat chartered ships by national shipowners is done in the Conventional Registration of Ships, according to special legislation in force.

Article 169

Resolution and auto registration

1. Registration is granted or refused by means of resolution of the national maritime administration.
2. When granted, the registration is done through a document drawn up in the Conventional Ships Registry, which must contain:
 - a) Name, number and other ship identification elements, as well as its call sign;
 - b) Class of ship and main characteristics and dimensions;
 - c) Identification and residence of the owner or, when appropriate, joint owners, with individualization of their share;
 - d) Name and address of the owner if this is different from the owner and in this case, the owner of the manager;
 - e) Place and ship inspection dates; and
 - f) Bareboat charter contract identification and the time permitted to have the Cape Verdean nationality, in the case of ship in temporary flag trading regime, according to the provisions of Chapter III of this Title.
3. The refusal to register must be properly reasoned.

Article 170

Registration Certificate

Drawing up the registration, Ship Conventional Registry issues a registration certificate which, in the case of a long haul ship, it must have the ship's papers.

Article 171

Communication to other entities

1. The Conventional Shipping Registry shall communicate in 5 (five) days the records of all vessels and its changes to the following entities:
 - a) Local maritime authorities;
 - b) Fisheries management in the case of fishing vessels; and
 - c) Association of shipowners.

Section II

Registration of ships under construction

Article 172

Provisional registration

1. The ship construction contract Registration is made based on a copy of the contract with the signatures of the grantor that is duly notarised.
2. The registration is provisional, becoming final within 30 (thirty) days from the date of delivery and acceptance of the ship.
3. In addition to the common elements, it should have on the construction contract registration the following:
 - a) Contract date;
 - b) Delivery time;
 - c) Price; and
 - d) Price Payment method.

Article 173

Registry in favour of the builder

The vessel under construction registry is in favour of the builder doing it itself based on simple written statement and signed a notary signature.

Article 174

Ship registration bought by a construction contract

The acquisition registration of the ship in shipyard, by a construction contract shall be based on a document issued by the manufacturer, with notary signature, setting out the delivery of the ship, its name and features, the orderer name, the agreed price, form of payment and, if not paid in full, the amount owed.

Article 175

Ships built or purchased abroad

1. Ships purchased or built abroad are provisionally registered in a summary form in the Cape Verdean consulate of the place of purchase or construction, when presenting the property title.
2. Whomever hires the construction or acquisition of vessels that should be registered in the conventional ship register, shall notify the Maritime Administration the celebration of the contract, within 10 (ten) business days from the date of signature.
3. The conditions for the transitional and final register of vessels referred to in the preceding paragraphs shall be regulated by Government Ordinance member responsible for the Maritime Administration.

Section III

Modification and deletion of registry data

Article 176

Regulatory regime and modification of documents

1. The change regime and cancellation of registration shall be regulated by the Government Ordinance member responsible for maritime administration.
2. The modification of log data can lead to replacement or modification, the ship's documents.

Article 177

Registration removal

1. Registration removal of a ship is done by a resolution of the maritime or authorized consular authorities, in the following cases:
 - a) Dismantling;
 - b) Loss due to sinking;

- c) Presumption of loss due to lack of news for more than 6 (six) months after leaving the last port or the latest news; and
- d) Loss of nationality in accordance with the law.

2. In the case of paragraph c) above, the ship reappears, the slaughter is declared void on the basis of certificate issued by the Maritime Administration or consular authority, when it is the case, making the necessary endorsement registry.

3. The unseaworthiness is not alone, because of the registration removal.

4. The national consular authorities should communicate to the national maritime administration within

5 (Five) business days, the cases of conviction for unseaworthiness, dismantling, sinking and loss at sea or sale of any national vessel in the area of its jurisdiction.

5. Removal of the registry provided for in subparagraphs a), b), c), and d) of paragraph 1 is done based on the certificate issued by the maritime authorities, in accordance with applicable laws or in the case of occurrence abroad by the respective Cape Verdean consular authority.

6. The owners of domestic vessels are required to report to the national maritime administration the contracts concluded for the sale of those abroad, within 10 (ten) business days from the date of its signature.

CHAPTER II

Nationality and flag use

Article 178

National vessels

- 1. Ships registered in Cape Verde are considered to be of Cape Verdean nationality.
- 2. The attribution of Cape Verdean nationality gives the ship the right to use the national flag, with its attendant rights and obligations.
- 3. The proof of the vessel's nationality is done through the registration certificate and the ship's passport when it is going on international travels.

Article 179

Use of the national flag and other distinctive

- 1. The national flag is the symbol of outward display of the Cape Verdean nationality.
- 2. National vessels are obliged to hoist the Cape Verdean flag when they are in sight of warships or other State dedicated to the surveillance of maritime activities, whatever may be their nationality, as well as when they are in inland waters or in national ports or of any other state.
- 3. In the ports and foreign inland waters they also hoist the visited State flag according to the International costumes.
- 4. Local or coastal fishing vessels, the towers and local or coastal navigation aids are exempted from displaying the flag in inland waters and in national ports.
- 5. The National Vessels may also hoist the distinctive of the shipowning company where it has been approved and registered by the national maritime administration.

CHAPTER III

Temporary flag exchange

Article 180

Temporary flagging conditions

- 1. Foreign merchant ships taken in charterer bareboat by national or resident shipowners in Cape Verde can, with the authorization of maritime administration, be registered in the Conventional Shipping Registry and acquire Cape Verdean nationality during the time of length of the charter contract.
- 2. Conversely, the national bareboat chartered commercial vessels by residents abroad owners can be allowed to acquire the nationality of the State of residence for the period of time of the charterer contract.

3. The temporary flag exchange regime provided for in this Chapter shall also apply to other contracts distinct in the charter bareboat when involving the temporary transfer of ownership of the ship.

4. The authorization referred for in paragraph one, for fishing vessels, is preceded by a favourable and binding report of the fisheries administration.

Article 181

Measures to avoid dual nationality

1. The temporary registration in the previous article, is not issued by the service of Conventional Registry of Ships, until it is certain the suspension of nationality and the right to lift the flag in the origin registry.

2. The Maritime Administration shall notify the former Flag State of the temporary flag lowering in Cape Verde.

3. Notwithstanding the preceding paragraphs, the Maritime Administration must notify the new flag State, the authorization granted to the national ship is temporarily flying a foreign flag, with indication of the date of commencement and termination of authorized.

Article 182

Maximum periods of temporary flagging

1. The authorization granted by the maritime administration establishes the temporary flagging term period which may not exceed 3 (three) years in the case of fishing vessels and 5 (five) years in the other.

2. The time limits set in the previous paragraph may be extended by prior request of the parties concerned and binding report of fisheries management for fishing vessels.

Article 183

Termination of temporary flagging

1. After the given deadline to temporarily own the Cape Verdean nationality, as well as the extension, the registry is automatically cancelled in the conventional registration of ships and the ship loses the Cape Verdean nationality, with the Maritime Administration notifying the competent authority of the source State registry.

2. After the given deadline to temporarily own the foreign nationality and the, as well as the extensions, the Maritime Administration gives final removal to the Vessel registration in the conventional ship register and notify the competent authority of the flag State.

Article 184

Nationality of exchange effects

1. The foreign ships that temporarily acquire the Cape Verdean nationality are registered in the conventional ship register, and are entitled to have the national flag and shall be subject to the provisions of this Code applicable to the national vessels.

2. The national vessels authorized to temporarily acquire the nationality of another State temporarily lose the Cape Verdean nationality and are subject to the corresponding flag law and they should endorse to that fact in the conventional ship register.

3. The preceding paragraphs shall not prejudice the provisions of the following article, on the matter of the law applicable to the real rights.

Article 185

Law applicable to real rights

1. The temporarily flag change does not affect the right of ownership or other real rights over the ship.

2. The law applicable to mortgages and other enshrined real rights remains of the nationality of the ship before the exchange.

Article 186

Collateral in the case of temporary Cape Verdean nationality

The temporary concession of Cape Verdean nationality in the foreign ships is subject to the presentation, from interested parties before the maritime administration, of a certification issued by the origin of registration of the relation of mortgages, existing liens or charges on

the ship as well as the consent of the temporary exchange provided by lenders.

Article 187

Real guarantees in the case of temporary foreign nationality

1. The vessels temporary exchange of flag registered in Cape Verde, is not allowed as long as mortgages and charges are weighing on the ship or submitting a written statement of consent provided by the beneficiaries of the mortgages or charges are not cancelled.

2. The name of the State whose flag to which the national ship was entitled to temporarily fly shall be included in the Conventional Shipping Registry.

3. The maritime administration should also require the authority responsible for state registration whose flag where the ship was entitled to temporarily fly, to contain in the new temporary registration the previous registration of the ship in the conventional ship register of the Republic of Cape Verde.

Article 188

Procedures and Requirements

1. The application process, processing and authorization of operations regulated by this chapter and the required documentation must be given by the Regulatory Ordinance of the Government member responsible for the maritime administration.

2. The temporary acquisition of the Cape Verdean nationality for fishing vessels, without subject to the guarantees provided for in the previous articles, is subject to the following requirements:

- a) The bareboat charterer should be of a national shipping company or a company in which has at least 51% (fifty one percent) of the capital belonging to national and provide proof of entrepreneurship, financial and technical cooperation in the area of fishing operations;
- b) It cannot allow the temporary exchange of flags of bottom trawling vessels; and
- c) The total catch of ships with Cape Verdean temporary flag should be unloaded in national ports.

CHAPTER IV

Identification of national vessels

Article 189

Identifying elements

The vessel shall be identified in the registry as the following:

- a) Fishing vessels, tows, auxiliaries and ships owned by the state by the set of identification and the name; and
- b) The remaining ships, by the registration number and the name.

Article 190

Identification Set

The ships identification set consists of:

- a) Name of the port of registration;
- b) Registration number; and
- c) Letter or letters indicating the area in which the vessel may operate, in the case of private ships, or that the ship is owned by the state, as provided in the regulations approved by the Government member responsible for maritime administration.

Article 191

Registration Number

- 1. The gross tonnage of vessels of more than 20 (twenty) tonnes are identified by a number, unique and permanent for each vessel

assigned by the Maritime Administration.

2. Ships of gross tonnage passengers less than 100 (one hundred) tons and the gross tonnage of cargo ships less than 300 (three hundred) tons have the identification number "IMO number", assigned as established in international conventions in force in Cape Verde.

3. In all cases of registration cancellation, its number does not return to be used in any vessel of the same type, unless the cancellation is due to retirement and the vessel maintains the same classification.

Article 192

Names of ships

The Maritime Administration assigns a name to the ships, preferably the one proposed by its owner and attention shall be paid to the following:

- a) To prevent not only its repetition, as well as irreverent, ridiculous or ridiculing names;
- b) To not allow those who do not differ from others by appendage of an ordinal or cardinal number, written or not in full;
- c) To prefer Cape Verdean names;
- d) To authorize first names and surnames of foreign origin, that are used by Cape Verdean citizens.

CHAPTER V

Ships Marks

Article 193

Description to mark on the ships

1. All national ships, prior to their registration, should have marked descriptions fixed in this Chapter.
2. The Maritime Administration may authorize the registration of the name of the owner or of certain acronyms, as long as it does not adversely affect the identification of the vessel.

Article 194

Marks Criteria

1. The registrations showed that the vessels comply with the following standards:
 - a) They must be kept in a permanent and legible manner;
 - b) They should be painted with colours that contrast with the background colour where they are written; and
 - c) The letters and numbers shall be at not less than 10 (ten) cm and a proportional width.
2. The scales of drafts, in addition to the standards referred to in the previous paragraph shall be as prescribed in the regulations approved by the Government member responsible for maritime administration.

Article 195

Ships exempt from using marks

The pilots of vessels and state owned, as long as they are not intended for freight or passengers and also all vessels exempted from registration, are exempted from the provisions of previous articles.

Article 196

General regime of marks

1. Except as provided in the following articles, the ships should use the following information:
 - a) Registration number, for coastal shipping, cabotage and long haul, or the identification set for the others;
 - b) Name;

c) Port of registration;

d) Draft scales; and

e) Free board and cargo line mark, as set out in the international conventions in force in Cape Verde and regulations referred to in Article 216.

2. The registration number or the identification set are kept in an appropriate place inside the ship, except for long haul fishing vessels in which they are inscribed in tack, on each side, near the edge.

3. The IMO number shall be applied in accordance with the provisions of international conventions in force in Cape Verde.

4. The name is inscribed at the bow, on both sides along the edge and aft of the ship.

5. The port of registry is registered aft and below the name.

Article 197

Marks on the vessels of not more than 20 tons

1. The coastal navigation ships that are not passenger, tugs and supply vessels whose gross tonnage is equal to or less than 20 (twenty) tons use the following information:

a) Registration number for the coastal navigation vessels, the ID set for tows and auxiliary vessels;

b) Name; and

c) Port of registration.

2. The registration number or identification set are recorded in the tacks, on each side along the edge.

3. The name is inscribed on the stern of the ship with the registration number or identification set under these.

4. The port of registry is registered aft and below the name.

Article 198

Marks in local or coastal fishing vessels

1. The local or coastal fishing vessels use the following marks:

a) Identification Set;

b) Name;

c) Port of registration; and

d) Draft scales;

2. The set of identification, the name and port of registry are entered in the same places referred for in items 2), 3) and 4) of the previous article.

3. The local or coastal fishing vessels with gross tonnage equal to or less than twenty (20) tons use only the inscription of the name and port of registry.

CHAPTER VI

Onboard documentation

Article 199

On board books and documents

1. The books and documents that the national ships must carry according to the class and ship characteristics that are determined by the member of Government Ordinance responsible for maritime administration.

2. Notwithstanding the preceding paragraph and the provisions of Title III of this Book, the vessels must have on board:

- a) The security certificates, maritime transportation protection and pollution prevention, as well as the certificate of tonnage and books required by the international conventions in force in Cape Verde;
- b) Certificates and other documents provided for in international and national regulation of the ships radio, where the ship has radio station;
- c) Identification certificates of capability and training of seamen, as provided for in Title III of Book V of this Code and the international vaccination certificates and other required by the health legislation;
- d) The registration certificate, and ship passport when it travels internationally;
- e) Documents required for the entry or output dispatch, according to the provisions of Articles 109 and 136 of this Code;
- f) The journey log and machines log, except in cases of exemption provided for in this Code; and
- g) The fishing license and other documents required by fisheries legislation, on board fishing vessels.

Article 200

Ship's passport

1. The ship's passport is the document issued by the Maritime Administration certifying the Cape Verdean nationality of the ship that is intended for international travel.
2. Lacks valid only temporary passport for the trip from the port of acquisition, construction or to register the vessel who is not national passport, is acquired abroad.
3. The temporary passport shall be issued by Cape Verdean consular authority.
4. It is a prerequisite to issue the passport, the ship has been inspected and arched according to the law, and inspected to determine who is able to undertake the journey.

Article 201

Logbook

1. The journey log is a log book where they must record all elements and facts regarding the ship's navigation as well as other elements, facts and events that by their importance or by legal order must be registered in it.
2. Ships that do not require the logbook are:
 - a) Of national coastal shipping, where they have a gross tonnage of less than 20 (twenty) tons;
 - b) Of local and coastal fishing; and
 - c) Local or coastal tows and auxiliary vessels, when their activity is limited to areas that match coastal navigation.

Article 202

Machines log

1. The machine log is the log book where it is necessary to record all the elements or facts concerning the operation of the propulsion unit and its auxiliaries, as well as other elements, facts and events relating to them which by their importance or legal order, that should be registered.
2. They do not require daily machines ships referred to in paragraph 2 of the previous article.

Article 203

Electronic records

1. The Maritime Administration may authorize the replacement of the logbook for an electronic register in the case of vessels whose navigation is controlled and recorded by computers.
2. Replacement provided for in the preceding paragraph may be allowed in respect to the daily machinery, ships whose operation of the propulsion unit and its auxiliaries is controlled and recorded by computers.

Article 204

Renewal of books and documents

The registry certificate, passport, journey log, machines log and other books and documents which the ship permanent character that they must take on board will be renewed by the National Maritime Administration at the request of interested in the following cases:

- a) When they do not use them or become unreadable;
- b) In case of loss or theft;
- c) When they expire, if they have an expiration date;
- c) In case of change of owner, name, number of identification, tonnage, grade and major characteristics of the vessel; and
- d) When the books or documents which are subject to periodic notes, they cannot contain any more changes.

Article 205

Legalization of the log books

The log books of ships are numbered and legalized through the opening and closing and caption all of its pages by the Maritime Administration.

Article 206

Books guard and ship's papers

The ship's papers are held by the captain or whoever carries out the tasks that is responsible for its safety and conservation, except those which, by legal order or necessity to register and use, must remain in other locations of the ship.

Article 207

Duty to display

The captain or whomever carries out the tasks of a national ship is required to submit the vehicle papers whenever it is required by the national maritime or consular administrations, by the commanders of the national warships or Coast Guard, police and even when have to prove the nationality of its vessel to the competent foreign authorities.

Article 208

Books models and certificates

1. The Maritime Administration shall adopt and publish models of the books and documents that must take on board its national vessels, in accordance with the models provided in the international conventions in force in Cape Verde.
2. The Maritime Administration sets out the conditions and deadlines for the exchange of pre-existing models that do not fit the new regulatory models.

CHAPTER VII

Ships tonnage

Article 209

Definition and tonnage classes

1. Gross tonnage is a measure of the total volume of a ship determined in accordance with the provisions of this Chapter.

2. Net tonnage is a measure of capacity useful city of a ship determined in accordance with the provisions of this Chapter.

Article 210

Vessels subject to tonnage and skills

1. National merchant ships should be subject to tonnage.
2. Vessels that lack indoor cover are not subject to tonnage.
3. It is up for the Maritime Administration to determine the tonnage of ships and issuing of the appropriate tonnage certificates.

Article 211

Tonnage rules

1. The tonnage of ships engaged on international trips is made according to the rules of the international conventions in force in Cape Verde.
2. Ships not included in the preceding paragraph and the vessels that are arched in the manner prescribed in the regulations approved by the Government member responsible for the national maritime administration.

Article 212

Tonnage certificates

1. The tonnage certificate is evidence that the vessel was arched pursuant to the terms in the applicable law.
2. The ships are arched in accordance with the provisions in the number one of the previous article, an international tonnage certificate is issued, and arched according to the number 2 of the same article, a national tonnage certificate.

Article 213

Special tonnage certificates

1. The National Maritime Administration may issue special tonnage certificates in accordance with the rules established by the authorities of other states, when so require for navigation in certain areas.
2. Tonnage certificates issued by foreign administrations are considered valid for the purposes of temporary registration of national ships.

Article 214

Certificates issued on the basis of third-party calculations

The tonnage certificates of national vessels can be issued by the Maritime Administration having based on the calculations presented by the parties, where they are approved because they are prepared properly.

Article 215

Tonnage certificates of foreign ships

1. The Maritime Administration recognizes the tonnage certificates of foreign ships when issued by competent authorities of States part of the international conventions in force in Cape Verde.
2. The recognition referred to in the preceding paragraph can also be compared to the tonnage certificates of ships excluded from the scope of the international conventions, when issued by virtue of the flag state legislation.
3. The maritime administration can recognize the tonnage certificates of foreign ships when issued by a classification society because delegated by the flag State.

TITLE III

SECURITY OF SHIPS AND CLASSIFICATION SOCIETIES

CHAPTER I

General provisions

Article 216

Safety requirements for ships

1. The national ships must comply with the technical, safety requirements, prevention of marine pollution and habitability laid down in international conventions in force in Cape Verde, in this Code and regulations approved by the Government.

2. Regulation of the requirements referred to in the previous number, it should take into account the class of the ship and travel or activity in which it engages.

Article 217

Safety of radio equipment

The safety, survey and certification of the radio equipment on board the ships, including the procedures for installation, modification, use and operation and the radio equipment license shall be governed by special regulations of the radio service of the ships.

Article 218

Skills

It is up for the maritime administration to carry out surveys and to certify the ships, according to plans and programs set by the Ordinance member of the Government responsible for the maritime area.

Article 219

Shipowner's, captain and crew Liability

The powers of the Maritime Administration as for the ships' inspection do not exempt the owner of its responsibilities in ensuring the seaworthiness of its vessel or the captain on board as the first person responsible for the safety of the ship under his command as well as the crew in performing of their duties in the field of safety, security and prevention of marine pollution.

CHAPTER II

Inspection of national ships

Article 220

Types of inspections

1. The inspection of the safety conditions of the ships are normally done by means of surveys.
2. The inspections are of the following types:

- a) Construction inspections;
- b) Inspections of maintenance; and
- c) Additional inspections.

Article 221

Construction inspections

1. Construction inspections take place during the construction or modification works of vessels or following the conclusion of these works, or upon the acquisition of a vessel.

2. The surveys referred to in the previous paragraph are defined by the member of Government Ordinance responsible for the maritime area.

3. In the case of construction or modifications made abroad, the IMP can delegate an inspection on a classification society recognized by the Government, provided with suitable on-site shipyard technicians or so that they can move easily.

Article 222

Maintenance inspections

1. The maintenance inspections are performed in order to verify that ships comply with the technical requirements throughout its lifespan.
2. The technical inspections are carried out with a periodicity set by the member of Government Ordinance responsible for the maritime area
3. In the regulation of technical inspections, it should kept in mind the class of ships and travel or activity in which it engages

Article 223

Additional inspections

1. The supplementary examination by the national vessels occurs whenever the local maritime administration has justified the suspicions, even if arising from a complaint, accident, dangerous manoeuvres or for other reasons, that some national ship does not meet the necessary seaworthy conditions in order to make the trip safely and without risk of marine pollution.
2. The additional inspections in foreign ports are the responsibility of Cape - Verdean consular authorities.

Article 224

Inspection Costs

1. The surveys, whatever the vessel's class, are made by shipowners, save as provided in the following paragraphs.
2. In the case of supplementary surveys when carried out the survey, the ship is deemed in good condition, the cost of inspection is paid:
 - a) By the State, if it has been ordered unofficially; and
 - b) By the claimant, if it has been done as a result of complaint.
3. Having a complaint, the maritime administration or consular authority may require the complainant the previous deposit of importance or provision of a guarantee to cover the costs of the inspection.

Article 225

Ship Arrest

If the inspection is carried out and the ship is judged as unseaworthy or fails to comply with the rules of safety and pollution, it can be suspended from operations and detained in the port until the shipowner, captain or crew have corrected the defects.

CHAPTER III

Safety certificates

Article 226

International and national certificates

1. Carried out the required inspections and the ship is judged as in good condition, the national, international certificates or national licenses is sent to the ship as the case.
2. International certificates are those which certify compliance with the technical requirements laid down in international conventions in force in Cape Verde.
3. National certificates are those that certify the compliance with the technical requirements established by national legislation on the subject.

Article 227

Certificate list

The list of international and national certificates that national ships, according to the class, its main characteristics, activity in which it engages and trips that they do is determined by regulations approved by the Government member responsible for the maritime area.

Article 228

Display of certificates

1. The security certificates and the prevention of pollution from ships are displayed on board, in a visible and easily accessible place.
2. The provisions of the preceding paragraph shall not apply to vessels.

Article 229

Effect of certificate

1. The issue and validity of certificates, assume that the ship is in perfect condition according to the subject of the certification, unless proven otherwise.
2. The absence or expiry of certificates prohibit the ship to navigate and to provide the services to which they relate, unless special circumstances regulated by Government Ordinance member responsible for the maritime area.

Article 230

Certificate of seaworthiness

1. The seaworthiness certificate is the document given in accordance with the provisions of the national law, which proves meet the conditions required ships to navigate.
2. The seaworthiness certificate of the tows and local or coastal auxiliary ships must contain the full manning of the crew and, if applicable, passengers that they are allowed to carry.
3. Local fishing vessels and coastal fishing the devoid of mechanical propulsion are exempt from the seaworthiness certificate.

Article 231

Certificates of temporary navigation

1. The Cape Verdean consular authorities may, after checking through an inspection that satisfies the conditions necessary for the trip, issue temporary certificates of seaworthiness to the following vessels:
 - a) Purchased or built abroad, for its trip with a temporary passport to the national port where do its registration is done; and
 - b) That is found abroad and are unable to renew the certificate of seaworthiness within the expiration date.
2. The certificates referred to in the preceding paragraph shall be issued on completion of the survey and the corresponding issued for the purposes of paragraph b) may not be valid for more than 90 (ninety) days from the inspection date.

Article 232

Special seaworthiness certificates

1. The local or consular maritime administrations of Cape Verde, as the case, may issue certificates of special seaworthiness, valid for a particular journey, after the inspection proving that the ship is able to make the trip.
2. The local traffic vessels having to go to repair in a different port from the registry port must equip itself with special seaworthiness certificate.

CHAPTER IV

Inspection of foreign ships

Article 233

Duties and powers of the port State

In performing the duties and exercising the powers of the Republic of Cape Verde as the port control State, the Maritime Administration can conduct additional inspections on foreign ships which are in national ports.

Article 234

Procedure and inspection costs

1. Control of inspections by the port State control should be limited to the examination of the certificates and documents on board, subject to the process that can be regulated by the Government Ordinance member responsible for the maritime area.

2. The decision to conduct the inspection should be communicated to the missions or authority consumed nearest home to the flag State, inviting it to participate in the survey in person or through a representative.
3. The owner of the vessel or his representative can designate at their own expense, an expert to represent it in the inspection.
4. As for the cost of the inspections, it applies the provisions of Article 224.

Article 235

Detention of foreign ships

1. If the inspection is carried out, the ship is judged as unseaworthy or its service cannot be done in the proper safety conditions for the people on board and for the environment, the maritime administration may suspend its operations and take the necessary measures until the defects are found corrected.
2. Taken the measures provided for in the preceding paragraph, they are immediately communicated to the nearest diplomatic representative or consular authority of the flag State.

CHAPTER V

Classification societies

Article 236

Concept

For effects of this chapter, society classification, entity or private organization is understood as dedicated professionally to the inspection and appraisal of ships and their equipment and procedures.

Article 237

Delegation of statutory duties

1. The maritime administration may delegate certain functions or activities of inspection and ships certification to the classification societies, especially if the vessels were purchased, under construction or repaired abroad.
2. The delegation referred to above, is only admitted with regard to the classification societies recognized by the maritime administration according to the requirements, procedure and conditions to be approved by the member of Government Ordinance responsible for maritime area.
3. The delegation to the classification societies does not imply the resignation or dismissal of the responsibility of the maritime administration of its control duties as the flag State, in accordance with the international law.

Article 238

Class certificates

1. The class certificate issued under a naval classification contract, a classification society certifies that a ship or its equipment complies with the stipulations in the class rules.
2. The classification societies are liable for damages caused to the entity considered part of the contract of naval rating, even as a way of negligence in the inspection of the ship and issuance of the class certificate.
3. The classification societies liability for the damages caused to third parties as a result of inspections and issuance of class certificates shall be determined in accordance with the civil law.

TITLE IV

PROPERTY AND CONSTRUCTION CONTRACTS, REPAIR AND PURCHASE AND SALE OF VESSELS

CHAPTER I

Ownership of the vessels

Article 239

Regime of property

The right of ownership of ships is governed by the provisions in this Code and, additionally, by the provisions of the civil law governing the ownership of movable property.

Article 240

Adverse possession of ships

1. Having the title of acquisition and registration of the ownership of the ship can be acquired from the continued exercise of ownership for 3 (three) years, being the owner of good faith.

2. Having no registration, when the possession has lasted 10 (ten) years, regardless of the good faith of the possessor and the existence of title

Article 241

Ownership of ships

The ownership of the ship is governed by the general rules of civil law, except in cases of joint ownership for the exploration of merchant ships, subject to the provisions of Chapter III of Title I of Book V of this Code.

CHAPTER II

Ship construction contract

Article 242

Form

The ship construction contract and its modifications are subject to written form.

Article 243

Subsidiary Legislation

The ship construction contract is governed, alternatively, by the rules applicable to the contract which do not contravene the provisions of this Code.

Article 244

Project

1. The manufacturer must carry out the construction of the vessel in accordance with the project approved by the owner and without vices that exclude or reduce its value or suitability for the intended use in the contract or, failing that statement, for the common use of the type of vessel concerned.

2. The manufacturer does not respond to the draft prepared by the construction owner or by third parties.

3. In the cases referred to above, the manufacturer must notify the owner of the construction of the project's defects detectable by a diligent technician and suggest the necessary changes.

Article 245

Inspection

1. The owner of the construction may inspect its execution, at its own expense, as long it does not disturb the normal course of the construction.

2. During the construction, the manufacturer gives the owner of the construction and its representatives the necessary facilities for the inspection, gives and provides the assistance they lack reasonably for the proper implementation thereof.

3. The provisions of the preceding paragraphs shall apply to subcontractors hired to carry out the construction work.

Article 246

Ship property under construction

1. Unless otherwise agreed, the ship is owned by the manufacturer during the construction process, apart from the materials provided by the owner of the construction.

2. The transfer of ownership takes place upon the delivery of the ship by the manufacturer and accepted by the owner of the construction.

Article 247

Amendments

1. If, during the construction, technical standards, regulations, international conventions or any other statutory rules come into force that require modifications in the construction, the manufacturer, within thirty (30) days from the beginning of its term, warns the owner of the construction and will present him a proposal of the changes price and, where appropriate, gives a new date of delivery of the ship.

2. If the parties fail to reach an agreement, the manufacturer shall make the changes imposed, going to court to fix the corresponding modifications of the contract regarding the price and deadline.

Article 248

Price of amendments

Unless the parties otherwise agree, the cost of any changes to the construction project, legal or conventional, must be paid under the same conditions of the initial price.

Article 249

Experiences

1. During the construction, the ship and its equipment shall be subject to the experiences provided for in the contract and applicable law, as well as those imposed by the services of the maritime administration in charge of the inspection of the technical condition of vessels.

2. The manufacturer shall inform, in advance of 30 (thirty) days, the owner of the experiences of the construction program

3. The cost of the experiments referred to in this Article shall be borne by the construction, except those relating to the crew.

Article 250

Defects found during the experiments

The manufacturer should address the defects detected during the examinations and experiences and the dismantling and checks that are considered necessary.

Article 251

Delivery and acceptance of the ship

1. The delivery of the vessel shall be made in the manufacturer's yard, after conducting all the experiments and inspections and obtaining approval from the relevant administrative services

2. Upon the delivery, the vessel must be provided with the devices, dressings, lifesaving appliances, accessories and spare parts, in accordance with the provisions of the construction contract.

3. The owner of the construction that does not accept the ship in due deadline incurs in credit arrears under the civil law.

Article 252

Instructions and information

The manufacturer must provide the owner of the construction, at the ship's delivery date:

- a) The vessel's certificates and equipment; b) Instructions and technical information books; c) Plans;
- d) Instructions and information relating to driving;
- e) Inventories and lists of the parts of the ship; and
- f) Other documents eventually provided for in the construction contract.

Article 253

Withdrawal of the ship from the shipyard

The owner of the construction must remove the ship from the manufacturer's shipyard within 10 (ten) days from the date of acceptance, or other agreed deadline, when applicable, in the event of failure to comply, the provisions of paragraph 3 of Article 251.

Article 254

Right of retention

The manufacturer has the right of retention on the ship as credit guarantee arising from its construction.

Article 255

Warranty

1. The manufacturer must offer a guarantee of the ship's construction defects for a period of 1 (one) year from the date of acceptance.
2. In case of default resulting damage occurred during the warranty period, the manufacturer is required to correct the defect or replace the defective equipment.
3. Where it is not possible to reach the ship manufacturer's yard or when it clearly results inconvenient, the constructor carries out the repair or substitution of equipment, in an appropriate place.

Article 256

Complaint of defects

1. The owner of the construction, subject to revocation of the rights conferred in the following articles must report the builder of the construction defects, within 30 (thirty) days to its knowledge.
2. The recognition of the existence of defects by the manufacturer equals to a complaint.

Article 257

Elimination of defects

The results of the tests and their approval by the owner of the construction and the ship's acceptance without reservations does not relieve the manufacturer's responsibility to correct the defects.

Article 258

Failure to eliminate the defects

Failing to eliminate the defects, the owner of the construction may require a price reduction, according to judgements of equity, or the termination of the contract, if those make the ship inadequate for the purpose it was intended.

Article 259

Compensation

The rights conferred in the preceding Articles do not exclude the right for compensation in the general terms.

Article 260

Expiry

1. The rights granted in preceding articles expire if they are not exercised within 2 (two) years from the delivery of the ship.
2. In case of latent defects, the deadline prescribed in the preceding paragraph shall be counted from the construction owner knowledge.

Article 261

Plurality of manufacturers

The provisions of this Chapter relating to the construction contract apply, with the necessary adjustments, in the case of through independent contracts, the work will be awarded to different manufacturers, assuming each of them is in charge of a part the construction.

CHAPTER III

Ship repair contract

Article 262

Regime

It is applicable to the ship repair contract, with the necessary adjustments, the construction contract regime.

CHAPTER IV

Purchase and sale contract of vessel

Article 263

Subject of the purchase and sale

1. The purchase and sale agreement should include a detailed inventory of all elements available for sale with the ship.
2. Unless otherwise agreed, the sale of the ship complies with all its parts.
3. The differences arising as to the determination of the ship's components must be resolved, if possible, according to the content of its registration.

Article 264

Form and effectiveness against third parties

1. The purchase and sale of the must be done in writing with the signature recognized by a notary or Cape Verdean consular authority
2. Failure of notary or consular recognition of the signatures on the contract of purchase and sale of ship becomes ineffective against third parties

Article 265

Transfer of ownership and risk

1. Unless otherwise agreed, the buyer acquires the ownership of the vessel upon delivery.
2. Unless otherwise agreed, the loss and accidental damage suffered by the ship are supported by the seller at the time of delivery.

Article 266

Repair

1. The seller is responsible for compensation for eviction and hidden defects, as long as they are discovered within 3 (three) months from the ship's material delivery and the buyer notifies the seller within 5 (five) days of discovery.
2. The action for compensation hidden defects expires within 6 (six) months from the complaint.

Article 267

Application to other businesses conveying ownership

With the necessary adjustments, the provisions of this Chapter shall apply to any other legal businesses conveying ship ownership.

TITLE V

MORTGAGES AND MARITIME PRIVILEGES

CHAPTER I

General provisions

Article 268

Applicable regime

1. The maritime privileges and maritime mortgages on national vessels shall be governed by the provisions of this Title or, alternatively by the provisions of the civil law.

2. The maritime privileges and constituted maritime mortgages on foreign ships are governed by the law of the country of its nationality.

Article 269

Extension of the mortgage or privilege

1. Unless otherwise agreed, the maritime lien or a mortgage on the vessel comprises all its constituent parts, even temporarily some are not on board of the ship.

2. The equipment are on board and belonging to another person other than the ship owner exempt.

Article 270

Right of pursuit and transmission

1. While not extinct, the privileges and maritime mortgages accompany the ship even if it changes ownership or nationality.

2. The transmission of a privileged maritime claim title or mortgage equally conveys the privilege or mortgage.

Article 271

Legal personality of the ship

1. The ship on which rests the privilege or mortgage accounts to the lender on the same terms that to which the owner would answer.

2. For the purposes of the preceding paragraph, a legal personality is attributed to the ship, leaving its representation in court to the owner, the captain or his substitute, to the shipowner or its manager and the shipping agent who requested the dispatch of the ship.

Article 272

Competence of Cape Verdean courts

The Cape Verde's courts have international jurisdiction over matters relating to privileges and maritime mortgages in the following cases:

- a) If one of the parties in court has the Cape Verdean nationality;
- b) If the event that the credit was created in national territory;
- c) If the ship on which bears the credit is in the country;
- d) If the ship on which bears the credit has been the subject of injunction ordered by Cape Verdean court; and
- e) If a security or collateral have been given in Cape Verde.

CHAPTER II

Privileges on the ship

Article 273

Privileged maritime claims

1. Privileged to enjoy the ship in the following claims in the listed order:

- a) The legal expenses incurred in the common interest of creditors for the conservation of the ship or to execute the sale and distribution of its price;
- b) Tonnage rights, installing headlights and port and other fees and public taxes of the same nature;
- c) Pilot expenses, towing, storage and maintenance of the ship in port;
- d) Claims arising from the crew employment contracts;

e) Salaries of salvation;

f) Compensation for collision or other sailing accidents; for damage caused on the premises and port facilities, docks and waterways; for body injury to passengers and crews;

g) Mortgages in chronological order of their entry in the registry;

h) The compensation for loss, damage or delay in delivery of cargo or luggage;

i) The receivables claims resulting from contracts entered into or carried out operations outside the ship's home port for the ship's conservation needs or the continuation of the journey;

j) The vessel's insurance premiums, its outfits and appliances; and

k) Construction costs, repair or renovation of the ship.

2. In the case of paragraph e) above, the owner of the vessel, if it does not declare general average, it is responsible for paying of the cargo contributions, to which they then will also enjoy the privileges on the ship.

Article 274

Degree of preference of the privileged maritime claims

1. The graduate of the privileged maritime claims is determined in the previous article, with the specialities provided in the following paragraphs.

2. The due reward for rescue prefer the other preferential claims to which they subject the ship in advance to the rescue operations.

3. Within each claim class, the more modern ones have preference over the older ones.

Article 275

Preference in relation to other credits

1. In the case of ships subject to removal, under the terms provided for in Chapter V of Title IV of Book VIII of this Code, they prefer the other privileged maritime claims, the expenses incurred by the maritime administration in carrying out the operations.

2. The privileged maritime claims referred to in subparagraphs a) to f) of paragraph 1 of Article 273 prefer the claim to maritime mortgage.

3. All privileged maritime claims have preference over any other claim with general or special privilege provided for in other laws.

Article 276

Extinction of privileges

Privileges on the ship cease to exist:

a) By the extinction of the privileged claim;

b) By the judicial sale of the vessel, done with the formalities provided for in Title III of Book XI of this Code, in which case the price obtained in the sale is assigned to the payment of the creditor claims;

c) Having passed 3 (three) months from the voluntary sale of the ship, done with quotation of the ordinary creditors and without their having asserted their privileges or contested the sale price;

d) The lapse of 1 (one) year from the date the claim arises or after the date of expiry of the employment relationship in the case of the salaries and other amounts owed to the captain and the crew.

CHAPTER III

Maritime mortgages

Article 277

Mortgage constitution on ships

They may form voluntary mortgages on ships or on ships under construction or to be constructed.

Article 278

Form

1. The mortgages on ships constitute a document writing with notary recognition of the signatures of the granters.
2. The law regulating the instruments referred to in the preceding paragraph is the law of the country in which the instruments are granted.

Article 279

Mortgage of vessels under construction

For the creation of mortgage on vessels under construction or to be constructed, the construction contract should be registered in the Conventional Shipping Registry by presenting the corresponding constitutive title.

Article 280

Mortgage extended to accessory loans

1. The mortgage is extended to the following accessory claims:
 - a) The compensation payable to the owner as a result of the ship's loss or damage caused to it;
 - b) The contributions payable to the owner on the concept of general average; and
 - c) The compensations due to the owner for sea saving, reducing the part of the crew.
2. In case of loss of the mortgaged ship, the rights of mortgage lenders may be exercised over its remains.

Article 281

Order of preference among mortgages

1. Having several mortgages on the same ship, the preference of mortgage creditors is determined by the chronological order of registration.
2. Having various mortgage with the same date of entry in the register, an apportionment shall be done among the beneficiaries creditors.

Article 282

Preference in relation to other credits

Except as provided in Article 275, credit for maritime mortgage prefer to any other so-called creditors with general or special privilege provided for in other laws.

Article 283

Mortgage extinction

A maritime mortgage is extinguished:

- a) By the extinction of the guaranteed credit;
- b) For the total loss of the vessel and consequent cancellation of registration; and
- c) For prescription.

Article 284

Prescription

1. A maritime mortgage action shall expire 3 (three) years from the date on which it can be exercised.
2. The owner of the vessel may request cancellation by expiry of the mortgage application, within 6 (six) years from the expiration, if not on that has been renewed, interrupted prescription or exercised the mortgage action.

BOOK V

SUBJECT OF NAVIGATION

TITLE I

OWNERS AND SHIP OWNERS

CHAPTER I

General provisions

Article 285

Ship owner

1. Ship owner is the one who, under the law, enjoys fully and exclusively the rights of use, enjoyment and disposal of the ship
2. Any individual or legal person may, within the limits of civil law, be a holder of the right of ownership of a ship.

Article 286

Definition of shipowner

1. Shipowner is a natural or legal person, whether it is or not its owner, has possession of a ship, either directly or through the crew, and dedicates to navigation in its name and at its responsibility.
2. When the ship is subject to charter bareboat or other legal transaction involving possession transfer of the vessel, the shipowner is the bareboat charterer assignee or the person of possession.

Article 287

Registration of shipowner

1. The non-owner can enter this condition in the Conventional Shipping Registry.
2. Its request and its application must include:
 - a) The name or business name of the shipowner;
 - b) The legal document that legitimises the possession of the ship;
 - c) The duration of the legal situation; and
 - d) Other requirements determined by the member of Government Ordinance responsible for maritime administration.

Article 288

Presumption

1. Without prejudice to third parties in good faith, if it is not registered, the presumed shipowner of the ship as the owner registered in the Conventional Shipping Registry, unless proven otherwise.
2. In the case of recreation boats, that are not registered, the shipowner is the owner of the ship.
3. If the ship is not entered in the registry, the shipowner is its owner without possibility of proving otherwise.

Article 289

Shipowner's Liability

1. The owner responds civilly any third party for unlawful acts, or their auxiliary for the operation, navigation and ship service, performed in exercising of its functions.
2. It is understood by auxiliaries, as dependent of the shipowner employed on board or ashore, as well as their representatives.
3. The preceding paragraph is without prejudice the right of establishing limits on liability under Book IX and other cases provided for

in this Code.

CHAPTER II

Shipowning companies

Article 290

Shipowning companies

1. Owners of commercial vessels can be armament companies regularly constituted under the commercial law.
2. The companies referred to in the preceding paragraph shall be subject, as its constitution, legal person, operation, modification and dissolving of the regulating standards of the type of commercial society that is adopted.

Article 291

National shipowning companies

The exploitation of merchant ships is done by national shipowning societies in the cases and under the terms established in Book VI of this Code.

CHAPTER III

Exploring in joint ownership

Article 292

Presumption of Shipowning Company

When the co-owners of a merchant ship the operating jointly means by operation of law, constituting a shipping company, that, unless otherwise agreed in writing, shall be governed by the provisions in this chapter and in the absence thereof, the regulatory standards of societies en commandite and contract accounting on participation.

Article 293

Resolutions

1. Decisions concerning ship operation are taken by the majority of co-owners that represent the major part of the ship's value.
2. The vessel cannot be disarmed nor mortgaged except by resolution passed by a majority of two thirds (2/3) of the co-owners representing two thirds (2/3) of the ship's value.
3. The decisions taken by majority may be challenged by the joint owners who have been defeated in cancellation of the proposed action on the ship's port of registry of the court, on the grounds of procedural defect or that the contested decision is contrary to good operation of the ship.

Article 294

Inability of agreements

In case it is not possible to form majority or successive annulling of majority decisions, the court may, at the request of one of the joint owners, appoint an interim manager or order the bidding of the ship, or take both steps.

Article 295

Ship management

1. Most of the co-owners representing most of the ship's value can trust the administration of the vessel to one or more managers, who may be someone other than the ownership.
2. The mandate of managers is revocable only with grounds for faults committed by them affecting the good operation of the ship.

Article 296

Description of the managers in the conventional registration

1. The appointment, resignation or mandate the revocation of managers only take effect only in relation to third parties after conventional entered in ship registry.

2. Lack of registration in the preceding paragraph makes all the ship-owners to be reputable managers.

Article 297

Managers Powers

1. The managers have all powers to explore the ship on behalf of the joint owners.
2. In case there is more than one manager, they should all act in joint agreement.
3. Any contractual limitation of the managers' powers is ineffective against third parties.
4. The captain of the vessel shall follow the instructions given by managers without prejudice to the provisions of article 380.

Article 298

Participation in the profits and losses

The co-owners participate in the profits and losses derived from the ship's operation in proportion to the value of their shares.

Article 299

Joint liability

1. The co-owners are jointly and severally liable for the unlawful acts of the managers, captain and other auxiliary service of the ship, in the exercise of their functions.
2. They still jointly respond to third parties for obligations assumed by the managers on behalf of the ownership.

Article 300

Right to reimbursement of the joint owners

1. The co-owners are entitled to reimbursement for the amounts paid for the benefit of the company, unless the payments are made against the expressed decision of the other joint owners.
2. The joint owners must reimburse the amounts paid to third parties due to its solitary liability to the extent that they exceed the proportionate share corresponding to its share.

Article 301

Alienation and charges of the shares

1. With the exception of naval mortgage, which can only fall on the entire ship, and unless otherwise agreed, the co-owners can freely dispose of and tax their respective shares in the property.
2. The joint owner that transfers its part remains responsible for debts incurred by the co-ownership before the transfer.
3. The acts of transfer of quotas and charges are registered on authentic or authenticated document, in sanction of newness, and are only effective against third parties after being registered in the Conventional Shipping Registry.

Article 302

Rights of investigation and annulment

1. In the case of sale of a share to a foreign society, the other co-owners have the right to investigate and annul the sale.
2. Several joint owners exercising the rights referred to above, the share is acquired by them in the proportion to their quotas.
3. The right of inquiry may be exercised within 9 (nine) business days from the date that the person concerned co-owner became aware of the sale, the identity of the buyer, price, form of payment and the essential conditions of the sale.
4. The right of cancellation may be exercised once the sale has taken place without prior notification to the joint owners or conditions other than those notified within the period specified in the preceding paragraph, of the date that the interested co-owner had knowledge of the sale or of entry in the conventional ship register.
5. In order to exercise his right to investigate and set aside, the purchaser or purchasers judicially should consign the sale price.

Article 303

Dismissal of joint owners who are part of the crew

1. The co-owners that form a part of the crew of the ship may in the event of redundancy, require the purchase of their shares by the other joint owners.
2. The price is set by the agreement and, failing that, by the court.

Article 304

Dissolution and liquidation

1. The armament company dissolves the expiry of the period agreed for its duration, the decision to terminate its operation or its sale, taken by the majority provided for in Article 2 of the number 293 and by the ship's loss.
2. The dissolution of the company may also be enacted by the judicial authority of the ship's port of registry at the request of co-owners representing at least half the value of the vessel, if that authority is considered justified.
3. The death, incapacity or insolvency of a co-owner does not determine the dissolution of the arms company.
4. For the liquidation of assets, mutatis mutandis, the provisions governing these transactions in commercial companies are applied.

TITLE II

MANAGERS, MARITIME AGENTS AND FREIGHT FORWARDER

CHAPTER I

Shipowner managers

Article 305

Concept

1. Notwithstanding the provisions of Chapter III of the previous title, all the shipowners, whether physical or legal person, may entrust a manager for the management of their merchant ships.
2. It is understood as naval manager or manager of the shipowner, the assistant who, in exchange for a fee, is contractually committed with the owner to manage, on his behalf, all or some of the aspects involved in operating a merchant ship, such as the commercial management, nautical, technical or ship's insurer.

Article 306

Performance of the manager's obligations

1. The relationships between the owner and its manager are governed by the established in the management contract and, failing that, by the regulatory norms of commercial agency contract.
2. The manager must meet its obligations and take care of the owner's interests with due diligence to a loyal representative.

Article 307

Representation before third parties

1. In its relations with third parties, the manager should manifest partying its shipowner's representative status, setting forth the identity and address of the latter on how many contracts it celebrates.
2. If the manager does not celebrate contracts in accordance with the preceding paragraph, it is jointly liable with the shipowner's obligations on his behalf, but, save for the provided in the following article, third parties are not obliged before the owner.
3. For instruments of transfer or mortgage of the ship must possess and display special powers.

Article 308

Special arrangements for representation of the notorious managers

1. Who is publicly and notoriously known as permanent manager of a shipowner, in the ports or other places where it has its residence, it obliges the shipowner in all its acts relating to ordinary navigation or operation of the ship.

2. No contractual limitations of his powers is enforceable to third parties who do not know it or could not know it, exercising the due diligence.

3. Nevertheless, the notorious managers must possess and display attorney with special powers for acts of alienation or mortgage of the ship.

Article 309

Non-contractual liability

The manager is jointly liable with the owner for the damages that cause tort to third parties as a result of its unlawful acts or their dependants while exercising their functions, subject to the right to either limit the liability as established in Book IX of this Code.

CHAPTER II

Maritime agents

Section I

General Provisions

Article 310

Concept and functions

1. Maritime agent, or agent of the vessel, is one that when representing the owner, is in charge of the materials and legal managements required for dispatch and other obligations of the ships in port.

2. In the case of merchant vessels, the shipping agent is also in charge of hiring maritime transport and receiving goods from shippers and delivers them to the recipients in the ship's dockage in port.

3. The shipping agency activity may be exercised only at ports where it has its headquarters or a permanent branch.

Article 311

Compulsory

1. All foreign ship shall have a maritime agent in the national ports, except for recreational boats, which can be directly represented by its owner or captain.

2. The regulations adopted by the Government member responsible for the national maritime administration can establish the same obligation for certain classes of national ships.

3. All the notices or citations, judicial or extra-judicial, intended for the owner may validly be made in person and address of its shipping agent, including after the departure of the ship from the consigned port.

4. Notwithstanding the provisions of the preceding paragraphs, the functions of the maritime agencies can be directly implemented as compared to their ships by the shipowners who have their headquarters or permanent branch in the port of range of ships.

Section II

Access to the business and administrative control

Article 312

Business access requirements

1. Access to the shipping agency business depends on the entry in the register of the maritime agencies to the interested party that is requiring and obtaining the corresponding shipping agent license.

2. The registration of shipping agencies, is a service of the National Maritime Administration, which is responsible for drawing up the application and issuing the shipping agent's license.

3. The registration referred to in the previous paragraph depends on the cumulative verification of the following requirements:

- a) To be constituted as a trading company and have as exclusive object the exercise of their activities as a shipping agent;
 - b) Have a minimum capital which is established in the regulations approved by the Government member responsible for maritime administration;
 - c) Have staff, appropriate facilities and equipment; and
 - d) Have a technical manager with the proper experience or training.
4. The application requesting the registration is sent to the registration service and shipping agency, accompanied by the documents provided for in the regulations approved by the member of the Government Ordinance responsible for maritime administration.
5. The national maritime administration must rule within 30 (thirty) days from the date of receipt of the documentation, and the lack of response in the aforementioned deadline, it amounts to tacit approval.

Article 313

Shipping agent license

1. When carrying out the registration in the maritime agencies registration, the national maritime administration issues the license for exercising their maritime agent activity and it must be renewed annually.
2. Issuance and the annual renewing of the license shall be subject to payment of a fee fixed by joint decree of the Government members responsible for finance and maritime administration.

Article 314

Coordination and administrative supervision

1. It is up for the national maritime administration to coordinate and the administrative supervision of the activities of maritime agencies, as well as ensuring the compliance with applicable legal provisions.
2. The maritime agents shall communicate to the national maritime administration of any changes that may occur in connection with the requirements demanded for the entry in the register and obtain a license.

Article 315

Maximum tariffs

The Government member responsible for the national maritime administration may fixate, through the Decree and prior consultation of the shipping agents or their associations, the table of maximum tariffs to be applied when providing their services.

Article 316

Subscription cancellation

1. The registration in the maritime agencies registration is cancelled:
- a) When is extinguished for any reason, the holder company;
 - b) When the holder company is judicially declared bankrupt; and
 - c) When the company fails to meet the requirements in Article 312 and does not rectify the situation within 6 (six) months.
2. The cancellation of the registration can be done automatically, with the prior consultation of the targeted agent being mandatory.
3. The cancellation of the shipping agencies registration automatically determines the expiry of the license for the activity.

Section III

Rights, duties and responsibility of the agent

Article 317

Relationships with the shipowner

1. The internal relationships between the shipping agent and the shipowner are governed by the provisions in the signed agency agreement and failing that, the regulatory standards of the commercial mandate.

2. The agent must meet its obligations and take care of the ship's interests with due diligence to a loyal representative.

Article 318

Duties of the shipping agent

In addition to the duties assumed towards the owner by virtue of the agency agreement, the maritime agent has the following duties:

- a) To facilitate the national maritime administration and port management to provide the statistics and other information that are requested in accordance with Ordinances adopted by the Government member responsible for the maritime administration;
- b) To maintain, within legal limits, the professional secrecy in relation to facts that justify it and which it has knowledge due to their activities;
- c) To collaborate with the local maritime administration, the port administration and with the public services in compliance with or enforcement of the order of entry and exit and other formalities related to the dockage in the ships' port of its consignment;
- d) Comply with the rules of operating the port and inform the shipowners and captains about them; and
- e) Take, for all lawful means to protect the interests in their charge.

Article 319

Shipowner representation

- 1. Concerning owner of representation shall apply to the shipping agent the rules laid down in Articles 307 and 308 for the shipowner manager.
- 2. The consignee can sign for the shipowner the letters and the corresponding bills of lading for the goods loaded on the ship and state the name and address and are in charge for the transport jointly with the shipowner whenever it omits the names and address of the transport.
- 3. The preceding paragraph shall also apply in cases where the shipping agent signs the knowledge of boarding at the freighter's carrier account.

Article 320

Non-contractual liability

The maritime agent is jointly liable with the shipowner for the damages that cause tort to third parties as a result of its unlawful acts or their dependants while exercising their functions, subject to the right to either limit the liability as established in Book X of this Code.

Article 321

Liability for damage to goods

The maritime agent is not liable for the recipients of the unloaded goods, the compensation for damages, losses or delays incurred during the maritime transport unless they are caused by its fault or their dependants.

Article 322

Joint liability for port charges

Failure of payment by the shipowner or captain, the maritime agent that is personally responsible for the payment of the nautical port services and other rights or port charges.

Article 323

Application to the agents of charterers and owners

With the exception of the obligation referred to in paragraphs 1 and 2 of Article 311, the provisions of this Chapter apply also, with the necessary adaptations, to the shipping agents appointed by the charterers or owners that are not the shipowners of the vessel.

CHAPTER III

Freight Forwarders

Section I

Concept, rights, duties and responsibility

Article 324

Concept and functions

Freight forwarder is considered to be the person that is professionally dedicated to provide, to third parties, the services of planning, control, coordination and management of operations necessary for shipment, receipt, distribution and transport of goods or merchandise.

Article 325

Internal relationship between the freight forwarder and its customer

1. The rights and obligations of the freight forwarder towards the holder of goods or assets who hires its services are those resulting from the contract, which does not always counter the provisions of this Chapter.

2. In the alternative and in the absence of agreement, the standards governing the commercial mandate contract shall apply.

Article 326

Contracting with third parties

1. In contracts with third parties for the provision of the service, the freight forwarder can act in their own name or in the name and on behalf of others, expressing it in the contract.

2. When the freight forwarder indicates in the contract the person he is hiring, the latter is the holder of the corresponding rights and obligations.

3. In cases where the freight forwarder declares that it acts in its own name or omits in a statement whom it hires, the freight forwarder, for all purposes, is the sole holder towards third parties of the rights and obligations derived from the contract.

Article 327

Scope of representation power of the freight forwarder

1. The freight forwarder can perform all the necessary or appropriate acts for the normal provision of services referred to in Article 325, except those specifically excluded in the contract or the delegation document.

2. Third parties are entitled to ask the freight forwarder to display the contract or delegation document.

Article 328

Rights of the freight forwarder

The rights of a freight forwarder are as follows:

a) Perform all activities related to his power of representation;

b) Exercise the right of lien on the goods or assets entrusted to it as a guarantee of credit payment to which it is the holder in respect to services rendered to the owner of such goods, unless otherwise expressed under the contract;

c) Accept, on its own behalf or on behalf of the client or recipient of the goods to which the provision of services is focused on, any legitimate form of defence of the corresponding interests; and

d) Exercise in general, any other functions relating to the provision of freight forwarding services.

Article 329

Duties of the freight forwarder

The duties of a freight forwarder are as follows:

a) Comply with all legal obligations, including the regulatory exercise of his activity;

b) Continuously perfect the provision means of his services in accordance with the techniques and knowledge best suited for this purpose;

- c) Keep professional secrecy regarding the facts brought to his attention as a result of the exercise of its activity;
- d) Refrain from performing acts of unfair competition;
- e) Accept, for all lawful means, the protection of interests entrusted to him.
- f) Collaborate with public services in compliance and execution of the procedures imposed on the goods or goods entrusted to him; and
- g) Exercise, with care and diligence, all the functions relating to the provision of freight forwarding services.

Article 330

Liability Regime

1. The freight forwarder is civilly liable for damages caused while exercising its activities, in accordance with general terms of the law.
2. Civil proceedings against the freight forwarder should be exercised within 9 (nine) months from the date of providing the services.

Article 331

Acting as carrier

When the terms of the contract drawn with his client, results in the fact that the freight forwarder is required to conduct himself as shipping, whether employing means himself or subcontracting others means, he has the legal status of a carrier and shall answer to such directly to its customer, whereby the provision of transport and the rules governing maritime transport of goods contract are applied.

Section II

Access to the market and administrative control

Article 332

Licensing

The exercise of the freight forwarder business requires a license granted by the National Maritime Administration.

Article 333

Licensing requirements

1. The licenses to exercise forwarding activity can only be granted to regular constituted commercial companies that cumulatively meet the following requirements:
 - a) Have a registered capital of no less than 5,000,000\$ (five million escudos), fully paid;
 - b) Have a technical director, who may or may not be one of the administrators or managers of the company, but must work on a full-time basis and have the appropriate professional experience in the business;
 - c) Prove the commercial and civil suitability of administrators, directors or managers, where the individuals who have been banned from trading or are judicially declared insolvent, are not considered commercially and civilly suitable; and
 - d) Have a properly identified office and suitable for the development of its business;

Article 334

Licensing request

1. The licensing request for the freight forwarding activity should be directed to the maritime administration and these should include:
 - a) Identification of the applicant company;
 - b) Identification of the administrators, directors or managers;
 - c) Identification of the technical director;
 - d) An indication of the capital and its execution; and
 - e) Office location, which must be accompanied by property title certificate or copy of the lease

2. The request must also be accompanied by the following documents:

- a) Deed certificate of the constitution of the company;
- b) Company registration certificate issued by the Commercial Registry Office; and
- c) Copy of the liability insurance policy issued on terms to be determined by the Ordinance foreseen in the following article.

3. Requests in regards to administrators, directors or managers, must be accompanied by:

- a) Criminal registration certificate; and
- b) Certificate proving the commercial registry of not being inhibited from exercising the commerce.

4. The national maritime administration must decide within 30 (thirty) days from the date of request.

5. The licenses are to be entered in the seaman’s book, whereby its models shall be established by the Ordinance of the Government member responsible for the maritime administration.

Article 335

License issuance fee

The issuance of the freight forwarder licence is subject to payment of a fee to be determined jointly by the Government members responsible for finance and maritime administration.

Article 336

Duty to report changes

Changes subsequent to the licensing, related to the company, administrators, managers or technical director, must be reported by the holder to the national maritime administration, within 60 (sixty) days after the date of its occurrence.

Article 337

License Cancellation

1. The freight forwarder companies that no longer meet the requirements of this Code should regulate their situation within 180 (one hundred eighty) days, otherwise their licenses are cancelled.

2. The cancellation from the preceding paragraph is the responsibility of the national maritime administration, who shall hear, for this purpose, the target freight contracting company.

TITLE III

SEAFARERS

CHAPTER I

General provisions

Section I

Scope, concepts, classification and regime

Article 338

Scope of delivery

1. The provisions of this Title shall apply to merchant ships.

2. Through a joint ordinance of the Government members responsible for the areas of maritime administration and fisheries, it is possible to establish exceptions to the predictions of this Title, or regular specialities relating to the crew of fishing vessels.

Article 339

Concept of seafarers and crew

1. Seafarers are considered as workers who provide their employment on board of ships dedicated for maritime navigation and are holders of a seaman's book.

2. The set of seafarers, when exercising their activity on board, are considered as crew.

3. The crew members are considered as auxiliary depending on the shipowner and are hierarchically organized on board under the higher authority of the captain.

Article 340

Crew classification

1. In attention to the classification of crew members, they are classified as:

- a) Captain;
- b) Officers;
- c) Master; and
- d) Seafarers;

2. Considering the nature of their functions, the crew members are part of the following departments:

- a) Deck or bridge;
- b) Machines;
- c) Radio;
- d) Management and services; and
- e) Health.

Article 341

Labour regime of seafarers

1. Notwithstanding the provisions of this Code, the labour relationships of seafarers, providing their services in national vessels are governed by the provisions applicable to them contained in the Labour Code of Cape Verde.

2. Safety and hygiene at work on board national ships are governed by the special national legislation on the subject.

Article 342

Criminal conduct

The criminal acts committed by seafarers while performing their duties on board the vessels, and their imposed criminal sanctions are governed by the provisions of the Penal Code of Cape Verde.

Article 343

Prohibition of own business

Crew members of merchant ships cannot carry goods on their own without the consent of the shipowners and without paying freight, unless something else is stipulated in their employment contract.

Section II

General requirements of the crew

Article 344

Minimum age

1. The minimum age to join the crews of national vessels, including the master station is 16 (sixteen) years.

2. One must be at least 21 (twenty one) years old to be a captain of a national ship.

Article 345

Physical aptitude

1. In order to be part of the crew of a national ship, the crew must have the physical fitness aptitude necessary, depending on the class and characteristics of the vessel, navigation and the category and department that will provide their services.

2. The physical aptitude is proved by a certificate of physical aptitude, issued by the health authorities and must be periodically renewed.

3. The requirements for the issuance or renewal of the certificate of fitness aptitude, the corresponding framework of diseases or defects that prevent its issuance and other circumstances relating to physical aptitude are the subject of joint regulation of Government members responsible for health and maritime administration.

Article 346

Nationality of crew members

1. The crews of national vessels must have Cape Verdean nationality.

2. Notwithstanding the preceding paragraph, the National Maritime Administration may authorize the boarding of a foreign crew, distinct from the captain, when the shipowner proves that there is no national crew available with the required aptitude and professional qualification, as well as in special cases or in acknowledged need.

3. Exercising the post of captain should be necessarily played by Cape Verdean nationals, except in the case of fishing vessels in which foreign boarding is allowed in exceptional and duly justified cases.

4. In any case, foreigners wishing to undertake their activity on board a national ship must have the recognition of their professional competence certificate which, in this case, consideration to category, department and corresponding to that activity is required.

Article 347

Hiring of non-nationals in foreign ports

1. The captain can hire foreign crew members in number necessary to complete the minimum crew safety, when he is in foreign ports and the crew is reduced due to illness or other force majeure.

2. The hiring referred to in the preceding paragraph is only valid until the ship is at its first national port where the foreign crew may be replaced by nationals, notwithstanding the previous article.

Article 348

Vessels where seafarers can provide services

1. The seafarers can perform official functions or master, in the classes of ships and endorsed departments in their respective seaman's book, according to the tasks that match their professional certificates.

2. The seafarers posts whose performance does not require professional competence certificate may be exercised by seafarers in any class of ships and departments and thus is included in their seaman's book.

Article 349

Documents of the crew available on board

Documents relating to the crew, especially the seaman's book, a certificate of physical aptitude and professional competence certificates must be available on board for eventual control purposes by national or foreign competent authorities.

Section III

Minimum crew safety

Article 350

Concept and Certification

1. Minimum crew safety is understood as the minimum number of crew members of different categories and departments and with

adequate professional competence certificates, which is considered essential so that the ship can navigate in the proper safety conditions and without risking the marine environment, without having the crew members do working hours whose duration exceeds the legally established.

2. The Maritime Administration sets for each national ship, a minimum crew safety taking into account its class and features, multi-purpose preparation of the crew, the automation degree and other navigational, technical and organizational conditions of the on board work.

3. The Maritime Administration issues a "Minimum Crew Safety Certificate", which must be on board and be displayed before the state authorities of the port visited by the ship, when requested.

4. Except in exceptional cases, ships may not be dispatched if they lack such certificate.

Article 351

Modifications and exemptions

1. Where the circumstances so warrant, the Maritime Administration may modify the minimum crew safety, in which case it should proceed to the replacement of the corresponding certificate.

2. When the shipowner proves that there are no seafarers available in the required categories and departments to form the minimum crew safety, the maritime administration may allow replacements of seafarers of lower category, whenever the qualification of these is considered sufficient to ensure the safe navigation and protection of the marine environment.

3. In cases provided for in international conventions in force in Cape Verde, it is possible to issue an exemption certificate.

Article 352

Additional crew

The shipowners can form their crews to the number and crew class according to their interests, always complying with the established minimum crew safety.

Section IV

Recruitment, boarding and disembarkation

Article 353

Recruitment

1. Recruitment is the process by which a shipowner selects and hires a seafarer to perform the functions integrated on board the crew of a ship.

2. Notwithstanding the following Articles, the recruitment is free and can be done directly in the labour market or through recruitment and placement agencies or agents or managers of shipowners.

3. Only seafarers that are holders of valid seaman's book can be recruited and that are qualified with the qualifications and certificates required by the respective national and international legislation for exercising the activity corresponding to the category or function that they will perform.

Article 354

Reward for seafarers

No recruitment exercise can lead to that seafarers pay a fee, directly or indirectly, to an agency, manager or any other physical or legal person for its placement services or intermediation in shipping contracts.

Article 355

Duties and responsibilities of recruiters

1. The agents, managers and other recruiters who hire national seafarers in Cape Verde in order to provide services in foreign vessels are mutually responsible with the shipowner for the compliance of the contract.

2. The persons mentioned in the preceding paragraph shall have insurance in an amount equivalent to those laid down in the national law in cases of death, disability by accident and repatriation, under penalty of paying directly for the damages arising.

Article 356

Boarding and disembarkation of seafarers

1. Seafarers boarding is understood as the process or set of procedures intended to stabilize its registration on the list of the crew of a ship and disembark is understood by the temporary or permanent disassociation of a crew member from the crew list and on board service.
2. The crew list must include, at the least, the number and qualification of the crew required in the certificate of minimum crew safety, except in duly authorized exceptional situations.
3. The matter related to boarding and disembarkation of seafarers, as well as the crew list shall be subject to specific regulations, approved by the Government member responsible for the maritime administration.

Article 357

Disembarkation ticket

1. The disembarkation ticket is an official document of departure of one or more crew members from the crew list, where it should be mentioned, in an unequivocal way, the justification of the disembarkation reasons, taking into consideration the technical and legal implications that it may incur.
2. The disembarkation ticket cannot have any mentions relating to the quality and professional competence of the crew or disciplinary sanctions eventually applied to it.
3. The disembarked crew member has the right to ask the captain for a written statement regarding the quality of their work or indicating at least that he has complied with the contractual obligations.

Article 358

Bystanders to the crew

1. Family accompanying-, occasional technicians or other persons who are not seafarers or are not part of the crew can also embark, as long as the ship is warranted with the existing rescue equipment and their boarding and disembarking is communicated to the local authority
2. The persons referred to in the preceding paragraph shall be under the captain's authority as for the on board order and discipline and in all that relates to the performance of its public functions.

CHAPTER II

Captain

Section I

General Provisions

Article 359

Captain and skipper

1. The captain is a seafarer who has command of the crew and is in charge of the government and expedition on the ship.
2. A skipper is a seafarer that has command of a vessel that is governed by the provisions of this Chapter mutatis mutandis, as long as it is not subject to self-regulation by the Government member responsible for maritime administration.

Article 360

Appointment and dismissal

1. The shipowner of a national vessel can freely name the captain as long as the nominated person is qualified and has the age requirements, certification, physical fitness, experience and nationality required by this Code and applicable regulations.
2. In order for the nomination of the captain to take effect it requires the approval of the Maritime Administration pursuant to the Ordinance adopted by the Government member responsible for the maritime administration.
3. Nominating skippers does not require approval under the preceding paragraph.
4. The shipowner may dismiss the ship master at any time, notwithstanding the rights and obligations under the employment contract.

Article 361

Replacement during navigation

1. The Captain is, in his absence, replaced by the most senior official nautical crew, or if such person is absent, he shall then be replaced by the chief engineer officer.

2. The person to replace the captain has the same rights and duties during the tenure of his time.

Article 362

Functions

From the moment of his homologation, the captain shall exercise the following functions:

- a) Public Functions;
- b) Nautical functions; and
- c) Commercial functions.

Article 363

General duties of the captain

Notwithstanding the other duties set forth in the provisions of this Code, the captain's obligations are as follows:

- a) Do good stowage, storage, security and delivery of the cargo;
- b) Embark the trip in the first favourable opportunity as soon as all the necessary things it needs are on board;
- c) Bring the ship to its destination;
- d) Remain on board during the trip, whichever the danger may be;
- e) Take over pilot control in all the bars, coasts and stops where the law, the use and prudence may require, observing the regulations of the port;
- f) Call the council of the chiefs of the crew, shipowners and shippers that are on board, or their representatives, on any important event that might endanger the ship or vessel or the load;
- g) Employ all the diligence in order to save and keep the money, goods and valuables, as well as orders and ship's papers, whenever the captain abandons ship;
- h) In case of dumping, preferably sacrifice the objects of lesser value, the less needed on ship, heavier and, in general, those which may affect safety;
- i) Take the necessary precautions for the preservation of the vessel or appraised cargo, foreclosed or detained by any reason whatsoever;
- j) Avail, during the trip, of all occasions to give to the shipowners, or their representatives, at the ports of entry or forced entry, the news of the trip events, exceptional expenses for the benefit of the vessel and any funds for this purpose raised ; and
- k) Present log books to those interested in sea shipment wishing to examine them, giving their consent to take copies or extracts.

Article 364

Captain's responsibility

1. The captain is responsible for that damages that he may commit when performing his duties, whether by negligence, malpractice or other unlawful acts, unless in case of fortuitous events or force majeure.

2. Crew members, overload and the pilot are not employees of the Captain, whereby he is so not civilly responsible for the damages that they may cause to the ship or to third parties.

Section II

Duties related to the public functions

Article 365

Security and discipline on board

1. The captain has over the people on board and during the journey, the necessary powers to ensure the safety of the people or property and the success of the maritime expedition.
2. The captain always holds and especially in situations of danger actions, fire, collision, stranding, grounding or other accident, the greatest serenity and discipline, avoiding by all means at its disposal that the crew and passengers proceed in order to harm the rescue measures or any others appropriate to the situation.
3. The crew members and others people that are on board must obey the captain's orders, subject to the right to make claims they consider relevant before the Maritime Administration or competent court as soon as the ship reaches port.

Article 366

Registration of acts performed during the navigation

1. The ship's captain is required to register in the logbook the acts committed on board, as he understands to constitute a crime or administrative offence
2. The seating is signed by the captain and by the person concerned, or, in case it denies, it is signed by 2 (two) witnesses.
3. As soon as the ship arrives at the port, it must deliver certified copy of the registry in the journey log, other evidentiary elements and documents, to the local maritime administration, being the national port, or to the Cape Verdean consular or diplomatic authorities, being foreign port.

Article 367

The captain as a public official

1. The captain has, during navigation and as a public official, the powers conferred by civil law on births, marriages, wills and deaths on board and shall draw up the respective minutes in the logbook.
2. In the case of disappearance of people during the navigation, the captain shall instruct the summary information of what took place, consigning the circumstances of the disappearance and search and rescue measures adopted in the main logbook.

Article 368

Deaths on board

1. Before the death of a person on board during the navigation and in the absence of health department staff, it is the responsibility of the captain to issue the death certificate, but not sooner than the 24 (twenty four) hours after the moment in its view, happening unmistakable signs of death.
2. The captain takes the papers and belongings of the deceased, and must be assisted by 2 (two) officers of the ship and (two) witnesses, preferably passengers.

Article 369

Destination of corpses

1. After issuing the death certificate, the captain take the measures necessary to preserve the corpse on board, until the arrival of the ship at the first port after the death, handing it over to the competent health authorities, in collaboration with the Maritime Administration, adopting the appropriate measures.
2. In the case of docking at foreign port the Captain communicates the death to the Cape Verde consul or diplomatic representative who takes the measures that the circumstances require for landing or keeping the corpse on board.
3. Notwithstanding the preceding paragraphs, making it impossible for proper keeping on board, the captain can decide to throw the corpse overboard.
4. The throwing of the corpse to the sea should be in the logbook, indicating the date, time, geographical location and the presence of at least 2 (two) witnesses, properly identified and signing the diary.

Article 370

Delivery of goods and documentation

1. The inventoried goods, documentation and certified copy of the minutes of birth, death, marriage or disappearance of persons, as well as wills granted or received on board to be delivered by the Captain to the maritime administration or consular authority, at the first port with the registration of the delivery circumstances in the logbook.
2. The seat of these materials drawn up by the captain in the logbook has the value of public document.

Article 371

Reporting accidents during navigation

The captains of national ships must promptly report and at the quickest means possible, to the nearest maritime administration or consular, of all the navigation accident in the ship or caused by it and any other important information affecting the navigation safety or the marine environment, subject to the reporting obligation provided for in art.71.

Article 372

Statements or sea protests

1. In case of forced entry, sinking or other extraordinary event that causes delays in travel or damage caused to the ship, its cargo or passengers, the captain shall, within the 48 (forty eight) hours from arrival at the first port, present the logbook and its statement or sea protest before the local Maritime Administration or diplomatic representative or nearest consulate.
2. The protest or statement shall mention the port and the day of exit, the ship, the travelled route, supported hazards, damage that happened to the ship or cargo, and in general, all the important circumstances of the trip.
3. The competent authority may complete the declaration or the captain's protest with summary information provided by some of the crew and, if necessary, by some passengers, shippers and other interested parties, where considers them useful for further clarification of the facts.
4. The protests or sea statements confirmed by the summary information are a rebuttable presumption of truthfulness of the facts reported in them.
5. The same presumption is the captain's statement, if he is the only one who was saved from the shipwreck.

Article 373

Absence of competent authorities abroad

1. In all cases where, as provided for in this Code, the captain must conduct a performance before a consul or diplomatic representative of Cape Verde and does not do it in the place, it must carry it out before the local authority and when not possible, before a notary public.
2. Captain ratifies the actions provided for in the preceding paragraph, the first port of call in which it meets the Cape Verde Consul or diplomatic representative.

Article 374

Duty of obedience to government ships

1. Except in cases of duly justified force majeure, the captains of national ships must obey orders or instructions given by Cape Verdeans warships or others doing surveillance and inspection.
2. Obedience to orders or instructions remains same when the ships are outside the maritime areas of Cape Verde, without prejudice to the rights and duties that the international law gives the coastal State or the port State.

Section III

Duties relating to the nautical functions

Article 375

Technical steering of the Navigation

1. The captain is in charge of the technical steering of the navigation of the ship, taking its government into effective when it deems appropriate and in particular in the cases provided in the following paragraph.

2. Captain assists the deck and takes directly the steering of the ship on the scales, manoeuvres of arrival and exit of the port and, in general, in all the situations where there is a risk to steer, without prejudice to the rest periods required for the maintenance of their physical abilities.

3. The captain shall become a pilot as long as it is imposed by law or local custom and when circumstances dictate it.

4. In the exercise of its technical functions, the captain must act with due diligence to a prudent seafarer.

Article 376

Measures to be taken in case of danger on board

1. In case of bad weather, sinking risk or other hazards, the captain shall take the measures it deems necessary to ensure the safety of the ship and the salvation of people and goods, looking for safeguarding, carrying out the forced entry or immediately asking for rescue request, being able to ask for it if necessary.

2. If a forced entry is deemed necessary, the captain shall hear the crew officers and the interested parties in charge who are on board and register in the logbook, the decision made, the opinions and protests received.

3. In case of imminent danger the captain can omit the hearings provided for in the preceding paragraph and decide to enter.

4. In any case, those interested in the cargo, if any, can make protest against forced entry before the Maritime Administration, consul or diplomatic representative.

Article 377

Duty to provide relief

1. The captain of any ship is required to provide relief to shipwrecked and other persons who are in distress at sea, when it can do so without serious risk to his ship or to the persons on board.

2. The captains are required, with the exceptions provided for in the previous article, to assist the ships addressed as well, people or goods on board.

3. Failure to provide relief laid down in the preceding paragraphs, gives rise to civil and criminal liability, notwithstanding the shipowner's to answer only where they acted with negligence.

Article 378

Abandonment in the event of a shipwreck

1. Where, because of shipwreck or other eventualities, when it is essential to abandon the ship, the captain must employ all means at its disposal to maintain order, save the passengers and crew, the ship's papers and important objects.

2. The captain shall organize the first landing of the sick, wounded, women and children, then the remaining passengers and, finally, the crew.

3. The captain must always be the last to abandon ship and use the means at its disposal to lead the passengers and crew saved to the convenient place.

Article 379

Primacy of professional judgement

1. The shipowner, manager, charterer or other person with an interest in the ship or its cargo, should not prevent or restrict the captain of the vessel from taking or executing any decision that, in their professional judgement, is necessary for the safety of human life at sea and the protection of the marine environment.

2. The captain shall not follow instructions contrary to its professional judgement, referred for above.

3. Shipowners can not dismiss the captain or adopt against him, other measures of sanctioning nature for failing to abide by their instructions before the need to act more appropriately to the safeguarding of security, according to the professional judgement required to a prudent seafarer.

Section IV

Duties relating to the trade functions

Article 380

Subject to the owner's instructions

The captain must comply with the owner's instructions and request them whenever necessary, in all matters pertaining to the exercise of their business functions.

Article 381

Power of attorney of the Shipowner

1. The captain bears the shipowner's representation to contract on his behalf obligations related to common necessities of the ship.
2. The owner is obliged to comply with these obligations without being able to claim breach of trust or transgression of the powers.
3. It is except for the responsibility of the captain before the shipowner for the acts and contracts made in infringement of the legitimate and specific instructions given by this.
4. The captain has active and passive legitimacy to represent the shipowner in all judicial or administrative proceedings of the ship under his command.

Article 382

Urgent extraordinary expenses

1. If, in the course of the trip, the captain has need of money for repair works, purchase groceries or other emergency of the ship, it should notify immediately the agents, shipowners, managers and charterers in order to qualify to make these expanses and not being able to make this notice or with no time to wait for the response and the providences of the interested parties, it should make such expenses, burdening the ship and the cargo, if necessary, it shall inform, within 48 (forty-eight) hours the owner, manager or charterer of the measures taken and their justification.
2. Expenses incurred and assumed charges shall be cast into the logbook mentioning the circumstances and, before leaving the port where he had to make the extraordinary expenses and contract obligations without the direct intervention of the shipowner, manager or charterer, it shall send these a current account for such expanses, together with the supporting documents them and the charges incurred, including, as these, the identification and address of the creditors.
3. The liability to the carriers for goods sold comprises the values that they have in place and the ship's unload date.

Article 383

Cargo care

In the case of merchant ships, the captain shall diligently take care of stevedoring, storage, conservation and delivery of the transported goods.

CHAPTER III

Officers, master and seafarers

Section I

Officers

Article 384

Deck or cover officers

1. The officers of the deck or cover, also denominated as pilots are responsible for ensuring the safe navigation, manoeuvring, loading and stowage of the ship as well as to perform their tasks of the deck department.
2. The pilot who immediately follows in to the position of the captain is considered as the first officer of the deck or cover.
3. It is up for the first officer of the deck or cover, to distribute the work between him and the other pilots, as well as manage the tasks of all staff of the department as well as being the second on board chief and usually the officer in charge of the discipline and maritime protection and internal safety of the ship.

Article 385

Duties of the pilots

1. Pilots are at the orders of the captain and perform on board the functions allocated to them in accordance with the labour law, other applicable laws and regulations.
2. The duties of the pilots:
 - a) Carry out the guards, navigation and port services with due diligence and ensure that personnel under its command also do it;
 - b) Record in the logbook the nautical, meteorological, rescue and maritime contamination events that occurred in their custody periods; and
 - c) Submit the crew on board to periodic operational tests, whenever circumstances permit, and particularly if unforeseen situations which pose danger to navigation by registering them in the logbook
3. The pilots sign the logbook in cases of replacement of the guard service, constituting the signature, proof of service compliance, notwithstanding the captain being able to make notes and record in the logbook the orders and instructions given for the navigation.

Article 386

Responsibility of the pilots

1. The pilots respond to the shipowner for damages and losses that they may commit in the exercise of their duties, either by negligence, malpractice or other illegal acts, without prejudice to the criminal liability that takes place unless unforeseeable circumstances or force majeure.
2. The pilot must obey the instructions of the captain of the ship, in particular, those relating to the course and the speed to follow.
3. Whenever the pilot does not comply with instructions given by the captain, it makes his disagreement known to the captain in the presence of other deck officers and nevertheless the captain keeps those, the pilot makes an entry in the navigation diary and obeys the captain, who becomes solely responsible for the consequences of his decision.

Article 387

Engineer officers

1. The engineer officers, also known as machinists, are in charge of the engine unit, auxiliary machinery, fuel and lubricants and others that according to regulations, is aboard, a matter for the machinery department.
2. Where there are two or more drivers on board a ship, one of them assumes the leadership of the machines and exercises the command over all other engineer officers and staff of the department.
3. The officer who occupies the position immediately below the chief engineer is the first engineer officer who is responsible for the department, exercising those functions to be set out for the deck's First Officer.

Article 388

Duties of the engineer officers

1. Engineer officers are at the orders of the captain and perform on board the functions allocated to them in accordance with the labour law, other applicable laws and regulations.
2. The duties of the engineer officers are:
 - a) Carry out the guards, machine services with due diligence and ensure that personnel under its command also do it;
 - b) Keep the machines and boilers in good condition and clean and able to work regularly;
 - c) Inform the captain of failures in the motor unit of sometime or an accident in its department, as well as fuel consumption and lubricants;
 - d) To not make any modifications to the engine unit, or alter normal gait regime, without the prior permission of the captain; and
 - e) Make note in the machines diary of the operating regime of the engines, machines and boilers, as well as the damage incurred, causes and the means employed to repair them.
3. The engineer officers sign the machine logbook in cases of replacement of the guard service, constituting the signature, proof of service compliance, notwithstanding the head machinist being able to make notes and record in the logbook the orders and instructions

given for the well-functioning of the department.

Article 389

Responsibilities of engineer officers

1. The engineer officers respond to the shipowner for damages and losses that they may commit in the exercise of their duties, either by negligence, malpractice or other illegal acts, without prejudice to the criminal liability that takes place unless unforeseeable circumstances or force majeure.

2. Whenever the chief engineer does not agree with the order given by the captain, and considers it necessary to carry out repairs, to stop, or change the appropriate machines or engines, it makes known its disagreement to the captain in the presence of other engineer officers and whether and nevertheless, the captain maintains the same, the chief engineer makes an entry of the protest by registering it in the machines logbook and obeys the captain, who becomes solely responsible for the consequences of his decision.

Article 390

Radio officers

1. The radio officer are those, at the captain's orders, who are in charge of organizing and fulfil the duties related to the radio service on board.

2. When exercising the functions, they must promptly fulfil the duties relating to telecommunications service established in specific legislation and international regulations concerning the use and employment of maritime mobile services and are liable for damages that were done by malpractice or negligence

Article 391

Other on board officers

1. In addition to the officers referred for in the preceding articles, there can exist officers on board belonging to the administrative departments and health services, according to the class, vessel size and navigation in which it engages.

2. The on board administration officials and health services regime is established by an Ordinance approved by the Government member responsible for the maritime administration.

3. Members of the government responsible for the maritime administration and public health, by joint decree, fix the equipment and materials that obligatorily exist in a health department on board, as well as the officers and other personnel within it.

Article 392

Student officers

1. The shipowners of domestic vessels are obliged to accept and keep on board the students of the training centres or maritime training that give courses of studies for obtaining the professional competence certificates that enable them to exercise the officer category.

2. During their dockage on board, the students are considered as officer practitioners and are subject to the orders and instructions of the relevant officers, needing to perform the tasks they are distributed and adequate to the training.

3. The number of students that each ship can take, according to class, size and characteristics, duration, practices and conditions on board, are fixed by an Order approved by the Government member responsible for the maritime administration.

Article 393

Board Officers

Whenever circumstances so advise, the captain can ask an opinion from the officers on board that constitute in the board officers on matters it deems relevant to the safety of the ship, its crew, cargo, the marine environment or others, it should always decide as it considers the most appropriate to the situation and the decision, within its exclusive personal responsibility.

Section II

Master and seafarers

Article 394

Foreman

1. The foreman is the seafarer of the master category, for its experience and seafaring practice, it steers, under the orders of the captain and deck officers, the maintenance and cleaning work, as well as their own seafaring tasks of the deck department.
2. Members of seamanship of the deck department are under the direct orders of the foreman, being this responsible before the captain and the first officer for the fulfilment and execution of the distributed work.
3. The foreman must ensure the arrangement, tidiness, maintenance and handling of the cargo, anchors, boats, rafts and other rescue elements and, ropes, cables, chains and other marine equipment of the ship.
4. The foreman equitably distributes work by the seafarers and oversees their implementation, in accordance with the orders given by the deck first officer, it is incumbent upon him to care for stowage, hatch closure and other elements concerning the safety of the ship or cargo and inform the custody officer of any anomaly found during the execution of tasks.

Article 395

Engineer foreman

1. The engineer foreman is the member of the crew belonging to the rank of master, who, at the boss' orders and other engineer officers, drives the seamen employed in the department, supervises the execution of the tasks of cleaning and maintenance and, distributes work to the other seafarers of the department, according to the orders received from the officers.
2. The engineer foreman reports to the boss and before the first engineer officer for the execution of the tasks under his direction.

Article 396

Other master jobs

1. In addition to the deck and machine foremen, there can be on board, other master positions, according to the ship's class and features.
2. The regime, denominations and requirements of the master provided for in the preceding paragraph are laid down by an Order approved by the Government member responsible for the maritime administration

Article 397

Seamanship

1. The staff of the distinguished crew of the captain, officers or master, represents the seamanship.
2. The names, functions, requirements and duties of the seamanship members are established by an Order approved by the Government member responsible for the maritime administration, depending on the department, the ship's class and features.
3. The members of the seamanship must punctually comply with the orders and lawful instructions that they receive from the captain, the master, officers and positions corresponding to their department and account for their actions before the shipowner.

CHAPTER IV

Overhead

Article 398

Concept

The overload is an employee of the owner or charterer, which plays its on board functions:

- a) Of a fishing vessel, to direct fishing operations and maintenance or marketing of the products thereof;
- b) A passenger ship to provide passengers benefits and services beyond the sea transportation; and
- c) A cargo ship dedicated to freight, to direct the boarding and disembarkation and ensure the proper preservation of the products.

Article 399

Regime on board

1. The overload has an officer category of the department of administration and services and is subject to the captain's authority, except with regard to commercial functions assigned to it.
2. Being the overload appointed by the charterer, the shipowner must provide its accommodation on board but the food expenses are

borne by the charterer.

3. The overload of employment contract is subject to the conditions applicable to the maritime employment contract.

Article 400

Appointment and dismissal

1. The overhead is appointed freely by the shipowner or the charterer and may be dismissed by those who appointed him under the same conditions the captain.

2. The captain, when he does not agree with the management of the overload, it cannot fire and must inform the shipowner or charterer of its displeasure.

Article 401

Duties excluded and delegated functions

1. The overload cannot interfere directly in the contract, but has the power to make recommendations to the commander of the ship in all that relates to the burden cargo administration.

2. The owner or charterer cannot be attributed to overload any participation or intervention in administrative, disciplinary and nautical captain.

3. The employment contract of the overload and the crew list must list the commercial functions assigned to the overload removed and the captain, assuming that it retains all powers not expressly delegated to the overload.

Article 402

Overload functions

In the employment contract, the following functions among others, can be attributed to the overload:

- a) To determine the business travel of the ship, including the scales;
- b) To receive and deliver the transported goods;
- c) To check the goods when loading and unloading;
- d) To sign bills of lading;
- e) To ensure and make recommendations to the captain about the preservation of the goods during the transportation;
- f) Make certain expenditure on passengers or cargo;
- g) Sell all or part of the fishery product;
- h) To keep books of accounts relating to its operations; and
- i) Receive all comments on the state of the goods;

Article 403

Responsibilities

1. The overload reports to the owner or shipowner under his contract and in its absence, the legislation governing maritime labour contract.

2. The shipowner or charterer respond civilly before third parties for the overload acts in the exercise of its duties, subject to the right to limit the liability in accordance with this Code.

CHAPTER V

Registration, identification, training and certification of seafarers

Article 404

Registration and documentation of seafarers

1. To form part of the national ship's crew, except for duly justified cases of urgency, it is necessary to register in the maritime registration registry and have the seaman's book, which is the document of professional identification of the seafarers.
2. The maritime registration registry system, the conditions of issue, use and withdrawal of the seaman's book, as well as the form and its contents is established by an Order approved by the Government member responsible for the maritime administration.

Article 405

Training of seafarers

1. The training of seafarers is part of the dual education system and training and aims at the acquisition, development and updating knowledge and skills required for the performance of the profession and on board functions.
2. The training of seafarers in of the educational system is organized in courses and related training to the categories and on board departments, meeting needs the skills, levels of responsibility and duties to be performed.
3. The academic training of seafarers must associate experimental components, through actual practices in the context of work or simulated practice in the context of training under the guidance of trainers.

Article 406

Programs and evaluation methods

1. The academic training of seafarers programs must conform, in terms of structure, objectives and results to an extent, at least, equivalent to that required by international conventions in force in Cape Verde
2. Programs should include in particular the syllabus of the subjects and the respective timetables, methods, procedures and teaching methods to adopt and the evaluation methods to use.

Article 407

Certification

1. The training and professional competence of seafarers are certified.
2. The diploma or academic certificate is a document showing that the holder has achieved the goals set in the programs of the courses or training and qualification activities in order to exercise a professional category or function on board referred for in the previous articles.
3. The certificate of professional competence is the official title upon appropriate prior assessment, proving the ability or competence to perform the duties for which it is required, in accordance with the provisions of the applicable regulations.
4. The issue of academic diplomas or training certificates is the responsibility of the entities that the manage it.

Article 408

Obligatory professional competence certificates

1. Command and management functions of the ships, as well performing in them, the officer position can only be entrusted to those who have the corresponding certificate of professional competence.
2. All the crew members who will perform functions relating to cargo handling on ships dedicated to oil transport or other especially hazardous substances or contaminants, or other tasks in emergency situations on passenger ships, of which depends the safety of the ship should also have a special certificate of competence.
3. The procedures for professional competence certificates and the conditions for obtaining for each ship, navigation and department class, are fixed by Government regulation as provided for in the international conventions in force in Cape Verde.

Article 409

Recognition of foreign certificates

1. The recognition of diplomas issued abroad that provide a degree of academic training is within the competence of the Government member responsible for the education.
2. It is only possible to recognize professional competence certificates issued abroad for the purposes of the exercise activity on board Cape Verdean ships, when obtaining those, training and experience requisites are required that are at least equivalent to the national

certificates.

3. The recognition of professional competence certificates issued abroad is the responsibility of the maritime administration.

Article 410

Shipping and registration of competency certificates

1. It is up for the Maritime Administration to issue, renew, ratify, recognize and control the professional competence certificates in the terms established in accordance with Ordinance approved by the Government member responsible for the maritime administration.

2. The Maritime Administration maintains a public register of all the issued, ratified or accepted certificates.

Article 411

Shipowner, commander and crew responsibilities

The shipowner, the captain and seafarers who are part of the crew, each in their respective areas of intervention and duties, are responsible for the effective fulfilment of the provisions contained in this Code and the regulations set out therein, namely to ensure:

a) The maritime registration requirements are satisfied, physical fitness, qualifications, possession of the required certificates and satisfaction of other shipping requirements and assigned roles;

b) That the documents required of flight crew members are valid and available on board;

c) That the seafarer assigned to the crew are familiar with their specific tasks, with the work organization on board, facilities, equipment and ship characteristics and are able to efficiently perform the duties in particular in emergency situations and vital for the safety of the ship;

d) That the ships are crewed in accordance with established minimum crew safety;

e) That the guards service is organized in order to avoid in particular tiredness or fatigue; and

f) That they are on board, and the disposition of the captain and the officers, the texts that collect the changes as it happens in national and international regulations on navigation safety and protection of the marine environment.

Article 412

National vessels control and inspection

1. The maritime administrations verify that the members of the crew actually have the professional competence certificates and other documents required to provide services on board, as well as being capable of providing the service of guards and others, related to maritime safety and the fight against pollution of the marine environment.

2. The maritime administrations take the appropriate measures for the disembarkation of those who do not comply with the provisions of the preceding paragraph, without prejudice to the maintenance of the employment contracts.

3. In case it is a post on board of the consigned in the minimum crew safety certificate, notwithstanding the provided in paragraph 3 of Article 353, the maritime administration does not authorize the departure of the vessel until the target should be replaced by another that meets the required requirements.

Article 413

Control of foreign ships in national ports

While the port state authorities, maritime administrations can verify the compliance with certification requirements and the seafarers' fitness boarded on board of foreign ships, in accordance with the provisions of international conventions in force in Cape Verde.

Article 414

Detention of foreign ships

1. Deficiencies found in certificates of competency or deficiencies in physical condition or crew fatigue that could pose a hazard to people, property or the environment, the maritime administration shall immediately inform in writing to the captain of the ship, the nearest diplomatic or consular representative or the maritime administration of the flag State to take the appropriate measures.

2. The Maritime Administration shall take the necessary measures in order to prevent the departure of the vessel until the defects or certification of competence in sufficient measure have been corrected in order to eliminate the risks referred to in the preceding paragraph.

BOOK VI

ECONOMIC SORTING OF MARITIME TRANSPORT

TITLE I

GENERAL PROVISIONS

CHAPTER I

Scope of application and maritime shipping classes

Article 415

Scope of application

The provisions of this Book apply to maritime transport carried out by merchant vessels engaged in coastal, cabotage or long-distance shipping.

Article 416

Maritime shipping classification, geographical scope

According to the actuation zone, the maritime transport of goods or passengers carried by merchant vessels is classified in:

- a) Inland maritime Shipping, which takes place within a particular port area or other Cape Verdean inland waters;
- b) National Shipping, other than being inland transport, takes place between ports or places within the national maritime areas;
- c) Outer maritime Shipping (long course), which is performed between ports or places in the national maritime areas and ports or locations outside of them; and
- d) Extra national foreign Shipping, which takes place between ports or locations outside of the national maritime areas.

Article 417

Maritime shipping classification, conditions of provision

According to the conditions of provision, the maritime transport carried out by merchant vessels is classified in:

- a) Liner shipping, which is done with itineraries, frequencies ranges, tariffs and other previously established transport conditions; and
- b) Non-liner shipping, which is operated without being subject to the conditions set out in the preceding paragraph.

CHAPTER II

Exercise of the maritime shipping industry

Article 418

Maritime shipping industry

1. Shipping industry is understood the one that is dedicated to the exploration of trade ships themselves in the transport by sea of goods or passengers.

2. The shipping industry includes, necessarily, the armament and the subsequent direct operation of the own merchant vessels, chartering and charter, as well as buying and selling ships.

Article 419

National shipping company

For the purposes of this Title, the national shipping company is considered one that has its headquarters and main administration in Cape Verde and fulfil the requirements of article 421.

Article 420

Reserve to national shipowning companies

1. The exercise of the shipping industry is reserved to national shipowning companies duly registered in the ship conventional registry or international ship register and comply with the requirements in the following article.

2. Except for the provided in the preceding paragraph, the exploitation of national commercial ships of inland shipping, as well as the gross tonnage of less than 50 (fifty) tons.

3. Is excluded also from the reserve referred to in this article exploring trade foreign ships in maritime transport exterior size or extra foreign national, which is done according to the provisions of Title III of this book.

Article 421

Requirements for exercising the industry

1. Registration for the exercising the maritime transport industry depends on the fulfilment of the following requirements required for the applicant shipping company:

a) The exercise of the maritime shipping industry being its sole corporate purpose;

b) That its share capital is less than 30.000.000\$00 (thirty million escudos), if the applicant intends to operate in shipping overseas or foreign extra national or 4,000,000\$00 (four million escudos) if it is intends to operate in national maritime transport;

c) That it has its own fleet that includes, at least one operational vessel of Cape Verdean nationality.

2. For the purposes of the preceding paragraph, its own fleet is considered when it consists by at least one commercial ship, owned by the applicant, or who is in his possession by virtue of chartered contract or other transmissive business ownership and operating ship, one that has the required certificates into force as provided in Title III of Book IV.

Article 422

Registration procedure

1. The application to apply for registration as a national shipowning company, must identify the applicant company and be accompanied by the following documents:

a) Updated certificate of the company's registration in the trade registry;

b) A document proving the existence of the share capital at the date of registration;

c) Copies of certified documents required to prove that the company has its own fleet that integrates at least one operational ship.

2. The Maritime Administration shall decide within thirty (30) days from the date of receipt of the registration.

3. The applicant company may have initially only the documents provided for in a), b) and c) of paragraph 1, and, if they do Evidence of compliance with the requirements referred to in paragraphs a) and b) of paragraph 1 above, the maritime administration must inform it that the registration is automatically carried out as soon as the documents proving of its own fleet availability are presented.

Article 423

System of exploitation and cancellation

1. Once registered, the shipowning companies are obliged to exercise the maritime industry in the registration conditions and should maintain, at all times and effective provision of the service conditions, at least one of the ship referred to in paragraph 2 of Article 421, subject to the technical assets that can proceed.

2. The shipowners who fail to comply with the requirements for registration must regularize their situation within 180 (one hundred eighty) days, failing which their registration will be cancelled.

3. The cancellation of the preceding paragraph is done by the maritime administration, which shall hear, for this purpose, the target shipowner.

Article 424

Supervision by the Maritime Administration

It is up for the national maritime administration to supervise the activities of the shipowners companies, which should provide the elements for that, requested to implement the provisions of this Code.

Article 425

Preference for the chartering of merchant vessels

Through regulation of the Government it is possible to establish a preference system of national shipowners companies for chartering, in any form, of trade vessels wishing to perform national or foreign maritime transport.

Article 426

Disclosure requirements of the charterers

1. The charterers domiciled in Cape Verde who wish to charter, in any form, commercial ships in order to devote to national or foreign maritime shipping must give a prior notice of the same to the maritime administration confirming it later and indicating their contractual conditions.

2. The charterers referred for in the previous paragraph shall provide the information that may be requested by the national maritime administration and other competent bodies of Public Administration.

TITLE II

INLAND AND NATIONAL MARITIME SHIPPING

CHAPTER I

Common provisions

Article 427

Reserve of inland maritime shipping

1. The inland maritime shipping is limited to the national ships and their provision must be previously authorized by the Maritime Administration.

2. Exceptionally, where there are no appropriate national and ships available to provide a certain activity, and for the time that such circumstance lasts, the Maritime Administration may authorize the use of foreign ships in order to carry out inland shipping.

Article 428

Reserve of national maritime shipping

1. Notwithstanding the provisions of the following Chapter about the maritime transport public service, the National Maritime transport is reserved to the national shipowning companies.

2. Exceptionally, where there are no national shipowning companies interested, the maritime administration may authorize the other shipowners to carry out the national maritime transport.

Article 429

Public service obligations

1. The Maritime Administration may establish public service obligations in regular inland or national shipping if deemed necessary in view of its special features to ensure their performance under conditions of continuity and regularity.

2. The obligations mentioned in the previous item may be entitled to financial compensation from the administration.

CHAPTER II

National maritime shipping public service

Article 430

Concept and purpose

1. The State shall guarantee the provision of a national maritime public service of cargo and passengers, in situations where, due to traffic characteristics, the national shipowning companies that are not interested in providing this service for market reasons.

2. The public service is designed to meet the transportation needs of the inhabitants of the islands, as well as streamlining and

integration of the territories and population of the archipelago.

Article 431

Public service principles

The national maritime public service complies with the principles of universality, equality, continuity, regularity and affordability.

Article 432

Scope of the public service

By regulation of the Government member responsible for the maritime administration, the inter-island lines are defined in which the state must ensure the provision of national maritime public service of cargo and passengers.

Article 433

Providers of maritime transportation public service

1. The national maritime transportation public service can be exploited:

- a) By the state itself;
- b) By a corporate entity governed by public law;
- c) By national shipowning companies or, failing that, by a natural or legal person governed by private law by the concession agreement.

2. The national maritime transportation public service may be made by more than one entity, depending on the geographical areas that comprise.

Article 434

Designation of the service provider

- 1. In the cases provided for in paragraphs a) and b) of the previous article, the Government names the service provider or providers.
- 2. In the cases provided in paragraph c) of no.1 of the preceding article, the Government shall fix the concession conditions.

Article 435

Pricing system

1. The national maritime public service pricing scheme should be established by the maritime administration, taking into consideration the operating costs and the principles of transparency, non-discrimination and accessibility of users.

2. In order to ensure the accessibility of the public service prices, special or differentiated pricing systems can be provided based on geographic criteria and category of the services or users.

3. The prices should not exceed the parameters established in the general law of prices, which in this case, would be applicable.

Article 436

Economic compensation

The providers of national maritime transport public service are entitled to financial compensation for operating the service, in an amount fixed by the decree approved by the Government member responsible for the maritime administration.

Article 437

Inspection

1. It is the responsibility of the maritime administration and on the authority to take its economic regulatory functions of the national maritime transport, to inspect the compliance with the provisions of this Chapter.

2. The entities referred for above should have public consultations on the scope, affordability and quality of national maritime transportation public service.

TITLE III

FOREIGN AND EXTRA NATIONAL MARITIME TRANSPORT

CHAPTER I

System provision

Article 438

Competition regime

1. The exterior transportation, regular or not, is carried out in competition between the national shipowning companies and foreign shipowners wishing to participate in accordance with the international law and the reciprocity principle.
2. The extra foreign national maritime transport of the Cape Verde flag vessels, can only be carried by national shipowning companies.
3. Whenever they are in the Cape Verdean ports and other national maritime areas, the foreign vessels carrying out foreign or extra national transport are subject to the control of the maritime administration and others provided for in this Code.

Article 439

Adopting countermeasures

If national merchant vessels intended for foreign or extra national navigation are subject to discriminatory measures in foreign ports or restrictions that affect free competition, the Government may, at the request of the Maritime Administration, adopt reciprocal measures and sanctions necessary for the defence of Cape Verdean conflicting interests.

Article 440

Exceptional cases of flag reservation

In exceptional cases, where this is necessary for the economy or national defence, the Government may reserve certain foreign shipping for the Cape Verdean flag vessels.

CHAPTER II

Maritime conferences and user advices

Article 441

Maritime conference concept

It is understood by maritime conference as a group consisting of 2 (two) or more shipowners carrying out regular foreign transportation in one or more particular routes and have established an agreement, whatever its nature, to which they act serving to uniform or joint fleets or any other agreed conditions with regard to maritime transportation of goods.

Article 442

Duty of respect for competition

1. The maritime conferences should ensure a supply of sufficient and effective foreign maritime shipping, taking into account the interests of the users.
2. The conferences are subject to competition from shipowners operating regular exterior transportation not incorporated in, as well as non-regular exterior transport operating in the same routes.
3. The performance of the conferences cannot result in the elimination of competition on substantial parts of the market that provide their services to the point of closing situations of dominant abuse by the integrated shipowner under in the same.

Article 443

Users Advices

The users of the exterior maritime transport can constitute organizations called user advices, with the aim of defending its interests, especially those related to pricing, quality and regularity conditions of the service provision, and offer its members an advice service and freight consultation and maritime services.

Article 444

Obligations of information and consultation

1. The maritime conferences whose vessels that scale at Cape Verde ports in order to load or unload goods shall inform the Maritime Administration at the request of this, the load distribution agreements, scales and exits and provide the documents directly related to the agreements, tariffs and other transport conditions.

2. Being formed maritime conferences and users advices, both must consult with each other, each time they are requested by either party, in order to solve the problems with the operation of the exterior maritime transport.

BOOK VII

EXPLOITATION CONTRACTS OF SHIPS AND AUXILIARY CONTRACTS

TITLE I

CHARTER AGREEMENT

CHAPTER I

General provisions

Article 445

Scope of delivery

1. The provisions of this Title shall apply to commercial ships and, mutatis mutandis, to fishing vessels and auxiliary ships and tugboats.

2. The provisions of this Title shall not apply to vessels of gross tonnage of less than 10 (ten) tons, of which, the contracts for the use or operation of such vessels shall be governed by the conventions of the parties and, failing that, by the civil law.

3. The provisions of this title do not apply on naval artefacts who lease contract or use shall be governed by the rules of civil law in all that is not covered by the conventions of the parties.

Article 446

Concept

Ship charter contract is one in which one of the parties, the charterer, undertakes in relation to another, charter, to make available a ship, or part of it for shipping purposes by a pecuniary retribution called freight.

Article 447

Form

It is called charter party, the particular document required for the valid celebration of the chartering contract.

Article 448

Regime

The charter agreement is governed by the terms of the charter party and additionally by the provisions of this Title.

Article 449

Methods

1. The charter agreement may take the following forms:

- a) For travel;
- b) Per time;
- c) Bareboat or charter/location.

Article 450

Attributable facts

For liability purposes mentioned in this Article means by facts or attributable causes, intentional acts or omissions or charterer guilt, the charterer, or his assistants, whether dependent, agents or independent contractors, as appropriate.

Article 451

Retention rights and privileges on the load

1. To guarantee the freight payment and other credit emerging from the charter per trip, the charterer has the lien on the transported goods and privileged claim on the load.
2. The charterer has the same rights and privileges of the time in respect to the goods carried on board, belonging to the charterer.
3. The lien and privilege on the load shall be governed by the provisions in Articles 517 and 519 of this Code for the contract of maritime transport of goods.
3. The provisions of this Title shall not apply equally to marine artefacts, whose contracts related to

Article 452

Sub-chartering and contract assignment

1. The sub-chartering or assignment of the contractual position by the charterer requires a written authorization of the charterer.
2. The provisions of this Title shall apply to the sub-chartering.

Article 453

International jurisdiction

1. The Cape Verdeans courts are internationally competent for the trial of actions arising from the charter agreement or sub-chartering in any of the following cases:
 - a) If the port of loading or unloading is in Cape Verde;
 - b) If the contract is celebrated in Cape-Verde;
 - c) If any of the parties of the contract, the shipper or consignee of the goods, have headquarters, branch, subsidiary or delegation in Cape Verde.
2. In situations not provided for in the preceding paragraph, the determination of the international jurisdiction for the trial of emerging actions of chartering and sub-chartering contracts are done in accordance with the general rules.

Article 454

Prescription

Emerging actions from the breach of charter contract must be exercised within 2 (two) years from the date on which the plaintiff became aware of the law that applies to him.

CHAPTER II

Charter contract per trip

Section I

Concept, characterization, obligations and rights of the parties

Article 455

Concept and allocation of nautical and commercial management

1. The chartered contract per journey is one where the charterer is obliged to make available a ship to the charterer, or part of it, so that this use it for one or more trips, as previously set for the transport of certain goods.
2. In the charter contract per trip, the nautical management and the commercial management of the ship belong to the charterer.

Article 456

Elements of the charter party

1. The charter party must have the following elements:

- a) The identification of the vessel by its name, nationality and tonnage;
- b) The identification of the charterer and the charterer;
- c) The quantity and nature of goods to be transported;
- d) The load and unload ports;
- e) The times set out for loading and for unloading, called dockage;
- f) The compensation agreed in the event of sub-dockage;
- g) The premium agreed in case of sub-time;
- h) The freight.

2. The losses resulting from failure of any of the elements referred to above are attributable to the charterer, unless proven otherwise.

Article 457

Charterer obligations

It is the obligation of the charterer:

- a) To present the ship to the charterer in date or time and place agreed;
- b) To present the ship before and at the beginning of the trip, in seaworthy, properly armed and equipped in order to comply fully with the contract;
- c) Carry out the trips provided for in the charter party with the most appropriate nautical route without deviations or unforeseen scales in the said letter.

Article 458

Expenses due to the charterer

The charterer shall bear the costs inherent in the ship, especially the following:

- a) Equipment, gear and other component parts;
- b) Provisions, water, fuel, lubricants and other accessories;
- c) Salaries and other expenses of the crew;
- d) Insurance of the ship, irrespective of its nature.

Article 459

Charterer liability for any loss or damage to goods

The charterer shall be accountable to the charterer or cargo to the recipient for the damage caused to the goods or delays in delivery, unless he proves that those have been caused by events not attributable to him.

Article 460

Obligations of the charterer

The charterer's obligations are:

- a) To deliver the charterer the quantity and class of goods stated in the charter party;
- b) Carry out the load and unloading of the ship within the deadlines set in the charter party;
- c) Pay the freight.

Article 461

Defective or excess amount of Laded goods

1. The charterer is obliged to pay the freight in full, although it does not present all the goods for shipment, within the fixed deadline and location.
2. If the ship carrying an amount greater than it's agreed, the charterer is required to pay an additional freight proportional to the excess amount.

Article 462

Fixing the dockage

1. If the charter party does nothing about the dockage, it is up for the charterer to fix them according to criteria of reasonableness, taking into account the circumstances of the case and the port uses.
2. If the charter party will autonomously set the dockage for loading and unloading operations, these are not cumulative and should be counted separately.

Article 463

Calculation of dockage

1. The days are excluded from the calculation of dockage when, for legal interruption of port activity or any other objectively relevant facts, the loading or unloading operations cannot be accomplished.
2. The count of dockage begins in the first period of normal work that follows the delivery to the charter's notice of the charterer being ready, providing that this notice has been delivered at the end of the previous regular working hours.
3. Normal working hours is considered in those terms, it is practised by the dock workers of the respective port.
4. The time from which it is legitimate the delivery of ready ship notice is defined in the charter party, or failing that, by the port uses.

Article 464

Demurrage and under-dockage

1. The ship enters demurrage when the charterer exceeds the length of dockage without completing load or unload operations, giving rise to the payment by the charterer of a supplement proportional freight for the over time.
2. When the charterer not use the length of dockage, it is entitled to a sub-dockage premium proportional to the not spent time.
3. The sub-dockage rate is half of demurrage.

Article 465

Dangerous Goods

If the goods to be transported are considered dangerous, Article 482 applies for the maritime transport of goods contract.

Section II

Modifications or impediments of travel

Article 466

Impediment to travel not attributable to the parties

If the trip or trips cannot be started in due dates or times, through no fault to the charterer or to the charterer, either party may terminate the contract without any of them having any responsibility for to the damage suffered.

Article 467

Impediment to travel attributable to the charterer

1. When it is not possible to make the trip or travel on the dates or times agreed, for attributable reason to the charterer, it becomes responsible before the charterer for the caused damage.

2. Regardless of the right to compensation, the charterer may terminate the contract, requiring the repayment of all or part of the freight already paid corresponding to the travel or non-travel undertaken.

Article 468

Travel impediment attributable to the charterer

1. When it is not possible to make the trip or travel on the dates or times agreed, for attributable reason to the charterer, it becomes responsible before the charterer for the caused damage.

2. In the case of the preceding paragraph, the charterer is entitled to cancel the contract and to claim compensation not exceeding the amount of the corresponding to the travel or non-travel undertaken, removing the expenses that it no longer undertakes.

3. If it received an advanced freight, the charterer is entitled to have it freight received, up to the limit specified in the preceding paragraph.

Article 469

Forced entry

1. If this vessel has to do a forced entry enter for reason attributable to the charterer, this must account for the delay and other damage caused by the charterer.

2. When a forced entry is due to bad weather, danger to the ship, justified fear of enemies or pirates or any other cause not attributable to the charterer, it is considered legitimate and the parties shall bear their own costs.

3. The charterer may proceed with the unload, storage and reloading at the unloading port where this is necessary for the repair of damages suffered by the vessel or for the repair or proper preservation of the goods.

4. The charterer may terminate the contract and remove its cargo at the forced entry port by paying the freight proportional to the travelled distance.

5. The provisions of the foregoing articles, do not affect the regime of fault thick, laid down in this Code.

Article 470

Modification by the port of destination of the charterer

If the charterer wants to unload all or part of the goods in the port other than the destination, it is responsible for paying the additional expenses, having those, and it is not entitled to any reduction of freight in the opposite case.

Article 471

Prolonged impediment to the entrance at the unload port

1. If for a fact not attributable to the charterer, there is an impediment from the port of discharge greater than 5 (five) days of entry of the vessel or the normal development of their business operations, it has the power to divert the ship to a nearby port offering the same or similar conditions and there carry out the unload.

2. Exercising the faculty referred to the number anterior, the charterer must immediately inform the charterer and once performed the unload is carried, the charter contract is considered fulfilled.

3. Expenses and additional costs resulting from the situation envisaged in paragraph 1 shall be borne by the charterer.

4. If the situation referred to in this Article results benefits the shipper, it should give the charterer the amount.

CHAPTER III

Charter contract for time

Section I

Concept and characterization

Article 472

Concept and allocation of nautical and commercial management

1. Time-charter contract is one in which the charterer is obliged to make available to the charterer a ship so it will use this for a certain period of time.

2. In the time charter contract, the nautical management of the vessel belongs to the charterer and his business management to the charterer.

Article 473

Elements of the charterparty

In addition to the components set out in a), b) and h) of paragraph 1 of Article 456, the charter party for time should contain the following:

- a) The duration of the charter;
- b) The geographical limits within which the ship may be used;
- c) The indication of the goods that the ship cannot carry.

Section II

Obligations and rights of the parties

Article 474

Charterer obligations

It is the obligation of the charterer:

- a) To present the ship to the charterer in date or time and place agreed;
- b) Present the ship and keep it seaworthy, properly armed and equipped in order to fully comply with the contract;
- c) Carry out the trips and load the goods which have been determined by the charterer in the exercise of its commercial management.

Article 475

Fuel

- 1. The expense of the fuel of the ship is borne by the charterer.
- 2. The charterer must provide the appropriate fuel, which matches the characteristics and technical specifications set out by the charterer.

Article 476

Captain

1. In all that relates to the commercial management of the ship, the captain must obey the charterer's orders and instructions, within the limits of the charter party, subject to compliance with its nautical, public and administrative functions.

2. When the charterer considers that the captain does not conform to their instructions or that their action is injurious to his business interests, it may request the charterer's replacement.

3. Notwithstanding the preceding paragraph, it must always prevail the primacy of professional judgement in accordance with Article 379.

Article 477

Beginning and maturity of the freight

- 1. The shipping starts from the day when the ship is put at the disposal of the charterer under the conditions defined in the charter party.
- 2. The freight matures every two weeks and must be paid in advance.
- 3. The charterer can deduct from the payments be made, the amount of expenses that has been done in the shipper's account.
- 4. The charterer can deduct in the last payments, the amounts that given the date of redelivery of the ship, may reasonably be considered

to be owed by the charterer.

Article 478

Suspension of the freight

Freight is not owed during periods in which it is impossible to commercially use of the vessel for facts not attributable to the charterer.

Article 479

Extension of the charter

1. The charterer is not required to start a trip journey which its expected duration exceeds the one fixed by the charter party, but if it does, it is entitled to proportional freight for the extension of the freight.

2. If, for reasons attributable to the charterer, the charter exceed the period laid down in charter party, the charterer is entitled, for the over time, for double the stipulated freight.

Article 480

Charterer's liability for damage to the ship

The charterer is responsible for the damage caused to the ship as a result of business operations.

Article 481

Charterer liability for any loss or damage to goods

The shipper shall be accountable to the charterer for damage caused in cargo, as well as the delay in its delivery, in accordance with Article 459 to the charter party per trip.

Article 482

Dangerous Goods

1. The carrier should refuse the goods whose dangerous nature is known him and do not comply with the requirements referred to in Article 124. By not doing so, it will be jointly and severally liable with the charger, if it is, with the port operator, for any damage that the goods may cause to third parties.

2. The dangerous goods that are delivered to the carrier without being declared as such and therefore come to pose a risk to the people or property can be landed, destroyed or turned into harmless, without the recipients being entitled to any compensation.

3. The Shippers and if it is, the port operator, should compensate for all the damages that are produced as a result of the transport of dangerous goods that have not been declared as such or do not satisfy the requirements referred to in the first paragraph.

CHAPTER IV

Bareboat charter contract

Section I

Concept, characterization and regime

Article 483

Concept and allocation of nautical and commercial management

1. The charter agreement on bareboat or charter/lease is one where the charterer is obliged to make available to the charterer at the agreed conditions of time and place, a ship that is unarmed and not equipped, so that this will be used for a certain period of time.

2. In the bareboat charter contract, the nautical management and the commercial management of the ship belong to the charterer.

Article 484

Subsidiary Regime

Alternatively apply to this Agreement mutatis mutandis, the rules relating to the charter agreement for time and the discipline of general law on the lease.

Article 485

Charter of armed and equipped ships

The rules of this Chapter shall also apply, mutatis mutandis, to chartering contracts of armed and equipped ships, whose nautical and commercial management will be given to the charterer.

Article 486

Elements of the charterparty

The bareboat charter party must contain the information listed in Article 473 for the charter contract by time.

Section II

Obligations and rights of the parties

Article 487

Armament and crew

It is the responsibility of the charterer to arm and equip the ship and hire a crew.

Article 488

Repairs, maintenance and insurance

The following are borne by the charterer:

- a) Conservation and repair expenses necessary for the seaworthiness of the ship and all that are not covered in the following article;
- b) Insurance of the ship, regardless of their nature.

Article 489

Ship's own vice

1. Expenses of on repairs and replacements resulting from the ship's own vice are borne by the charterer.
2. Freight is not due during the period of repairs and replacements in the preceding paragraph.

Article 490

Use of the ship

1. The charterer may use the ship in all trades and activities that are consistent with normal purpose and its technical characteristics.
2. The charterer may also use the integral parts of the ship and equipment on board and shall, as long as the contract runs out, restores them with the same quantity and quality, unless for the proper wear and tear of normal use.

Article 491

Returning the ship

The charterer must, as long as the contract runs out, return the vessel to the charterer in the same state and condition as it received, except for the wear and tear of its normal use.

Article 492

Right of reimbursement of the carrier

The charterer must repay the shipper of any sums that it was required to pay to third parties as a result of the commercial ship operation.

TITLE II

CONTRACT OF MARITIME TRANSPORT OF GOODS

CHAPTER I

General provisions

Article 493

Concept

Contract of Maritime Transport of goods is one in which the carrier undertakes to carry certain goods by sea, from one port to another, with pecuniary remuneration that is called freight.

Article 494

Form

1. The maritime transport of goods contract is subject to written form.
2. The contracts formally recorded in writing signed by the parties and those resulting from exchanges of letters, telegrams, telex, telefaxes or other equivalent means created by modern technology, especially electronic media are included in the written form.

Article 495

Scope of application

The provisions of this Title shall apply:

- a) To all concerned in the transport, where there is no charter party;
- b) To the relations between the carrier and the third carrier's bill of lading, unless this indicates that the knowledge has been issued pursuant to a charter party and that the relationships between the carrier and the transporter shall be governed by the provisions of charter-party.

Article 496

Attributable facts

For liability purposes mentioned in this Article, facts or attributable causes, are understood as intentional actions or omissions or the transporter's fault or loader or their assistants, whether these are dependents, agents or independent contractors, as the case may be.

Article 497

Loaded or unloaded goods

1. For the purposes of this Title, the goods are considered loaded or unloaded when it transposes the edge of the ship.
2. The principles set out in the previous article prevail whether the load and unload of goods belong to the vessel or not.

Article 498

International jurisdiction

1. The Cape Verdean courts are internationally competent for the trial of actions arising from the maritime transport contract of goods in any of the following cases:

- a) If the port of loading or unloading is in Cape-Verdean territory
- b) If the contract has been drawn up in Cape-Verde;
- c) If the carrier ship flies the Cape Verdean flag of or is registered in Cape Verde;
- d) If the head office, branch, subsidiary or charger delegation, the consignee, consignee or the carrier is located on Cape Verdean territory.

2. In situations not provided for in the preceding paragraph, the determination of the international jurisdiction for the trial of actions emerging from maritime transport contracts of goods are done in accordance with the general rules.

CHAPTER II

Carrier's obligations

Article 499

Cargo Declaration

1. The carrier must provide the transporter with a load statement containing the following elements:

- a) The nature and quality of the goods and any special care that it lacks;
- b) The major brands, needed in order to identify the goods;
- c) The number of packages or objects, and the amount of weight or volume;
- d) The type of packaging and wrapping of goods;
- e) The port of loading and port of unloading;
- f) The date.

2. The carrier responds to the transporter for the damage arising from omissions or errors of any cargo declaration element.

Article 500

Merchandise presentation on the pier

1. When the carrier delivers the goods to the ship's edge and there is no contractual provision that regulates it, this delivery must take place at the pace required by the transporter and place appointed by him, according to the port uses.

2. Failure to comply with the provisions of the preceding paragraph makes the carrier responsible for the damages caused to the transporter.

Article 501

Failure to present and termination of the contract

1. If the carrier does not present the goods for shipment to the transporter within the fixed deadline and site, the transporter may terminate the contract but the carrier is obliged to pay the corresponding freight.

2. If the carrier, after delivering the goods to the transporter for loading, revokes the contract, it is required to pay, in addition to its freight, the expenses that the transporter has done with the transport.

Article 502

Receipt of goods at the destination port

1. Unless otherwise agreed, the recipient must receive the goods on board the ship at the port in order to unload it and at the time and pace indicated by the transporter, according to the port uses.

2. The recipient and alternatively the carrier should answer towards the transporter the damage caused by breach of the obligation under the preceding paragraph.

CHAPTER III

Transporter's obligations

Section I

Obligations before travel

Article 503

Receipt of goods for shipment

1. Upon receipt of the merchandise for shipment, the transport must provide the carrier a receipt or bill of lading, with the express words "to board" containing:

- a) The information referred for in paragraph 1 of Article 499;
- b) The packaging and the apparent condition of the goods;
- c) The name of the transporting vessel;

d) Other information it considers relevant;

e) The date.

2. The transporter shall report to the carrier the losses resulting from omissions or inaccuracies in any element of the receipt or bill of lading referred to above.

Article 504

Issuance of bills of lading

1. Once the goods are loaded on board, the transporter must provide the carrier with an original bill of lading containing the following elements:

a) The information referred to in paragraph 1 of Article 499 and paragraph 1 of the preceding article;

b) The identity and address of the transporter, the carrier and the receiver;

c) The date of loading;

d) The number of originals copies issued;

e) Freight, when so requested by the carrier.

2. The bill of lading or receipt indicated in the previous article, serves as bill of lading whenever it includes the word "loaded on board" as well as the elements provided in sub-paragraphs b) to d) above.

3. Using an original copy of the bill of lading in order to request the delivery of the goods at the destination port makes the others without effect.

Article 505

Persons entitled to issue the bill of lading

1. The transporter, its employees, agents or representatives are entitled to issue the bill of lading.

2. The bills of lading issued by people that are not entitled are null, these being obliged to compensate the injured parties for the damages caused by those emissions.

Article 506

Nature, modalities and transmission of the bill of lading

1. The bill of lading is a credit title representative of the goods described therein and can be nominative or bearer of the order.

2. The lawful holder of the bill of lading is entitled to receive the goods at the destination port, without having to acquire opposable exceptions based on shipping contract between the carrier and the transporter.

Article 507

Reservations on the bill of lading

1. Reservations put by the transporter in the bill of lading should be clear, precise and capable of motivation.

2. The transporter may omit from the bill of lading the matters referred to in subparagraphs b) and c) of paragraph 1 of Article 499, for the usual practice in the type of transport considered and given the specific conditions of the goods and the technical means of loading, if the statements made by the carrier are not verifiable in terms of reasonableness.

Article 508

Letters of guarantee

1. The letters or agreements under which the carrier undertakes to compensate the transporter for damages resulting from the issue of unqualified bill of lading are not binding on third parties, namely the receiver or insurer, but these can prevail them against the carrier.

2. In the case of omitted reserves refer to defects of the goods that the transporter knew about or should have known at the time of signing the bill of lading, the transporter may not prevail himself from such defects for exoneration or limitation of its liability.

Section II

Obligations during the journey

Article 509

Vessel used for the transport

The transporter must carry out the transportation in the vessel designated in the contract or in another that may carry out the transportation under the same conditions.

Article 510

Transport on deck

1. The transport of goods in the ship's deck must have the consent of the charger and expressed in the bill of lading.
2. The consent referred to in the preceding paragraph is dismissed in the case of:
 - a) Goods, by legal requirement, should remain on deck;
 - b) Containers transported in ship specially constructed or adapted for this purpose or another type of vessel according to conservative traffic uses.
3. The Brussels Convention of 1924 in terms of knowledge is applied, as for the causes of legal exoneration of the carrier's liability and on the overall limitation of this, when the transport is carried on deck in accordance with paragraphs 1 and 2 of this article.

Article 511

Impediment of the trip for reasons not attributable to the carrier

If the trip cannot be undertaken on the date or time provided for reasons not attributable to the carrier, either party may terminate the contract without having any liability for the damage suffered by the carrier.

Article 512

Travel impediment attributable to the carrier

1. If the travel is impossible on the date or time provided due to reasons attributable to the carrier, the latter becomes then liable as if it failed the breach of compliance.
2. Regardless of the right for compensation, the carrier may terminate the contract, requiring the refund part or all of the freight that has already been paid.

Article 513

Forced entry

1. If this vessel has to do a forced entry for cause attributable to the transporter, it must account for this delay and other damage caused to the charterer, according to the provisions of the following chapter.
2. When a forced entry is due to bad weather, danger to the ship, justified fear of enemies or pirates or any other cause not attributable to the charterer, it is considered legitimate and the parties shall bear their own costs.
3. The transporter may proceed with the discharge, storage and reloading at the unloading port where this is necessary for the repair of damages suffered by the vessel or for the repair or proper preservation of the goods.
4. The carrier may terminate the contract and remove its cargo at the forced entry port by paying proportionally the freight to the travelled distance.
5. The provisions of the foregoing articles, do not affect the regime of fault thick, laid down in this Code.

Section III

Obligations after the journey

Article 514

Delivery of the goods at the destination

1. The carrier must deliver the goods at the unloading port to the consignee or the entity that should receive in accordance with local regulations.
2. The delivery being carried out to the entity referred to in the preceding paragraph, this entity has the duty to keep the goods under the terms of the deposit contract regulated in civil legislation.
3. The deposit contract regime is equally applied where the goods remain in the possession of the carrier, its workers or agents after unloading.

Article 515

Refusal to receive the goods

1. If the consignee refuses to receive the goods or does not claim their delivery within 20 (twenty) days after the unloading of the ship, the carrier shall notify it by registered letter with acknowledgement of receipt, if known, setting another 10 (ten) days to conduct the survey, notifying such matter also, in the same way, to the carrier.
2. If the recipient is unknown, the notification referred to in the preceding paragraph is replaced by notice published in one of the most widely read newspapers of the location, counting the 10 (ten) days from the publication, complying with the requirements at the end of the preceding paragraph.
3. When the terms of the preceding paragraphs finish, the carrier has the right to require the deposit and judicial sale of the goods, pursuant to Title IV of Book XI of this Code.

Article 516

Plurality of stakeholders in the cargo

If more than one person with a qualifying title, wants to receive the goods at the port in order to unload it, these goods remain in custody of the authority referred to in Article 514 until the competent judicial authority decides otherwise, upon the carrier's request or any other interested party, who is entitled to receive it.

Article 517

Freight payment guarantee

1. The carrier enjoys lien on the transported goods for warranty claims arising from transportation.
2. The carrier may require the deposit and judicial sale of the goods according to the procedure provided for in Title IV of Book XI of this Code.
3. If the carrier, in exercise of the lien, keeps the goods on board, it is prevented from claiming from the stakeholder a compensation for damages resulting from ship immobilization.

Article 518

Perishable goods

1. When the situations referred to in any of the 3 (three) preceding Articles are met in respect of perishable goods and there is a risk of deterioration, the carrier must require immediate judicial authorization for the sale and notify the other party if it is knowledge.
2. Once the judicial authorization has been obtained, the carrier can sell the goods out of court and the price obtained from the sale must be deposited at the court order, deducting the credits referred to in the next article and expenses that it has incurred.
3. The interested parties can in any case prevent the anticipated sale of the goods providing adequate bail.

Article 519

Privileges on the cargo

1. The credits of the carrier for the freight usufruct from privilege over the load, graduates below the legal costs and expenses incurred in the common interest of the creditors and tax duties due at the port of unload.
2. The same privilege and the same degree, usufruct from the carrier's claims for the cargo contributions to general average or the reward for rescue, as well as other expenses incurred in the cargo interest.

3. The privileges on the cargo expires when it is acquired by a third party in good faith and for valuable consideration after 20 (twenty) days from the date of delivery to the recipient.

CHAPTER IV

Liability

Article 520

Liability Regime

1. The carrier is responsible towards the shipper or any third-party holder of the bill of lading, for the loss or damages in goods or delays in delivery, unless it proves that those have been caused by events not attributable to him.

2. The liability clauses in the preceding paragraph are null and void, as well as those that seek to limit the liability of:

- a) The carrier for omissions or inaccuracies in the cargo declaration;
- b) The carrier for omissions or inaccuracies in the bill of lading;
- c) The person who issued a bill of lading without being entitled to do so.

Article 521

Responsibility before shipment

The liability of the carrier for loss or damage suffered by the goods between the time of receipt and its boarding are governed by the provisions of the deposit agreement regulated in the civil legislation.

Article 522

Right of return of the carrier

The intervention of aids, such as managers or shipping agents, port operators or others does not exclude the carrier's responsibility towards the stakeholders in charge, safeguarding the right of return of this in relation to those.

Article 523

Privilege on the ship

1. In cases of nullity of the bill of lading because it was issued by a person without legitimacy and where it is not possible to identify the carrier based on the elements contained in the bill of lading, those interested in the cargo may enforce their claims against the ship that carried out the transportation.

2. The action referred to in the preceding paragraph shall be governed by the provisions of Article 272, in paragraph g) of paragraph 1 of article 273, and other provisions of this Code that regulate the maritime privileges, subject to liability under Article 504.

Article 524

Legal limitation of liability for loss or damage

The liability of the carrier for loss or damage suffered by the goods transported is determined by the value of goods at the port or place of destination, unless its true value is declared in the bill of lading, plus the inherent expenses and charges.

Article 525

Volumes or cargo units

1. When goods are consolidated for transport in containers, pallets or similar elements, all of which are listed in the bill of lading are considered as volumes or cargo units, as well as the container itself or analogue element whenever it has been provided by the loader.

2. In the absence of listing on the knowledge of volumes or contained units, it is understood that each container, pallet or similar element has a single volume or unit.

Article 526

Legal limitation of liability for delay

1. The liability of the carrier for delay in the delivery of the goods is limited to the equivalent of two and a half times the freight of the goods affected by the delay.

2. There is a compensation appeal for breakdown and delay, the maximum amount is limited to the numbers set forth in the preceding paragraph.

Article 527

Loss of right to limit liability

The carrier loses the right to limit its liability if it proves that the loss, damage or delay in delivery of goods was due to negligent or intentional act attributable to it.

Article 528

Application to non-contractual actions

1. The limitation scheme laid down in precedents Articles is also applicable to non-contractual actions in which the stakeholders in the cargo can turn against the carrier or directly against any of his assistants.

2. Should the action be directed directly against the assistants, they lose the right to limit the liability in the same terms provided to the carrier in the previous article.

3. Notwithstanding the provisions of the preceding paragraphs, the limitation of liability of the port operators shall be governed by the provisions of Title VI of this book.

Article 529

Order

The compensation claims referred to in this Title shall be exercised within 2 (two) years from the date on which the plaintiff became aware of the law that applies to him.

TITLE III

CONTRACT OF MARITIME TRANSPORT OF PASSENGERS

CHAPTER I

General provisions

Article 530

Concept

The contract of maritime transport of passengers is one in which the carrier undertakes to transport a person on board a vessel from one port to another, upon payment of the ticket price.

Article 531

Imperative Regime

The clauses that aim at reducing the rights of passengers under this Title are void.

Article 532

Exclusion

The free shipping is excluded from the scope of this Title, whether or not carried out by commercial vessels, as well as transportation of stowaways.

Article 533

Attributable facts

1. As for responsibilities laid down in this title it is understood as facts or causes attributable to the carrier, the intentional acts or omissions or self-negligence and its auxiliaries may be dependants, agents, or contractors, whichever the case.

2. For the same purposes, it is understood as facts or causes attributable to the passenger, the intentional acts or omissions or negligence.

Article 534

Passenger ticket

1. The contract of maritime transport of passengers is proved by the ticket, which must be issued by the carrier or its agent and which must include:

- a) The identification of the carrier and the passenger;
- b) The name of the vessel;
- c) The port of embarkation and disembarkation;
- d) The date of departure and arrival;
- e) The travel conditions and the fare;
- f) The date and place of issue.

2. The passenger ticket is personal and not transferable and the passenger may only assign its contractual position, with the express consent of the carrier.

CHAPTER II

Obligations and rights of the parties

Article 535

Navigability and replacement of the vessel

1. The carrier must carry out the transport on a ship that is seaworthy, properly armed, equipped and provisioned for the trip, proceeding in an appropriate and diligent manner in order to comply with the safety requirements imposed by applicable regulations and uses.
2. The trip should be carried out on the vessel designated on the ticket and the carrier cannot replace it with another without the express consent of the passenger.
3. Notwithstanding the preceding paragraph, in unforeseeable circumstances or force majeure, the carrier may replace the boat ship one that offers similar qualities.

Article 536

Delayed in departure

1. If there is delay in departure for reasons attributable to the carrier, the passenger has the right for:
 - a) Lodging and food on board throughout the delay time when the supply is included in the ticket price;
 - b) Room and food at its own expense, according to the carrier's price list, when the food is not included in the ticket price;
 - c) Compensation for damages
2. If the delay exceeds 12 (twelve) hours, the passenger has the right to terminate the contract.

Article 537

Presentation for boarding and resignation of transport

1. The passenger must be on board one hour before the indicated time for the departure of the vessel.
2. If the passenger fails to report board, it must pay the price of the passage in whole, except in case of death, illness or other cause of force majeure, preventing passenger from travelling, communicating to the carrier before the trip, in which is due only half of the price.
3. The passenger can renounce the contracted transport and is entitled to refund the ticket price when it report so the carrier or its representative within minimum of 24 (twenty four) hours of the anticipated departure of the ship.

Article 538

Prevention of trip

1. If the passenger cannot make the trip for a reason attributable to the carrier, it has the right for an immediate refund of the ticket price as well as compensation for damages.

2. If the obstruction is due to unforeseeable circumstances or force majeure, it is only entitled to a refund of the ticket price.

Article 539

Passenger Duties

The passenger is obliged to comply with the laws and regulations existing and the instructions given by the captain during the trip.

Article 540

Landing at port distinct from the of destination port

1. If during the trip, the passenger prefers to land in an itinerary port other than that of its destination, it can do so by paying the carrier the price in full of the passage as well as the supplements or additional costs resulting from the disembark.

2. The passenger that has to land in a port other than its destination for reason attributable to the carrier is entitled for compensation for damages.

3. If landing in the port other than its target is motivated by fortuitous event or force majeure, it must only pay the price of passage proportional to the travelled distance.

Article 541

Luggage

1. The passenger is entitled to free transport of its hand luggage or cabin, within the limits of weight and volume set out in the ticket.

2. The luggage exceeding the limits referred to in the preceding paragraph shall be delivered to the carrier for storage and is subject to a special freight, the carrier shall deliver to the passenger a receipt proving the luggage that was entrusted to it.

Article 542

Vehicles and objects of special value

1. The transport of vehicles accompanying the passenger is governed by the rules contained in the previous article relating to the luggage delivered to the carrier.

2. The passenger can deliver to the captain, guard, special value articles that it can take on board and, failing that, is not entitled to compensation for theft or damage thereof, during the trip.

Article 543

Detour

1. If a detour is attributable to the carrier, the ship changes the provided scales, the passenger is entitled to compensation for damages, as well as, housing and food for the time of the detour, even if they are not included in the ticket price.

2. In the case of the preceding paragraph, the passenger may choose to terminate the contract and land in one of the ports of scale, notwithstanding the compensation that corresponds to it.

3. To disallow the compensation provided for in the preceding paragraphs, if the detour derived from acts of God or force majeure or the need to rescue persons or property at sea.

CHAPTER III

Carrier's liability

Article 544

Liability for personal injury

1. The carrier is liable for the damage that the passenger suffered on the ship during the trip, and also for occurring from the beginning

of the boarding operations to the end of landing operations, whether in ports of origin or ports of scale, where the damage is due to the facts attributable to the carrier.

2. Proof of the carrier's intent or fault or his assistants and, above all, the breach of the obligation of seaworthiness referred to in Article 538 lies with the passenger.

3. Notwithstanding the preceding paragraph, when the damages suffered by the passenger occurs at the time of sinking, approach, explosion, fire, or other accident, it is up to the carrier to prove that the damage did not result from the seaworthiness of the ship and that the facts are not attributable to him.

Article 545

Liability for material damages

1. The liability of the carrier before the passenger for the hand or cabin luggage is governed by the provisions of the preceding article.

2. The liability of the carrier for baggage that has been entrusted and with vehicles that accompany the passenger is governed by the provisions applicable to the contract of maritime transport of goods.

Article 546

Prescription

The right to compensation for breach of a contract shipping of passengers must be exercised within 2 (two) years from the date of disembarkation or in the date that it should be carried out.

TITLE IV

SEA TOW AGREEMENT

CHAPTER I

General provisions

Article 547

Concept and classes

1. The towing contract is one that the operator of a tow or other vessel obliges to, for a price, perform the manoeuvre required for moving to another vessel or good or perform its cooperation for the manoeuvres of the towed vessel.

2. The towing contract may be towing manoeuvres, oceanic towing, transportation towing or rescue towing.

Article 548

Applicable regime

1. In the absence of agreement between the parties, the towing contract shall be governed by the provisions of this Title.

2. The towing manoeuvre contract is governed, moreover, by the provisions of Chapter II, Title I, Book III to this Code and the nautical port services regulation.

3. The rescue tow is governed by the rules contained in Title III, Book VIII of this Code.

Article 549

Attributable facts

For the purposes of this title facts attributable are understood as facts attributable to the towing ship owner or the towed ship owner, as the case may be, to the intentional or negligent acts or omissions of him or those of his assistants used in the towing operation.

Article 550

Limitations

The actions emerging from the expired towing agreement, within 1 (one) year after the end of operations.

CHAPTER II

Towing management and damages liability

Article 551

Port towing

1. In the absence of agreement with the contrary, the captain of the towed vessel will operate and manage the port towing, whose instructions must follow the captain of the towing vessel.

2. Unless proved otherwise, it is assumed that the ship owner of the towed ship is responsible for all damages caused to the towing vessel or to third parties as a result of the towing operations.

3. The presumption established in the preceding paragraph is inverted if there is a written agreement between the parties under which it entrusts the direction of towing to the captain of the towing vessel.

Article 552

Oceanic towing

1. The oceanic towing operations are conducted under the direction of Captain of the towing vessel, so, the ship owner of the towing boat is responsible for the damage attributable to it, caused to the towed ship or to third parties.

2. By written agreement, the parties may reverse the presumption of the liability established in the preceding paragraph.

Article 553

Liability towards the 3rd party for common fault

1. The ship owners of the towing and towed vessels are jointly liable for the damages caused to third parties by the towing train if the damage is attributable to them.

2. In any case, it reserves the right to go back to the ship owners according to the level of their fault.

Article 554

Transportation towing

1. The transportation towing contract is one in which the operator of a towing vessel takes the obligation to relocate by sea a ship which is lacking propulsion means or other means necessary to cooperate in the governing of the towing train.

2. In the transportation tow is presumed, unless proven otherwise, that the owner of the towing vessel received in its custody the towed vessel and other assets that are on board, being responsible for the damage, which proves to be due to the facts attributable to the towing.

3. On the same terms, the ship owner of the towing vessel will respond to damages which the towing train can cause to third parties.

TITLE V

PILOT CONTRACT

CHAPTER I

Concept and duties of the pilot and captain

Article 555

Concept

Within the piloting contract, the pilot is a named person who undertakes, for a price, to advise the captain on board in carrying out various operations and exercises for the safe navigation of ships in port waters or it's adjacent.

Article 556

Reciprocal duties

1. Captain and pilot are obliged to determine together the operation of the ship and exchange the information necessary to achieve the same.

2. Notwithstanding the preceding paragraph, the captain and pilot must cooperate with one another while performing the manoeuvres.

Article 557

Precedence of the captain

1. The pilot's presence on board the ship, even when mandatory, does not imply the loss of control by the captain nor exonerates it from its duties and responsibilities relating to governing and nautical direction of the ship.

2. The pilot's presence on board, also does not exonerate the officer in charge of any duties that are incumbent upon navigation safety.

3. The preceding paragraphs shall apply equally in cases where, with the consent or acquiescence of the captain or the officer, the pilot directly ordering to manoeuvre or performs it personally.

CHAPTER II

Liability for damages

Article 558

Liability for damage caused to the ship

Damage and accidents caused by the ship for inaccuracy or omission of the advice that the pilot should provide to the captain, are attributable to that, notwithstanding the same guilt of the captain, if he makes mistakes or act negligently in following the received instructions.

Article 559

Liability for damage caused to third parties

1. The pilot reports to third parties for damage caused to them as a result of acts attributable to him, though, the damage caused by any shared guilt will be responded jointly, the pilot, the captain and the ship owner.

2. In any case third parties can demand compensation directly from the ship owner of damage suffered as a result of the approach with the pilot on board, , notwithstanding the right of recourse which may correspond to the ship owner, the pilot or captain.

Article 560

Liability of service providers and port administrations

The preceding articles shall not affect the liability which can match the nautical port services providers and port management pursuant to Title I of Book III of this Code.

Article 561

Disclaimer

The regime established in the previous article shall not prejudice the right of liability limitation as provided in Book IX of this Code.

TITLE VI

GOODS HANDLING AGREEMENT

CHAPTER I

General provisions

Article 562

Concept and form

1. The goods handling contract is one where a port operator undertakes, for a price, to perform some, several or all of the following operations:

- a) Loading, unloading, stowage or des-stowage of vessels;
- b) Receiving, sorting, cargo storage and storage on the deck or port warehouses;
- c) Cargo movement within the port area;

d) Other similar materials operations or related to previous operations.

2. The goods handling contract can be completed either expressly or tacitly.

3. The contract is understood to tacitly be concluded:

a) At the cargo port, with the delivery of the goods by the shipper to the port operator;

b) At the unloading port, for the delivery of the goods which is carried out by the carrier to the port operator for their delivery to the recipient or for transferring them.

Article 563

Contracting Party of the operations

1. The port goods handling operations can be hired by the carrier, the recipient, the consignee, or their assistants who took the obligation of the contract.

2. In the absence of express agreement it is assumed that the operation was contracted:

a) By the loader, when the main service consists in placing the goods on board the ship or its delivery to the carrier;

b) On account of the recipient, when the main service consists of receiving the goods on board the ship at the port of unloading;

c) On account of the carrier, in the case of loading, unloading, stowage, des-stowage or handling on board.

CHAPTER II

Obligations and rights of the parties

Article 564

Operator obligations

1. The port operator must carry out the handling operations provided for in paragraph 1 of Article 562 as appropriate in each case.

2. When the port operator is acting on behalf of the recipients of the goods, it must carry out on time and properly protests or complaints about the state and condition of the goods at the time they receive them from the carrier, taking responsibility for the losses suffered as a result of its omission or extemporaneous carrying out.

Article 565

Dangerous Goods

1. The operator shall refuse to receive the goods whose dangerous nature is known and it does not meet the requirements referred to in Article 124 when by then he is becoming heavily responsible with any charges for damages caused to third parties by goods wrongly received.

2. Dangerous goods delivered to the operator without being declared as such, constituting a risk to people or to property, can be destroyed or turned into harmless, without any compensation to its owners.

3. The loaders, if they know the dangers of the goods and do not inform the operator, they are liable for damage caused as a result of handling these dangerous goods or do not comply with the requirements referred to in paragraph 1.

Article 566

Documentation

1. The port operator can issue a written receipt on which should include details on goods received for handling, the state in which they are, the quantities and other notes which are considered relevant.

2. The written receipt can be replaced by a mere acknowledgement of receipt with the date and signature of the operator in any document that is submitted to the loader or recipient of the goods in which these are properly identified.

3. The issuance and signing of the document certifying the receipt of goods is mandatory if requested by the shipper or the recipient of the same, leaving the operator to choose between issuing a written receipt or delivery a mere acknowledgement of receipt.

4. In the absence of receipt or acknowledgement of receipt, it is presumed that the operator received the goods and in good condition, unless proven otherwise.

Article 567

Right of retention

The port operator is entitled to retain the goods in his possession, until the price due for handling them has been paid.

Article 568

Refusal of receiving the goods

1. If the recipient is unknown, does not appear or refuse to accept the goods, the Port operator must store them in a storage procedure.
2. If the storage or deposit in appropriate storage conditions is not possible, the operator is exempt from the obligation to store the goods, within 48 (forty eight) hours after notification or attempted notification of arrival notice.

CHAPTER II

Liability of the port operator

Article 569

Liability foundation of the port operator

1. The port operator is liable for damage, loss or delay in delivery of the goods entrusted to him, unless he proves that those were due to causes or events that are not attributable to him.
2. The period of the operator's responsibility is initiated at the time it received the goods and ends at the moment it carried out the delivery or placed at the disposal of the person entitled to receive it.
3. Unless a written notice of the loss or damage suffered by the goods has been given to the port operator, describing in general terms its nature, within 3 (three) business days following the delivery, it is presumed, unless proven otherwise, that they were delivered in the same condition as described in the receipt slip or, if the mentioned receipt has not been issued then it is in good condition.
4. The period referred to in the preceding paragraph is 15 (fifteen) business days in a case of no apparent damage.

Article 570

Liability Binding nature

The liability regime of the operator for loss, damage or delay in delivery of goods established in this title cannot be contractually changed or modified prejudicial to the service contractor.

Article 571

Legal limitation of the liability

The liability of the port operator is limited under the terms of regulations to be approved by members of the Government responsible for the maritime administration and finance.

Article 572

Loss of right to limit liability

The port operator is not entitled to limit its liability if it is proved that the caused loss, damage or delay in delivery of the goods was intentional or negligent.

Article 573

Application of the liability regime to the various actions

1. The port operator's liability and its limitation established in the preceding articles shall apply to compensation actions for damages, loss or delay, whether contractually or non-contractually, and they can be directed against the port operator or against its assistants that participated in the fulfilment of the supply.
2. With the action being aimed directly against the assistants, they lose the right to the limitation of the liability, pursuant to the operator in that preceding Article.

Article 574

Legitimation and actions

1. The port operator's liability for damage or loss of the handled goods may be required by those who are contracted with the corresponding operations operator.

2. The recipient of the goods transported whose handling has been taken over by the carrier has direct action against the operator to claim such responsibility, notwithstanding that it also may claim it against the carrier.

Article 575

Limitation

Claims for loss, damage or delay in delivery of goods handled are limited within 2 (two) years after the delivery by the responsible operator or from the date when they should be delivered in the cases of total loss.

BOOK VIII

SEA RISKS AND NAVIGATION ACCIDENTS

TITLE I

FAULTS

CHAPTER I

General provisions

Article 576

Concept of faults

1. Specifications of all expenses or extra-ordinary sacrifices made with the ship or its cargo, jointly or separately, and all the extraordinary damages that happen to the ship or its cargo from embarking and loading up to the disembarking and unloading.

2. Malfunctions are not reputable, the simple predictable costs and will be charged to the ship, such as pilot costs, port tows, mooring, duties or shipping fees or port and expanses needed to lighten the ship in order to pass the known lower water or banks of sand, whether it is leaving at the starting point or the entry to the place of destination.

Article 577

Major malfunctions and simple defects

1. Malfunctions are classified into major malfunctions or common and average, simple or particular malfunctions.

2. Major or common malfunctions are those that have as their object to avoid a hazard or unforeseen disaster and seek common security or rescue of the goods and interests involved in the maritime shipping of a commercial ship dedicated to goods transport, provided that the expanses, damages or sacrifices produce any useful result.

3. All the other malfunctions are simple or special damages.

Article 578

Regime applicable to major malfunctions

1. The determination and settlement of major malfunctions are regulated by the agreement between the parties and, secondarily by the provisions of this Title, notwithstanding the provided in the Books X and XI.

2. In the case of foreign ships, the determination and settlement of major malfunction shall be governed by the law agreed by the parties and, failing that, by the ship's flag law.

3. The contract clause which gives the ship owner the right to unilaterally choose the rules applicable to general average is null, after checking these.

Article 579

Regime applicable to simple malfunctions

The simple malfunctions produced on the ship or to the goods are governed by the provisions of Titles II to V of this Book and Books VII, IX, X and XI of this Code, as the case may be.

CHAPTER II**Cases which constitute major malfunctions****Article 580****Major malfunctions situations**

Whenever the circumstances provided for in paragraph 2 of Article 585 occur it is considered major malfunctions, in particular:

- a) The dumping overboard of the goods on board;
- b) Damage that the dump operation is causing to the vessel or other assets that remain on board;
- c) The damage caused by the ingress of water through the open hatches or other opening made in order to carry out the dumping;
- d) Damage or destruction of masts, spars, sails and other dressings and ship accessories;
- e) The damage caused to the ship, machines appliances and boilers or other integral parts of the efforts made solely to re-float and the abandonment of anchors, ties, cables and other objects, determined by the same purpose;
- f) Unloading expenses, reloading and re-stowage of goods, fuel and provisions, as well as the guard, storage and warehousing and damages arising from such operations;
- g) Losses and damage resulting from stranding or mooring and voluntary re-floating operations of the vessel, in case of imminent danger;
- h) The repair costs of the ship's damage, derived from a sacrifice or of a sea accident while travelling and need for the continuation of the same journey;
- i) The integral parts, accessories and ship's provisions from expenses such as the fuel if the ship has been adequately supplied with fuel, and should be taken of the common malfunction credit as the amount of fuel that would normally be consumed, calculating at the current price of the last port of exit and the date thereof;
- j) The entry and exit expenses of port of forced entry, or return to the exit port, for unforeseeable circumstances effect, or of a sacrifice or any extraordinary cause;
- k) Towing expenses, transshipment and cargo's journey continued when the ship needs to be repaired in the port of forced entry and could be done so more economically in another port, but due to competitive economy is conducted,
- l) Salaries and food of the captain and other crew members, when entering a port by forced entry in order to carry out repairs or other extraordinary cause and to cease the danger that determined the forced entry, or to the ship be able to continue the journey, excluding the subsequent salaries and food later to the declaration of un-seaworthiness or interruption of the journey;
- m) The costs of the provisional repairs of the particular malfunctions of the ship, when this could not continue the trip without those repairs, such malfunctions constitute common danger; but the common malfunction deducts what is usable for the interim repairs for the permanent repairs;
- n) Damage caused to the ship or the cargo, or to one and the other, either to the extinction of a fire on board, either to drain water, or to facilitate the general safety of the ship and cargo;
- o) The costs of treating and feeding of people injured and fallen ill in defence or by effect of the ship's rescue work, and the costs of the funerals of those who died from the same causes;
- p) Expenses for the rescue of the trapped ship or seizure when its cause did not come from the ship, the ship owner, the captain or the other crew members, and as well as the salaries and sustaining the crew during their investigations;
- q) The judicial and extrajudicial expenses related to thick malfunction, made in favour of all the stakeholders, including those that were necessary for the rejection of unfounded complaints, including the fees of experts, regulators and lawyers.

Article 581

Assets saved with sacrifice of other goods

When the goods of some stakeholders are saved during the trip and by decision of the captain, with sacrifice of the goods of other stakeholders, the sacrifice is compensated by the beneficiaries in proportion to the advantage achieved by each of them, although it does not check all the elements of major malfunction.

Article 582

Dumping Priorities

Whenever there is need for the throw the goods overboard for the common safety, the captain should if possible, throw overboard, things less necessary, heavier and of lesser value, estimated that they are on deck, and only afterword the other.

Article 583

Fault of the stakeholders

1. The common fault-related rules should apply even when the danger, direct cause of the major malfunction, was caused either by fault of the commander, the crew or of a co-interested in the cargo, whether by a defect in the vessel or the goods loaded; but the stakeholders of the major malfunction can act back against the responsible, regardless of the repair of such malfunction.

2. The right of act back provided for in the preceding paragraph shall expire if it is not exercised within 1 (one) year from the date on which the person became aware of the regulation.

CHAPTER III

The debtor load and creditor load of the major malfunction

Article 584

Who supports the malfunctions

The general average shall be borne proportionately between the ship, cargo and freight, to expire, in the proportion to its value.

Article 585

Integration of the masses

1. For the allocation of general average, it forms a capital contributor, called passive or debtor load composed by the following elements:

a) The total net amount that the saved goods would have at the time and place of discharge, after deduction of the private damage suffered during the trip;

b) The net freight at risk for the ship owner that is owed by the charger or the recipient or by whom it has been received but it must be returned in case of loss of the goods;

c) The active or creditor load, as established in the following paragraph.

2. The set of interests sacrificed in the general average, constituting the active or creditor load and is formed by the value that those have the time and place of arrival at the port of discharge.

3. The provided in this article shall not affect the special rules provided for in the following articles.

Article 586

Excluding personal items and groceries

Objects of personal effects, clothing and salaries of crew, the hand or cabin baggage of the passengers as well as the supplies on board in the necessary amount for the trip are excluded from the load of the general average.

Article 587

Ship value

1. The ship, with all its members and accessories distinct from the supplies mentioned in the previous article, contributed by its value in the goods unloading location, or the price of its sale, deducting the amounts of the particular faults and consumptions carried from the act of the general average.

2. Nevertheless, the appliances, dressings or other integral parts on board thrown into the sea, as well, anchors, chains or other abandoned objects, albeit voluntarily and for the common salvation, it is only considered for the formation of general average load as contained in the documentation or ship plans or are properly described in the ship's inventory.

Article 588

Value of the ship's faults

1. If the ship faults are admitted to the breakdown would be repaired before the general average settlement, the value to be used shall correspond to reasonable repair costs.

2. If the faults are not repaired before the settlement of the general average, the value to be used should be the most likely corresponding to reasonable repair costs.

Article 589

Difference between the new for old

1. The compensation payable to the ship, by replacing its integral parts, the difference between the old and the new is deducted, if the vessel is older than 15 (fifteen) years old.

2. If the broken ship is sold, or if the dumped objects are saved, or the appliances and dressings or other integral parts replaced have some value, all these values must be discounted before the deduction of the difference between the old and the new.

Article 590

Fixing the contributor value of the goods

1. The goods or other property that have to contribute for the general average as well as the dumped or sacrificed objects are evaluated according to its value at the actual unloading port, after deducting the freight, of their respective customs rights and unloading costs.

2. Being designated in the bills of lading the quality and value of the goods if they avail more, they shall contribute to this value, when they are saved and by the same amount to be paid; but in case of particular malfunction, the value stated prevails in the bill of lading.

3. If the goods have value lower than that stated in the bill of lading, they contribute to this value if they are saved, but the real value for compensation purposes applies in general average.

Article 591

Goods sold

If the loaded goods are sold for common salvation, they should be compensated for their value in the place of unload or the amount from the sale if this is higher.

Article 592

Undeclared goods

Goods or other property that are not a part of the bill of lading, receipt or captain's statement are not allowed in general average when they sacrificed but contribute if saved, without prejudice to the right of the owner to the respective freight.

Article 593

Goods on deck

1. Loss or damage to cargo carried on deck, either by dumping or otherwise, are not allowed in the general average if carried on deck without authorization from the charger when necessary.

2. However, the goods referred to in the previous number contribute to the general average if they are saved.

Article 594

Transhipped Goods

1. The provisions relating to general average are also applicable to goods and transhipped goods in order to lighten the ship in distress.

2. The loss of goods or goods after being transhipped must be supported by the lightened ship and throughout its loading.

Article 595

Dumping and subsequent to the ship's sinking

In the case of dumping, if the ship was rescued from danger that motivated the dumping, but while continuing the journey it were to lose the goods after and the saved objects from the second danger are obliged to contribute for payments to the loss of those dumped at the first occasion.

Article 596

Freight loss

The loss of freight resulting from a loss or damage suffered by the cargo is compensated in general average, but the expenses that the owner would have to earn and he did not, should be deducted from the amount of the gross freight, in virtue of the sacrifice.

CHAPTER IV

Declaration and settlement of general average

Article 597

Statement of the general average

The statement of the general average is done by the Captain's initiative, leaving it to be advanced by the ship owners or cargo or their insurers, without prejudice to the responsibility of the captain who failed to do so.

Article 598

Settlement of the general average

1. The settlement of the general average may be judicial or extrajudicial.

2. The judicial settlement of the general average is made according to the provisions contained in Title V of Book XI of this Code.

3. The clause in the bill of lading or charter party stipulating the form and place of settlement of the general average, as well as the rules or laws that the settlement must obey is valid.

Article 599

Sharing between the stakeholders

1. The breakdown between the stakeholders' interests in the general average is by applying the damage coefficient to each stakeholder's value.

2. The coefficient of damage is equal to the ratio between the amount of expenses and sacrifices, active mass and total stakeholders values, passive mass.

3. In case of bankruptcy or insolvency of any of the stakeholders, its part it is shared by others in proportion to their interests.

Article 600

Successive general average

In case there are while travelling successive general average, they are settled at the end of the trip as if they were a single fault, except for the goods shipped and landed in intermediate port, which do not contribute to the above general average to its loading or its latter

landing.

Article 601

Loss of right of action for general average

1. The ship owner cannot sue the charterer, shipper or recipient for general average if the captain delivered the goods without protest or reservation of right of action.

2. The charterer, shipper or recipient cannot also perform the same action against the ship owner if they receive the goods without protest claim for general average contribution, checked on the act of receipt.

TITLE II

COLLISION

CHAPTER I

General provisions

Article 602

Concept and regime

1. Collision is understood as the shock between two or more vessels at anchor or moored or moving, provided they are not linked by a contract, resulting in damage.

2. The civil liability for damage to vessels shall be governed by treaties and international conventions in force in Cape Verde and, additionally, by the provisions of this Title, except for cases where the affected vessels are bound by a tow contract or a contract of other nature contemplating differently this responsibility.

Article 603

Extension of the collision regime

The provisions of this Title also apply to the civil liability arising from of the damages that either by commission or omission of a manoeuvre or by non-observance of regulations, a ship causing to other or to property or persons on board, even if there has not been a collision.

Article 604

Conflict rules on collision

1. The matters relating to the civil liability coming from collision are regulated by the Law of the coastal State if the collision occurs in their ports or other inland waters in its archipelagic waters or its territorial sea.

2. If the collision occurs in different waters from the ones highlighted in the preceding paragraph, the civil liability born from collision is determined:

a) By the law of the common nationality of the ships if they have the same nationality.

b) By the State law that belongs to the judicial authority chosen by the parties or failing that, by the law of the competent court, according to the relevant international conventions, if the ships are of different nationalities.

CHAPTER II

Civil liability born from collision

Article 605

Fortuitous collision

The collision of ships by fortuitous accident or due to force majeure, does not give rise to any compensation, each vessel supporting the damage it has suffered.

Article 606

Collision by fault of one of the ships

The collision being caused by the fault of the ship owner of one of the ships or its crew members or other dependants’ assistants, or agents, the ship owner of the vessel in fault is responsible for all caused damages.

Article 607

Collision by fault of both ships

1. Having a blame contest about the collision, each of the ship owners respond in proportion to the severity of their own fault.
2. Not having solidarity in respect of third parties for damage arising from the collision, except in the case of death or bodily harms.

Article 608

Collision by fault of third ship

When a ship collides the other, by the fault of a third ship, the ship owner of the latter accounts for all caused damages.

Article 609

Right to act back against the perpetrators

The liability of ship owners established in the previous articles does not release the captain, members of the crew or other depending assistants or agents from the responsibility to the injured, if the collision was due to fault of these they are entitled to act against the responsible for the collision.

Article 610

Collision with pilot on board

If the collision is found with the pilot on board, the rules contained in Chapter II of Title V of Book VII of this Code are applied.

Article 611

Limitation

1. The compensation actions mentioned in this Article shall be exercised within 2 (two) years from the date of the collision.
2. The return actions concerning those responsible must be exercised within 1 (one) year from the date of payment.
3. The period contemplated in paragraph 1 shall be suspended if the responsible vessel is not seized in the jurisdiction of Cape Verde.

TITLE III

GOODS RESCUED AT SEA

CHAPTER I

General provisions

Article 612

Concept and rescue classes

1. Maritime salvation or rescue operation is all act or activity aimed at providing relief to ships or other property that are in distress at sea, including freight at risk.
2. The assistance given to permanently or intentionally fixed to shore assets is not considered rescue operation.
3. The rescue may be contractual, where it preceded the conclusion of a rescue agreement pursuant to contractual or non-contractual terms in next chapter, in other cases.

Article 613

Rescuer and saved

1. Rescuer is providing relief to property in danger, using the sea, air or terrestrial means.
2. Saved is the owner of the goods or ship owner covered by the relief operations.

Article 614

Salvation related to government ships

1. The provisions of this Title shall also apply to the operations carried out by rescue vessels and state aircraft or any other public means.

2. The fate of the rewards earned as a result of operations referred to in the preceding paragraph shall be determined by regulations approved by the Government member responsible for the maritime administration.

Article 615

Obligations of the Rescuer

1. It is in the obligations of the rescuer:

- a) To perform the maritime rescue operations with due diligence in regard to the circumstances;
- b) To prevent or minimize environmental damage;
- c) To request the intervention of other rescuers, when the concrete circumstances of the situation advise so;
- d) Accept the intervention of other rescuers, when so requested by the saved.

2. For the purposes of this title, environmental damage are considered all the damages caused to human health, marine life or resources of national maritime areas as a result of pollution, contamination, fire, explosion or an accident of similar nature.

Article 616

International jurisdiction

1. The courts of Cape Verde are internationally competent for the trial of actions arising from maritime salvation in any of the following:

- a) If the port of loading or unloading is in national territory
- b) If the maritime saving contract has been celebrated in Cape-Verde;
- c) If the rescuer and the saved are of Cape Verdean nationality;
- d) If the headquarters, branch, subsidiary or delegation of any party is located on Cape Verdean territory;
- e) If the rescue operation took place in waters under national jurisdiction.

2. In situations not provided for in the preceding paragraph, the jurisdiction of Cape Verde courts for trials of actions emerging from maritime rescue is determined according to the general rules.

CHAPTER II

Maritime rescue agreements

Article 617

Freedom of Pact

The interested parties may celebrate maritime safety agreements at any time in which they have agreed on different regime provided for in this Code, except for the manner provided in Articles 622, 623 and 641.

Article 618

Time and form

The maritime rescue agreements can be concluded before or during the execution of operations and subject to the written form, in particular, letters, telegrams, telex, facsimile and other equivalent means created by technology.

Article 619

Representation

1. The captains of the vessels, rescuer and saved, may enter into maritime rescue contracts in representation of their respective ship owners.

2. The captain and the owner of the ship subject to rescue act on behalf of all stakeholders in the maritime expedition.

Article 620

Cancellation or modification

The provisions contained in the maritime rescue contracts can be cancelled or modified in the general terms of law and also in the following cases:

- a) When the contract was concluded under duress or influence of danger not performing their equitable terms;
- b) When the agreed reward is manifestly excessive or diminished in relation to the services provided.

CHAPTER III

Non-contractual rescue

Article 621

Absence of Contract and spontaneous rescue

- 1. In the absence of contract mentioned in the previous chapter, the rescue is considered non-contractual.
- 2. The find and spontaneous recovery of vessels or other goods that are abandoned at sea is also considered non-contractual.

Article 622

Spontaneous rescue of abandoned goods

1 That one that during the sailing or from the coast finds goods that are abandoned shall forthwith inform the competent maritime administration in the first port of scale.

2. Upon receiving the communication referred to in the preceding paragraph, the maritime administration must locate the legitimate owners or notify the consul or diplomatic representative of the State flag when it comes to foreign ships or aircraft.

3. The finder can, however, retain the goods it saved, adopting the necessary measures for proper conservation, or deliver them to the customs authority for their care.

Article 623

Identifying the Owner

1 Once locating the owner, maritime administration communicates its identity to the rescuer and this can retain the saved property will be made in its favour, sufficient security for the importance it claims as a reward.

2. Determining the reward is carried out in the provisions of the next chapter.

Article 624

Absence of the Owner

1. If the owner is not found within 6 (six) months from the start of the administrative work, the maritime administration shall adopt appropriate measures for evaluating the saved goods.

2. The expedient expenses, the rescuer is compensated in accordance with the provisions of the following chapter.

Article 625

Prohibited or restricted trade of goods

The procedure and the rights granted to the rescuer of the preceding articles do not prejudice the provisions of Chapter IV of Title to the following for the prohibited or restricted trade of goods.

CHAPTER IV

Right of reward

Article 626

Reward of the rescuer

- 1 The maritime salvation, with results useful for the rescue, is paid by a pecuniary maritime rescue reward called maritime rescue reward.
2. It does not exclude the right of the Rescuer the reward from that they belong to the same person, or be operated by it, the means to develop the maritime rescue operations and the assets that are the subject of this.
3. If the rescuer does not get useful results for the saved, but avoids or minimizes the environmental damage manifests, its intervention is paid, in accordance with Articles 633 and 634, through a pecuniary retribution called special compensation.

Article 627

Criteria for determining the reward

1. When failing the agreement, the court will determine the value of the reward of maritime rescue, taking into consideration the following circumstances:
 - a) The value of the vessel and other property that it managed to save;
 - b) The efforts of the rescuer and the effectiveness of these in order to prevent or minimize the environmental damage;
 - c) The useful results achieved by the rescuers;
 - d) The nature and degree of risk that the rescuer ran;
 - e) The efforts of the rescuer and the effectiveness of these in order to save the ship, other property or human life;
 - f) Time spent, expanses and losses incurred by the rescuers;
 - g) The readiness of the services;
 - h) The value of means and equipment that the Rescuer used.
2. The amount of reward of the maritime rescue, interest and legal costs excluded, cannot exceed the value of the vessel and other goods that they managed to save, all calculated at the end of the rescue operations.

Article 628

Reward payment

1. The payment of the maritime rescue is fixed in accordance with paragraph 1 of the previous article, to the ship owner and the stakeholders of the remaining saved assets in proportion to the respective values, calculated at the end of rescue operations.
2. If the asset saved is a ship, the ship owners shall be obliged to pay the full amount of the reward and can claim in general average the part that corresponds to the stakeholders of the goods on board, as provided for in Title I of this Book.

Article 629

Right of retention

The rescuer has the lien on the saved goods, as guarantee for the payment of debts arising from the maritime rescue.

Article 630

Sharing between the rescuers

1. The sharing of the maritime rescue reward between the rescuers is carried out, failing the agreement of the parties, by the court, taking into account the criteria set out in Article 633.
2. There shall be no reward in the case that the rescuer have been obliged to accept the intervention of other rescuers at the request of saved and is showing that this was an unnecessary intervention.

Article 631

Sharing the reward between the ship owner and the crew

1 The distribution of the maritime rescue reward between the rescuer, the captain, other members of the crew of the rescue ship and other persons on board who participated in the operations is carried out by agreement of the parties and, failing that, will be determined by the court in the terms of Article 633.

2. Notwithstanding the preceding paragraph, the following distribution rules are applied:

- a) The part of the captain and other crew members may not exceed 2/3 (two thirds) nor less than 1/3 (one third) of the net maritime rescue reward;
- b) The distribution between captain and crew members is done in proportion to the basic salary of each one;
- c) In the case of foreign ships, the distribution is done according to the law of the State flag.

Article 632

Ships dedicated to rescue

Unless otherwise agreed with the ship owner, the captain and the crew of the rescue tow vessel or other vessel specially dedicated to carrying out the maritime rescue operations are excluded from the distribution of the reward.

Article 633

Special compensation

1. If the rescuer carries out the maritime rescue operations on the ship which, by its very nature or by the nature of cargo, constitutes a danger to the environment, it is entitled to a special responsibility compensation from the owner of the ship and the other goods that it managed to rescue, equal to the amount of the costs incurred, plus 30% (thirty per cent).

2. Costs incurred by the rescuer deem to be all the expenses for personnel and material, including the amortization of the latter.

3. In situations of particular difficulty for maritime rescue operations, the court may raise the special compensation up to the amount equal to twice of the incurred expenses.

4. The ship owner of the vessel and the insurance of the civil liability are jointly liable for the payment of special compensation to the rescuer.

Article 634

Rescuers of people

1. The rescuers of human lives which form part of operations that take place to the maritime rescue reward are entitled, by virtue of that fact, to participate in the distribution of the reward.

2. If there is no right to reward for not having been a useful result for the saved, the rescuer of the human life is entitled for a compensation for the expenses that supported the rescue operation.

3. The preceding article shall apply, mutatis mutandis, to the rescue of people.

Article 635

Exercise of rights

1. Actions emerging from of maritime rescue should be exercised within 2 (two) years from the date of completion or interruption of its operations.

2. If the rescuer does not demand the maritime rescue reward, the special compensation or compensation of expenses of human lives rescue, the captain and the other members of the crew can demand from the saved the part that belongs to them, within the year following the time limit set in the preceding paragraph.

3. Verifying the situation referred to in the preceding paragraph, the captain of the rescue ship is entitled to, in his own name and on behalf of the crew, to demand the saved.

TITLE IV

CASTAWAYS

CHAPTER I

General provisions

Article 636

Sinking concept and ship wrecks

1. For the purposes of this title, a wreck is every ship aground or sunk at sea and devoid crew is considered a castaway.
2. By ship wrecks is meant any parts of the wrecked ship and the cargo or other property that the ship was carrying and are abandoned at sea.

Article 637

Application to other goods and rescue

1. The provisions of this Title relating to castaways and ship wrecks still apply to goods abandoned at sea.
2. The provisions of this Title shall prevail in case of conflict, over those of the previous title when it concerns castaway rescue or shipwreck remains.

Article 638

Reporting obligations

1. The captains and ship owners of shipwrecks in the national maritime areas are required to report the facts to the maritime administration in the terms established by decree approved by the Government member responsible for the maritime administration.
2. The same obligation incumbent on owners of aircraft or other fallen overboard property.
3. The ship owners and captains must notify the maritime administration of the losses of anchors and chains suffered by their vessels, according to the procedures and time limits laid down in the ordinance referred to in paragraph 1.

Article 639

Protection of property

1. The Maritime Administration takes action when it deems necessary and urgent, in order to ensure the protection of the property of the shipwrecked goods and to prevent deterioration or subtraction thereof.
2. The maritime administration, through craft, informs the owners of the sunken goods, the place and the situation they are in and so they can take protective measures of their interests.

Article 640

Duty of marking and pollution prevention

1. The owners of shipwrecks and the owners of the wreck remains are required to immediately carry out the marking operations as well as the prevention of pollution, which are necessary in order to safeguard the national interests.
2. To that end, the owners should conform to the instructions and orders given by the Maritime Administration.

CHAPTER II

Property rights

Article 641

Prohibition of occupation

1. The ownership of the vessels or wrecks is not affected by the wreck and cannot be acquired by adverse possession, unless expressly abandoned by the holder.
2. The owners of such property may dispose of them and especially abandon them in favour of the insurer.
3. The rights of finders who happened to find them and take ownership of them are governed by the rules applicable to spontaneous salvation mentioned in the previous title.

Article 642

Prescription in favour of the State

1. The state acquires ownership of any sunken ship or wrecks that are in inland waters, archipelagic waters and territorial sea of Cape Verde, within 3 (three) months after the sinking.
2. It also acquires ownership of shipwrecks or shipwreck remains that, after the deadline referred to above, find themselves located in the exclusive economic zone of Cape Verde, in another state or on the high seas, where the goods belong to national Cape – Verdeans.
3. Paragraph 1 shall not prejudice the provisions of Article 128 on the acquisition of ownership of abandoned ships in the harbour.
4. The rights of acquisition provided for in the previous articles do not apply to ships of State and the wreck remains belonging to a state.

Article 643

Interruption of purchasing prescription

1. The limitation period is interrupted at the time it requests the extraction provided for in this next chapter and start within the given period.
2. The deadline period restarts if the extraction work is suspended or the deadline given for its implementation is terminated.

CHAPTER III

Administrative control of extractions

Article 644

Exploration operations

Exploration operations, tracking and location of sunken ships or wrecks in national maritime areas are subject to authorization by the maritime administration and is granted to those who prove ownership of the goods or, in other cases, freely and not exclusive.

Article 645

Extraction operations

1. The sunken ships or wrecks remains extraction operations in the national maritime spaces require prior authorization from the maritime administration, dictating the terms and conditions that must be performed.
2. The authorization holders are required to communicate the start and end of the operations, as well as to allow actions of inspection and surveillance by public authorities.

Article 646

Holders of extraction right

- 1 The ships or wrecks owners can ask for extraction permits.
2. Having several owners, the request must be done by agreement between them, or by express renunciation of those who have no interest in the extraction.
3. In the case of joint extraction of sunken ships and property therein, the holder of the extraction right is the ship owner.

Article 647

Extraction contracts

- 1 The extraction authorization can be made by third parties who celebrated maritime safety agreements or other with the owner.
2. The contract referred to in the preceding paragraph shall expressly empower the contracting authority to carry out the extraction request.

Article 648

Extraction of ships or goods owned by the state

If the ownership of shipwrecks or shipwreck remains belong to the State of Cape Verde and does not convene the extraction or direct use, the maritime administration can grant it to other interested parties, through tender under the applicable law.

CHAPTER IV

Prohibited or restricted trade of goods

Article 649

Concept

1. For the purposes of shipwrecks regime, trading of goods or restricted military material, made up of weapons, ammunition, explosives or other material to or from the use of the armed forces are considered banned, regardless of their economic value.

2. The Trading of the following goods is also restricted, the underwater cultural heritage, made up of all traces of human existence having a cultural, historical or archaeological value and remained full or partially under water, periodically or continuously for a period of 100 (one hundred) years are also prohibited.

Article 650

Extraction of banned goods or restricted trade

1. Extraction of goods of prohibited or restricted trade shall be subject to special legislation and rules that establish the authorization or contract for extraction.

2. Without prejudice to other sanctions, the extraction of prohibited or restricted trade goods from inland waters, territorial sea and archipelagic waters of Cape Verde, without proper authorization, is considered a smuggling offence committed on Cape Verdean territory.

3. The unauthorized extraction of goods of underwater cultural heritage that are in the contiguous zone is also a smuggling offence.

Article 651

Finding goods of banned or restricted trade

1. Whoever casually finds goods at sea of prohibited or restricted trade should immediately report the finding to the maritime administration, which in turn communicates to the Coast Guard.

2. The finders cannot recover those without the express permission of the Maritime Administration and the Coast Guard.

3. Once getting the authorization referred to in the preceding paragraph, the finding vessels can tow or transport the goods found to the place designated by the Coast Guard following the safety instructions and maintenance set by this.

4. In the case of military equipment and goods of underwater cultural heritage or other prohibited or restricted trade, whoever finds them, is bound to make them available to the Coast Guard or the customs authorities of the port of arrival.

Article 652

Destination of goods

1. Identifying the found military equipment, should be made available to the foreign authorities to claim it, transformed into harmless, destroyed, availed by the military or by the Coast Guard, or to be delivered to the customs authorities.

2. The property of cultural heritage cannot be the subject of commercial exploitation, they are catalogued and incorporated into the national, deposited cultural heritage, preserved and publicly displayed for the benefit of humanity, in accordance with the provisions of specific legislation on the matter.

Article 653

Finder's Rights

1. When the military equipment is returned to the foreign authorities to whom they belonged, destroyed or not used, the finder is entitled to receive from the public treasury the expenses they incurred in their recovery.

2. If the military material is taken advantage of by the military, the coast guard, or delivered to the customs authority, the finder is entitled to a reward, at the charge of the Treasury, corresponding to 1/3 (one third) of the appraised value, less of office expenses.

3. The finders of the goods of underwater cultural heritage are entitled to compensation of expenses and a reward set by the

Government in each case and must be paid by the Treasury.

CHAPTER V

Removals because of public interest

Article 654

Concept of Removals

Removals is understood as removal or extraction of general interest, withdrawal, transfer, scrapping or deliberate destruction of sinking ships or remains of shipwrecks in order to remove a danger or inconvenience to navigation, public health, natural resources, to the environment or to related interests of national maritime spaces.

Article 655

Removal Regime

1. The provisions of this Chapter shall apply to removals of vessels and other property in the inland waters, archipelagic waters or territorial sea of Cape Verde.

2. They also apply to those who are in the exclusive economic zone when the removal is done in order to protect natural resources or the environment.

Article 656

Removal duty

1. The owner, the operator and the insurer, within the limits of its policy, are subject to the ship's removal of duty and fixed platforms or the duty aircraft, lies with the owner for its use or exploitation.

2. When the Maritime Administration understands that there are risks for the interests of navigation, public health, natural resources, to the environment or to related interests of maritime spaces, it orders the removal of its senior staff who must carry it out within the time frame given for this purpose, which can be extended into account the special circumstances that contribute.

3. In the case of foreign flag vessels, the consul or the corresponding diplomatic representative is notified.

Article 657

Removal Control

The Maritime Administration sets out the guarantees or safety measures that should be respected in order to prevent further wrecks in national maritime areas and determines in each case the conditions and procedures for carrying out the removal operations.

Article 658

Subsidiary removal

In the case of the obligated person not starting or completing the removal within the period prescribed for that purpose, the Maritime Administration can use the subsidiary execution, by itself or through contracts with third parties, at the expense of the obliged.

Article 659

Allocation of the recovered assets

1. The ships or goods recovered under the previous article are used to pay the expenses of the removal.

2. If the costs are not paid within the established time limits, the Maritime Administration may grant the direct disposal of the assets referred to in the preceding paragraph and charge them the sale value with absolute preference over all other claims that may weigh on the ship, whether or not secured with maritime privilege or naval mortgage.

3. The price of the surplus from the sale, once settled the expenses, satisfied the claims referred to in Article 273 and mortgages, it is delivered to the State Treasury.

Article 660

Existence of personal responsibility

1. If the sale proceeds are not sufficient to cover the expenses, the required are still personally responsible for the difference, which

payment may be required by administrative or legal proceedings before national or foreign authorities.

2. The maritime administration may seek the preventive arrest of other ships belonging to the same debtor, under the terms established in Title II of Book XI of this Code.

Article 661

Removal of ships or goods of unknown ownership

1. In the case of the removal of ships or other property, of unknown flag, property or owner, the provisions of this Chapter apply, publishing the applications through advertisements in edicts framework of the competent maritime administration and for free in the official Newsletter.

2. The appearance of the interested parties must be done within the period prescribed by the Maritime Administration in accordance with the importance of the obstacle that should be removed.

3. If the only nationality of the ship or aircraft is known, as well as the publication referred to in paragraph 1, it should communicate to the consul of the flag State.

Article 662

Removal in port

In shipwreck situations or wrecks inland port area, the Maritime Administration shall exercise its powers in coordination with the port administration and interfere as little as possible in the normal business operation of the port.

Article 663

Fishing Administration Report

1. Whenever the alleged reason for the removal is of interest to biological resources, maritime administration, as it may be the case, shall request a report from the fisheries administration with previous character to the beginning of their actions.

2. The alleged motive has for justified if it is not issued within 30 (thirty) days or in what, for duly justified reasons of urgency, to be determined by the requesting authority.

TITLE V

CIVIL LIABILITY FOR POLLUTION DAMAGE

CHAPTER I

Scope of application and the responsible subject

Article 664

Scope of application

1 The liability for damage caused by pollution from ships, in the back and in the national maritime areas, wherever they may be, is regulated in this Title.

2 For the purposes of the preceding paragraph, pollution is defined in accordance with Article 60 of this Code.

3. This Title does not apply to damages caused by radioactive or nuclear substances that are regulated in special legislation.

Article 665

Responsible Subjects

1. The ship owner of the polluting ship is obliged to compensate the pollution damage, subject to the right of recourse against those who caused the pollution.

2. When the pollution is caused by several ships, their ship owners are jointly and severally obligated to compensate the pollution damage, unless this can be attributed exclusively to one of the ships.

CHAPTER II

Liability regime

Article 666

Basis the liability

1. The ship owner is liable for pollution damage caused by his ship.
2. The ship owner can, avoid its liability if it proves that the damage was caused by force majeure, due to negligence of the authorities responsible for the maintenance of lights or other navigational aids, either by act or omission, or intentional acts of third party.
2. The cost of the measures reasonably taken by any person after occurrence of the accident with the aim to prevent or minimize pollution damage, can also be equally compensated.
3. Either case, is subject to the regime of global limitation of the liability, regulated in Book IX of this Code.

BOOK IX

GLOBAL LIMITATION OF LIABILITY

Article 667

Fault of the injured party

If the ship owner proves that the pollution damage has resulted in whole or in part, of negligent or wilful action of the injured party, it fully partially denies its responsibility towards this.

Article 668

Scope of compensation

1. The loss or damage caused by pollution from the ship, apart from the loss of benefits suffered by those using or enjoying the water or coast affected, can be compensated, however, the compensation for environmental degradation is limited to the cost of restoration measures dully taken.

Article 669

Compulsory insurance

1. Ships are required to have civil liability insurance for pollution damage of coasts and navigable waters, the conditions and minimum coverage are determined by the Government regulation.
2. The injured have the right of direct action against the insurer of civil liability up to the limit of the policy.
3. The insurer may oppose the same exceptions as the ship owner, under the preceding articles, and also that pollution was due to an intentional act of the same ship owner.
4. The insurer may also resort to the limitation of its liability under paragraph 3 of the previous article.

Article 670

Banning Navigation

1. The Maritime Administration may prohibit the navigation to domestic ships and to the activity of the national naval artefacts that do not have the insurance coverage referred for in the previous article.
2. It can also deny the entry in national ports, anchorages or terminals located in inland waters, archipelagic waters and territorial sea to vessels in need of such insurance coverage.
3. Foreign naval artefacts that do not have coverage cannot station in order to carry out their activities in national maritime spaces.

TITLE I

GENERAL PROVISIONS

Article 671

Scope of application

1. The rules of this Book apply whenever the owner of the limitation of the right invokes it before the competent judicial authorities.
2. For the purposes of the preceding paragraph, the nationality or the residence of the creditors or debtors is irrelevant, as well as the vessel's flag for which it invokes the right to limitation.
3. The complaints which are referred in Article 676 are limited, arisen as a result of use or navigation of vessels intended for sea transport and not limited the liabilities for naval artefacts.

TITLE II

LIMITATION OF LIABILITY FOR MARITIME CLAIMS

Article 672

Special regimes of limitation

1. The provisions of this Book shall not prejudice the specific limitation of rights under this Code for the maritime transport of goods and for the port operator in the context of claims for breaches of transport contracts or port handling.
2. The carrier who is both the ship owner and charterer of the ship where it performs the transport and the port operator may choose to apply the specific limitation scheme referred to in the preceding paragraph.
3. It should also safeguard the special arrangements on limitation of set in international conventions in force in Cape Verde for pollution damage of hydrocarbons or other harmful or dangerous substances.

Article 673

Right of Liability limitation

1. The ship owners and their managers have the right to limitation of their responsibilities to the claims arising from accidents, as provided in this Book.
2. People who provide services directly linked with rescue operations, ship owners and charterers where their responsibilities are required for the use or navigation of the ship also enjoy this right.
3. They can also invoke the right to limit the persons whose acts or omissions, the owners, ship owners, managers, charterers or rescuers referred to in the preceding paragraph are responsible.
4. The insurers liability of holders of the limitation right enjoy this right to the same extent of the insured.

Article 674

Loss of limitation right

The responsible loses the liability limitation right if the loss or damage was due to intentional or negligent act on its part.

Article 675

Relation to the liability regime

- 1 The limitation regime within this book applies whenever the liability is required, regardless of the type of process.
2. The evocation of the limitation right does not constitute admission of liability, which is determined according to the rules of this Code and other applicable laws.

Article 676

Claims subject to limitation

1. The following limiting claims are subject:

a) Claims for death or personal injury, for damage caused to property, including damage to harbour works, waterways, aids to navigation and other maritime public property, checked on board or directly connected with the use or navigation of the ship or rescue operations, as well as losses derivatives from these causes;

b) Complaints related to derivatives losses from delay in cargo transportation, passengers and their luggage;

c) Complaints related to losses resulting from damage to non-contractual rights, directly caused by the use or navigation of the ship or rescue operations;

d) Complaints promoted by person who is not in charge and related taken the measures to avoid or minimize losses for which the responsible person can limit its liability, except for when they have been adopted by virtue of a contract between them.

2. The complaints set out in the preceding paragraph are subject to limitation of liability regardless whether the taken action have contractual or non-contractual nature.

Article 677

Excluded limitation complaints

The following limitation claims are excluded:

a) Those for reward for rescue, including those relating to special compensation and relating to the contributions to general average;

b) Those related to industrial accidents or other born in the employment relationship, submitted against persons entitled to limit its workers or by relatives of victims who are governed by their specific legislation;

c) The maritime administration relating to removals regulated in Chapter V of Title IV of Book VIII of this Code.

TITLE III

MAXIMUM AMOUNTS OF COMPENSATION

Article 678

Limiting criteria

The regulation of maximum compensation is done based on the gross tonnage, nature of the accident and its aftermath.

Article 679

General limits

1. Except for the cases provided in the following article, the maximum amount of compensation for claims subject to limitation is determined for each accident, depending on the gross tonnage of the ship that originated the loans, as provided in the following paragraphs:

a) For claims relating to death or personal injury, two million of Special Drawing Rights - SDR, the International Monetary Fund, for gross tonnage vessels up to 2000 tonnes and for cases where the gross tonnage exceeding 2,000 tons, the following amounts are added successively to two million SDRs:

i) 800 SDR for each unit of gross tonnage between 2001 and 30,000 tonnes;

ii) 600 SDR for each unit of gross tonnage between 30,001 and 70,000 tonnes;

iii) 400 SDR for each unit of gross tonnage exceeding 70,000 tonnes.

b) For other claims subject to limitation, one million SDR for gross tonnage for vessels up to 2000 tons, and for cases where the gross tonnage exceeding 2000 the following amounts are added successively to one million SDRs:

i) 400 SDR for each unit of gross tonnage between 2001 and 30,000 tonnes;

ii) 300 SDR for each unit of gross tonnage between 30,001 and 70,000 tonnes;

iii) 200 SDR for each unit of gross tonnage exceeding 70,000 tonnes.

3. The amounts expressed in SDRs refer the Special Drawing Rights as defined by the International Monetary Fund.

4. Conversion of the sums into national currency shall be done, in criminal court proceedings, according to the valuation of such currency applied by the International Monetary Fund on the date of the sentence.

Article 680

Distribution among the creditors

1. The amounts obtained under the preceding articles are part of a fund or limitation of funds is distributed among the creditors of the same accident victims, in proportion to their claims.

2. If the amount calculated in accordance with subparagraph a) of the previous article is not enough to satisfy all the claims, the injured charge the remaining amount from the other creditors, the fund or funds calculated in accordance with subparagraph b) of that Article.

3. The Maritime Administration has the right to preference in collecting over other creditors referred to in the previous article, in case of claims for damage to works harbouring, waterways, aids to navigation and, in general, the public maritime domain.

TITLE IV

LIMITATION FUNDS

Article 681

Condition of limitation right

1. The claim of the right of self-limitation before the Cape Verdean judicial authorities implies that for the holder of the duty to provide the background or limitation of funds, integrated by the amounts established in the previous Title, plus legal interests that have arisen since the date of the accident it gave rise to the liability.

2. The fund or funds may be set by deposit of the sum or the provision of guarantees of good repute.

Article 682

Fund allocation and interruption of other measures

1. The fund or regularly constituted funds, can only be used to meet the claims for which it can invoke the limitation of liability, even in the event of limitation insolvency of the right holder.

2. Constituting the limitation fund or funds, the creditors whose claims are subject to limitation cannot pursue other debtor's assets.

3. The ships or other property belonging to the holder of the right to limitation, that have been arrested in response to a complaint that can be promoted against a constituted funded, are freed by raising the arrest that should be ordered by the court as soon as it has the knowledge of the background constitution.

Article 683

Subrogation

The responsible, the insurer or third party that pays a claim attributable to a limitation fund before its distribution, is subrogated to the rights of the person compensated before the background.

Article 684

Procedure and revocation of the limitation right

1. The constitution of the fund or limitation of funds and their distribution among the creditors must follow the procedure set out in Title VI of Book XI of this Code.

2. The right to the constitution of the limitation fund expires within 2 (two) years from the date of submission of the first legal claim as a result of the accident giving rise to the limitation right claim.

BOOK X

MARITIME INSURANCE

TITLE I

PROVISIONS COMMON TO ALL THE MARITIME INSURANCE

CHAPTER I

General provisions

Article 685

Concept and subject

1. The maritime insurance is a contract whereby the insurer undertakes, against the payment of a premium, to compensate the insured for claims incurred by certain interests, during a sea voyage as a result of carrying out certain risks.

2. Any legitimate interest, including the expected profit, exposed to maritime risk, may be the subject of maritime insurance.

Article 686

Device character

Except where expressly establishes the compulsory nature or otherwise to exclude the possibility of agreement to the contrary, the provisions of this Book applies only in the absence of agreement between the parties.

Article 687

Form

1. The marine insurance contract is compulsorily to be written in a tool called insurance policy.

2. The insurance policy should always be issued in duplicate.

3. Insurances that are not formalized in policy are void.

Article 688

Mandatory content of the policy

The insurance policy shall formulate and contain:

a) The location of celebration of the contract;

b) The date of celebration of the contract;

c) The names and residences of the contracting parties and, where appropriate, the indication that those who hire makes on behalf of another;

d) The object of insurance, their nature and value;

e) The risks against which insurance is done or a statement that covers all risks of sea;

f) The times that the risks begin and end;

g) The insured amount;

h) The insurance premium payable by the insured;

i) Clause to the order or the bearer, if agreed;

j) The signature of the insurer;

k) In general, all the circumstances of which their knowledge may interest to the insurer, as well as all conditions agreed by the parties.

Article 689

Insurance on their own and for others

1. The insurer can be hired at its own account or for others.

2. If it does not declare in the policy that the insurance is for others, it is considered hired for the one who did it.

Article 690

Insured interest

1. If one for whom or on whose behalf the insurance is made has no interest in the insured item at the time of the accident, the insurance is null.
2. Exceeding the insurance the value of the insured is valid only until it reaches its own value.
3. If the interest of the insured is limited to part of the insured item in its total or right to it, it is considered to be insured by account of the stakeholders, saving the right to have the proportionate share of the premium.

Article 691

Transfer of ownership and interest of the insured

Transferring the ownership and interest of the insured during the term of the contract, the insurance moves automatically to the new owner of the insured item.

Article 692

Reinsurance

The provisions relating to marine insurance are also applicable to reinsurance.

CHAPTER II

Insured risks

Article 693

Prior knowledge of the existing risk or the accident occurred

1. The insurance is void if, at the conclusion of the contract, the insurer was aware of the risk that has existed, or if the insured or the person who made the insurance had knowledge of the possible occurrence of the accident.
2. In the first case under the previous paragraph, the insurer is not entitled for the premium, and in the second case the insurer has right for the premium and is not obliged to indemnify the insured.

Article 694

Risks covered

1. The maritime insurance covers all risks of sea, understanding them as any loss or damage occurring to the items insured by fortuitous events or force majeure that occur during a sea voyage.
2. Except where expressly excluded in the policy it is understood that the maritime insurance still covers the following risks:
 - a) The contribution of the insured items in general average and payments of rescue rewards;
 - b) The costs incurred after the occurrence of the accident resulting from a covered risk, in order to prevent or reduce damage to the insured. .

Article 695

Risks excluded

Unless expressly included in the policy, the insurer does not cover the risks of:

- a) Civil or international war;
- b) Riots, revolution, rebellion, strikes, lock-outs, acts of sabotage or terrorism;
- c) The damage caused by the insured item to other property or persons;
- d) Atomic or nuclear.

Article 696

Fault of the insured in the accident creation

1. The insurer also liable for the damage caused by policy holders resulting from the fault of the insured himself or his assistants.
2. Notwithstanding the preceding paragraph, the insurer can shake the responsibility if it proves that the accident was due to gross negligence of the insured itself in the protection of things or other interests before the checked risks.
3. If it is otherwise agreed, the insurer is not liable for damages resulting from wilful act of the insured itself.
4. The insurer is liable for damage sustained by the insured items by the fault of the captain or other crew members, without prejudice to Article 729.

Article 697

War risk and strikes insurance

If the insurer has expressly undertaken to insure the risks of war and strikes without determining a precise answer for the damages caused to the insured items by:

- a) hostility, revenge, power embargo, arrested and violence of any kind on the part of government friend or foe, in law or in fact, recognized or not recognized, and, in general, for all the facts and war injuries, although there has not been a declaration of war or the war being over;
- b) Acts of sabotage or terrorism, riots, revolution, rebellion, strikes or political lock-outs or related to the war.

Article 698

Doubts about the cause of the accident

In the event of doubt as to the cause of the accident, it is presumed that this resulted from sea risks.

Article 699

Exclusion of liability

The insurer does not respond by:

- a) Losses or damages arising out of the insured own defect without prejudice to Article 729;
- b) Loss or damage resulting from fines, forfeitures, kidnappings, inspections, sanitary or disinfection measures that followed the violations of blockades, smuggling acts, of prohibited or illegal trade;
- c) Compensation due to mortgage or collateral provided for withdraws of this;
- d) Losses that do not constitute direct losses or material damage to the insured, such as unemployment, exchange differentials or difficulties in the insured trade.

Article 700

Change of route, trip or ship

1. All the voluntary change of route, trip or ship, by the policyholder, does terminate the obligation of the insurer, which is entitled to the premium in full, beginning to take the risks.
2. Notwithstanding the preceding paragraph, the insurer remains responsible for the claims, if it is proved that they occurred in the agreed route.
3. The risks insured are still covered in the event of forced entry or another forced change of route, trip or ship, or a change decided by the captain without the consent of the owner and the insured.

Article 701

Clause "free of faults"

The clause "free of faults" releases the insurer from any liability for loss or damage to the insured items with the sole exception of cases where the abandonment takes place.

Article 702

Expenses excluded

The insurer is not in charge of the costs of navigation, pilotage, towage, quarantine and other made in input reason or ship departure ports or fares or tonnage dues, berth, public health, maritime signals and other similar expenses imposed on the ship or cargo, unless such expenses are classified as general average.

CHAPTER III

Insured's obligations

Article 703

Insured's obligations

1. The insured's obligations are:

a) Pay the premium, fees and expenses, in place and within the agreed deadlines;

b) To provide the care that is reasonably required for the preservation of the insured items;

c) To declare exactly, at the conclusion of the contract, all the circumstances that have and are likely to influence the assessment by the insurer of the risk it assumed;

d) To notify the insurer to the extent that it became aware of all the risk of exacerbations which may occur during the contract period.

2. The insured must contribute to the salvation of insured things and take all measures to be reasonably required in order to safeguard their rights in relation to the responsible third parties.

3. The insured shall be accountable before the insurer for damages which results from the breach of obligation set out in the preceding paragraph.

Article 704

Failure to pay the premium

Failure to pay a premium gives the insurer the right, by simple registered letter to the insured, to suspend the insurance until the payment is made and, if it is not within 30 (thirty) days, to terminate the contract.

Article 705

Reticence or inaccuracy in the risk statement

1. All the misstatement or reticence on facts and circumstances known by the insured, or who made the insurance, which are relevant to the existence or terms of the agreement makes the insurance null.

2. The insurance does not cease to be null, although the facts or circumstances covered by inaccuracy or reticence did not contribute for the production of the damage.

3. If from those who made the declarations there has been bad faith, the insurer is entitled to the premium.

Article 706

Duty to report the risks increases

1. Every aggravation of risk further to the celebration of the contract must be notified to the insurer within 3 (three) business days from the date of its notice by the insured, under penalty of termination of the contract from the date of aggravation, saving the insurer, the right to the premium.

2. If the aggravation notified of the risk does not result from facts attributable to the insured, the contract remains, the insurer has the right to increase the premium corresponding to the aggravation.

3. If the notified aggravation of the risk results from reasons attributable to the insured, the insurer may terminate the contract, retaining the right of the premium.

Article 707

Prohibiting Double Insurance

The insured may not, under penalty of nullity, insure for the second time, for the same time and risks, something that is insured for its entire value, unless:

- a) It makes the second insurance at the nullity of the first or the complete asset failure or part of it by the insurer;
- b) Giving the rights of the first insurance to the second insurer or previously renounce the first insurance.

CHAPTER IV

Settlement claim and subrogation

Article 708

Communication of an accident

The insured must notify the insurer of the claim within 3 (three) days from the date on which it become aware.

Article 709

Obligation to compensate

1. The insurer is obliged to pay the insured the compensation agreed after checking the damage when this is communicated to it
2. The insurer may invoke against the holder of the policy, both the order as the bearer, all the exceptions relating to the policy that could oppose the original insured, as if the transmission has not been.

Article 710

Settlement arrangements

1. One can settle the claim in breakdowns regime or abandonment scheme, as set out in the following articles.
2. It is incumbent upon the insured to choose the system of settlement.
3. Nevertheless, the provisions of the preceding paragraph, the insured cannot opt for the abandonment scheme in distinct situations those of Article 731 for the hull insurance and Article 743 for insurance of goods.

Article 711

Compensation for damages regime

1. In the settlement in damages regime, the insurer shall compensate the insured of the value of the damage caused in the insured interests.
2. The compensation amount is determined by agreement of the parties and, failing that, by judicial assessment.
3. Unless expressly provided in the policy, the insurer may not be required to repair or replace the insured items.

Article 712

Payment of the contribution for the general average

- 1 The insurer reimburses the insured of the value of the contribution paid for the general average, in proportion to the ratio of the actual value of the insured and the maximum amount of the insurance.
2. The reimbursement referred to in the preceding paragraph may not exceed the actually paid contributions.

Article 713

Settlement of rescue reward

1. When the rescue reward is not distributed in general average, the insurer will reimburse the insured with the amount it has paid to the rescuer, in proportion to the ratio of the actual value of the insured item and the maximum amount of the insurance.
2. The reimbursement referred to in the preceding paragraph may not exceed the contributions actually paid.

Article 714

Extension and effects of abandonment

1. Abandonment covers only goods which are the subject of the insurance and risk, and may not be partial or conditional.
2. The abandonment transfers to the insurer the rights of the insured on the insured property, the insurer being liable to pay the entire insured amount.
3. The transmission referred to in the preceding paragraph is definitive and irrevocable and shall take effect between the parties from the moment that the abandonment was duly notified.
4. The insured must provide the insurer all documents pertaining to the insured.

Article 715

Abandonment Statement

1. The abandonment shall be reported by the insured to the insurer within 30 (thirty) days from the day when it had sinister knowledge, or the deadline that allows the abandonment, in the case of lack of news.
2. The notification shall be made by registered letter or by any other reliable means.
3. After the time limits provided for in paragraph 1, the insurer cannot make the non-compliance statement, being safe, its right to settlement in damaged system.

Article 716

Declaration of existing insurance in case of abandonment

1. When communicating the abandonment or later, the insured is obliged to declare all insurance that it did or who has knowledge, only counting the deadline for which the insurer makes the payment from the date of this statement.
2. The insured that, in bad faith, provides misstatements is deprived from the right for compensation.

Article 717

Ineffectiveness of the abandonment statement

The abandonment statement has no legal effect if the facts on which it was founded were not confirmed, or they did not exist at the time when they were given to the insurer.

Article 718

Compensation payment deadline

1. In case of non-compliance, the insurer must pay the compensation within 3 (three) months from the declaration communication.
2. On settlements in damaged regime the payment must be made within 30 (thirty) days counting from the date setting the compensation date.

Article 719

Subrogation

1. The insurer will pay the insurance compensation subrogated to all rights of the insured in relation to third parties causing the accident.
2. If the compensation only fall on part of the damage, the insurer and the insured contribute to assert such rights in proportion to the amount that each is due.
3. In the case of compensation for losses or damages constituting general average, the insurer will pay if subrogate in the position of its insured in the active load of the general average.

Article 720

Limitations

1. Actions emerging from the maritime insurance contract expire within 2 (two) years unless the author demonstrate that it was impossible to exercise its right in court within that period of time.

2. The limitation period shall be calculated:

- a) For payment actions of the premium counting from the date of payment;
- b) For compensation payment actions in damaged regime and hull insurance, from the date of the accident;
- c) For compensation payment actions in damaged regime and goods insurance, counting from the date of arrival not arriving of the vessel, the date that it should have arrived, or if the accident is later then the date of the claim;
- d) For the compensation payment actions in abandonment regime, from the date of the claim conferring the right to abandon or, in the absence of news, counting from the date the period to make the abandonment declaration begins;
- e) For the actions of the insured whose foundation is its contribution to the general average or the payment of the rescue rewards counting from the date of the payment made by the insured;
- f) For the actions of the insured whose foundation is its responsibility to third parties counting from the date on which this has brought the action or that the insured has compensated it.

3. The action for the refund of any amount paid under the insurance contract also expires in 2 (2) years from the date of the due payment.

TITLE II

HULL INSURANCE

CHAPTER I

Scope and modalities of hulls or ships insurance

Article 721

Scope

The provisions of this Title shall be applied with special characteristic for the insurance of hulls or ships, only done for the duration of their stay in ports, coves or other places, in the water or in dry docks.

Article 722

Methods

The insurance of bare boats or ships can be done for one trip, for several consecutive trips or for a specified period of time.

Article 723

Insurance for travel

- 1. In the insurance for travel, the risks occur on the account of the insurer as long as the ship unties or raise the anchor in order to leave the port until the moment it is anchored or moored in the port of destination.
- 2. Notwithstanding the preceding paragraph, if the vessel receives goods, the risks run on the account of the insurer from the beginning of the loading until the end of the unloading.
- 3. If the unload is delayed by the fault of the recipient, the risks end for the insured 15 (fifteen) days after the ship's arrival at its destination.

Article 724

Insurance for a specified time

- 1. In the insurance for a specified time, the risks are covered by the insurer from the first to the last day.
- 2. The days counts from 0 (zero) to 24: 00 (twenty four hours), according to the time of the place where the policy has been issued.
- 3. The insurance for a fixed period is automatically renewed for an equal period if not terminated by either party before its expiry.

CHAPTER II

Special rules for hulls or ships insurance

Article 725

Agreed value

1. When the value at which the vessel has been insured for previously and expressly agreed by the parties, these mutually waive any other assessment for compensation, unless the insurer shows that there was bad faith from the insured.
2. The insured amount comprising inseparably, the hull and the machinery or other means of propulsion, as well as other members of the ship in which the insured is the owner, but does not understand the provisions nor fuel or other ship accessories.
3. Any insurance, whatever is its date, made separately on the integral parts of the ship belonging to the insured, cares to reduce, to the extent of the insured amount in case of total loss or abandonment, the agreed value.
4. In the case of coverage for contribution to general average and rewards for salvation applies to pro rata rule referred to in Articles 712. and 713.

Article 726

Premium

1. In the insurance done for one or several consecutive trips, the insurer is entitled for the entire premium from the moment that the risks have started to run on its own.
2. In the insurance done for specific time, the insurer is entitled for the premium stipulated for the entire duration of the guarantee, in case of total loss or abandonment paid by the insurer, otherwise, the insurer is only entitled for the premium for the time elapsed until the total loss or abandonment.

Article 727

Sale or lease of the ship during the time of the insurance

1. In the case of sale or lease of the ship during the time of insurance, it passes to the new owner or the lessee, which is obliged to inform the insurer of the transfer within 10 (ten) days from the conclusion of the contract and fulfil all the obligations to the policy which are linked to with the insurer.
2. The transferor or lessor shall remain liable to payment of the premiums accrued prior to the sale or lease.

Article 728

Liability for third party damage

1. In the hulls insurance, the insurer guarantees the reimbursement of damages of any kind for which the insured is liable to third parties in the event of Collisions by the insured or shock against a building or a fixed, mobile or floating body.
2. Notwithstanding the preceding paragraph, the damage is excluded for death or injuries, which can be hedged as provided for in Title IV of this Book.

Article 729

Exclusion of liability

The insurer does not respond for damages resulting from the vessel's own vice, unless it is a hidden defect, or wilful misconduct of the captain or crew members.

Article 730

Settlement in damage regime

1. In the settlement of damage regime, the insurer will only reimburse the replacement costs or necessary repairs in order to bring the ship in good seaworthy state, with the exclusion of any other compensation for depreciation or damage caused by the lack of use of the vessel or any other cause.
2. The replacement costs are subject to a corresponding reduction for the difference in a value between the new and the old.

Article 731

Cases in which the insured can neglect

The insured can abandon ship in the following cases:

- a) Total destruction;
- b) Destruction corresponding to 3 (three) quarters of the value;
- c) Impossibility to repair;
- d) Stuck or captured, which remains elapsed 3 (three) months counting from the notification of fact done by the insured to the insurer;
- e) Lack of news from the vessel for more than 3 (three) months.

Article 732

Abandonment for lack of news

1. In the case of abandonment for lack of news, whereas the insurance has been done for a fixed term, the loss of the vessel is assumed to have taken place within the insurance period, provided that it started within the insurance time, as long as it started within 3 (three) months referred to in paragraph e) of the previous article.
2. If there are several successive insurance, the loss is assumed to have happened on the next day to that of which the latest news were received.
3. But, if it were to prove that the loss occurred outside the insurance time, the compensation paid shall be returned with the legal interest.

TITLE III

INSURANCE OF GOODS

CHAPTER I

Scope and modalities of insurance of goods

Article 733

Scope

1. The provisions of this Title shall especially apply to the insurance of goods.
2. The goods are insured around the clock, wherever they may be within the travel limits defined in the policy.
3. In the case that a part of the trip is done by land or air, the maritime insurance regime is applicable to this part of the trip.

Article 734

Methods

The insurance of goods can be done by policy valid only for a trip or floating policy.

Article 735

Insurance time

The risks are on account of the insurer as long as the goods are handled to be loaded onto any means of transport at the beginning of the trip, until it ceases handling of the goods to be unloaded from any means of transport at the end of the trip.

Article 736

Insurance by floating policy

1. If the insurance is done by floating policy, the insured is obliged to declare to the insurer and the latter must accept for coverage purposes of the policy, the following:

a) All the trips made on behalf of the insured or execution of purchase and sale contracts pursuant to which the insured is in charge of the compulsory insurance;

b) All the trips made by third parties for which the insured is obliged to make the insurance, as long as the insured has an interest in travel, as commissioner, consignee or in any other quality, not giving right at the application of the policy, the interest of the insured that only matches the execution of an insurance order given by third party.

2. The trips are covered:

a) In the case of paragraph *a)* above, from the moment that the goods are exposed to the risks covered, where the actual declaration is made within the deadlines set in the contract;

b) In the case of *b)* above, from the moment of the declaration.

Article 737

Lack of the insured's statement

1. Should the insured fail, in bad faith, to make declarations that are required under the preceding article, the insurer is entitled to immediately terminate the contract and is under no obligation to compensate the losses occurred after the first omission.

2. The insurer also gets the right for reimbursement of the compensation which has been done for claims incurred in subsequent trips to the first omission and to receive as compensation, the corresponding premium for the omitted declarations.

Article 738

Insurance premium for floating policy

The premium is calculated on the total amount of declarations for coverage under the policy.

CHAPTER II

Special rules of freight insurance

Article 739

Exclusion of liability

The insurer does not respond on:

- a)* Spills or ordinary loss in weight and volume, or natural wear and tear of the goods;
- b)* Packaging deficiencies or bad conditioning of the packaged goods;
- c)* Insolvency situations of the shipowner or the carrier that give rise to abandon the goods;
- d)* Intentional acts or omissions of the insured.

Article 740

Maximum amount of the insured sum

The insured amount cannot be higher than:

- a)* The purchase price or, failing that, the current price at the time and place of loading, plus all the expenses until the place of destination and the expected profit.
- b)* The value in the destination place on the date of arrival or if the goods do not arrive at the time when it should have arrived.
- c)* The sale price, if the goods have been sold by the insured.

Article 741

Amount of the damage

The amount of the damage is related to the difference between the value of the damaged goods and the value it would have, in good condition, at the same time and place.

Article 742

Co-insurance

In case the parties have agreed upon a co-insurance, this is always independent of the normal process breaks.

Article 743

Cases in which the insured can neglect

The insured can abandon the goods in the following cases:

- a)* Disappearance or total loss;
- b)* Loss or deterioration of more than 3/4 (three quarters) of the amount;
- c)* Judicial sale as a result of damage due to risks covered by the insurance;
- d)* Capture, that maintains within 3 (three) months from the notification of fact made by the insured to the insurer;
- e)* Unseaworthiness of the transporting ship, if the goods cannot restart the trip, by any means of transport, within 3 (three) months;
- f)* Lack of news from the vessel for more than 3 (three) months.

TITLE IV

OTHER MARITIME INSURANCE

CHAPTER I

Freight insurance and rescue expenses

Article 744

Freight Insurance

1. The freight for which there is no unconditional payment agreement may be held up to 60% (sixty percent) of its amount.
2. The freight insurance covers only, within the limits of the insured amount:
 - a)* The contribution of freight in gross malfunction;
 - b)* Reimbursement of the freight, in the case of abandonment after an accident resulting from the covered risk, providing that the shipowner demonstrates, except in cases of total destruction and lack of news, it was not able to carry the goods to their destination.

Article 745

Insurance of rescue expenses

1. The insurance covers rescue expenses up to the competition of the insured capital, the expenditures done in order to save the ship after the accident resulting from a covered risk, and all compensations due because of these risks.
2. This insurance is only effective in the case of failure of the sum insured by the hull policy.

CHAPTER II

Civil liability insurance

Article 746

Scope of delivery

The rules of this Title apply not only to civil liability insurance but also for coverages of Protection and Compensation Clubs and other coverage risks, determining the obligations to compensate third parties.

Article 747

Compulsory insurance of civil liability

The compulsory insurance of civil liability, required by the provisions of this Code or its regulations, are set by the specific respective standards and, additionally, by the provisions of this Title.

Article 748

Insurer's obligation and direct action

1. The obligation to compensate in this insurance class exists for the insurer, as long as there is the responsibility of the insured for the injured party, the latter having direct action against the insurer to demand the fulfilment of its obligation.

2. Any contractual agreement that amends the provisions of this article is null.

Article 749

Coverage limit

The insurer of civil liability, unless otherwise stated in an agreement, shall responds to the limit of the insured amount by each of the facts giving rise to its liability, arising in the contract period.

Article 750

Compensatory Disclaimer

The insurer may oppose from the injured person the same exceptions that could oppose its insured, and especially the quantitative limitations of the liability established in accordance with the provisions of this Code or the contract that gave rise to the liability.

BOOK XI

MARITIME PROCEDURES

TITLE I

GENERAL PROVISIONS

Article 751

Subject

The subject of this Book is the regulation of procedures relating to matters of civil procedural, contained in this Code.

Article 752

Subsidiary Legislation

In all matters not regulated by this Book, the general provisions of the civil procedural law can be applied.

TITLE II

PREVENTIVE ARREST OF VESSELS

CHAPTER I

General provisions

Article 753

Concept

1. For the purposes of this Code, the preventive arrest is the arrest and detention of a vessel by court order in order to ensure the payment of a maritime claim.

2. The precautionary arrest does not include the seizure of a ship for a judicial sale in execution of a court or mortgage title.

Article 754

Applicable regime

In all matters notwithstanding the provisions of this Chapter, the provision in the civil procedural law on interim measures shall apply to the interlocutory injunction.

Article 755

Relation to the main procedure

1. The interlocutory injunction may be required as a preliminary of legal action in order to claim a maritime claim, or as incident referred in the main proceedings.

2. The dismissal of the preliminary arrest for the main proceedings does not affect the exercise of other actions that can proceed in the process.

Article 756

Competent court

1. The court has jurisdiction to hear the precautionary arrest where the main proceedings occurs or the port where it is located or expecting the arrival of the vessel.

2. In the case it is a preliminary arrest, the judicial court of dockage or waiting the vessel's arrival has the jurisdiction to hear the interlocutory injunction and the main proceedings.

3. If the ship does not reach the expected port, the judicial court of that port loses its jurisdiction.

Article 757

Author

For the purposes of this chapter, the author, the entity, requesting the interlocutory injunction argues in its favour a maritime claim.

CHAPTER II

Claims that give rise to the arrest

Article 758

Restriction to the ship's arrest

A vessel may be detained in securing a maritime claim, subject to the powers conferred to the maritime administration or to the other port authorities, by law and regulation, from holding a ship or on the other side, prevent it from going out to sea, within its jurisdiction.

Article 759

Maritime claim notion

Maritime claim is considered as the right of credit arising from any of the causes listed below:

a) Damage caused by any ship either in collision or otherwise, including pollution damage;

b) Loss of life or personal injury caused by a ship or resulting from their exploitation;

c) Assistance and rescue;

d) Agreements relating to the use or hire of a ship concluded by charter-party or by other means;

e) Agreement relating to the carriage of goods on a ship, especially by charter party or bill of lading;

f) Loss or damage of goods and luggage carried in a ship;

g) Gross damage;

h) Risk Loan;

i) Tow;

j) Piloting;

k) Supplies of goods or materials done for a ship for its operation or maintenance, whichever the place where such supplies have been made;

l) Construction, repair or arming a ship or dock charges;

m) Captain, officers or crew salaries;

- n)* Expenses from Captains, carriers, charterers or agents made on behalf of a ship or its owner;
- o)* Legal challenges to the ownership of a ship;
- p)* Legal challenges to the ownership of a ship, or possession or exploration, or the right to the product of the operation of a ship in joint ownership;
- q)* Sea Mortgage

CHAPTER III

Ships that can be arrested

Article 760

Ships property of the credit debtor

1. Notwithstanding the following article, the author can arrest the vessel to which the credit is reported, like any other belonging to him which on the date of the maritime claim constitution, was the owner of the ship, even if the arrested ship is dispatched for travel.
2. Notwithstanding the claims referred to in paragraphs *o)*, *p)*, *q)* of the previous article, the vessel can only be arrested in relation to which the claim relates to.
3. The vessels whose shares belong in property to the same or same persons, are considered to be of the same owner.

Article 761

Ships owned by persons other than the debtor

1. In the case of ship charters, with transfer of the nautical management, if the charterer alone is liable for a maritime claim relating to that ship, the author can arrest the same vessel or another owned by the charterer, but no other ship owned by the owner can be arrested for such claim.
2. The provisions of the preceding paragraph shall also apply to all cases in which a person other than the owner is liable for a maritime claim.

Article 762

Ships dispatched and ready to go at sea

The fact that the ship is dispatched and ready to go at sea does not prevent its preventive arrest.

CHAPTER IV

Arrest procedure

Article 763

Application and proof

1. In order to decree the arrest, it is enough for the author to simply claim the existence of a maritime claim and the cause that originated it.
2. The author can offer with the arrest petition, the evidence that it considers appropriate.

Article 764

Self-preservation Order

1. Analysing the request and the evidence presented, the judicial court may order the arrest without hearing the arrested person
2. The self-preservation order notifies the arrested, its shipping agent or the captain of the vessel and the local maritime administration.
3. In the case of foreign ship, the arrest is notified to the diplomatic or consular representative nearest to the State flag.

Article 765

Measures to be taken by the maritime administration

1. Once notified of the arrest, the local maritime administration shall take the necessary measures to prevent the departure of the vessel.

2. For the purposes of the preceding paragraph, the port administration, the coast guard, the forces of judicial and national police, must provide the cooperation requested by the local maritime administration, whenever possible and reasonable.

Article 766

Opposition

1. Once notified of the arrest, the arrested may present an appeal, alleging the facts and presenting the evidence as it deems appropriate for its defence.

2. The arrested can also require the replacement of the arrest referred to the following paragraph, by providing a collateral.

3. The opposition is notified of the detainee, followed by the remaining terms of summary proceedings.

Article 767

Bail

1. The court may order bail by providing adequate bail for detainee unless the arrest was decreed by maritime claims enumerated in paragraphs *o*), *p*) or *q*) of Article 759.

2. If an agreement lacks between the parties, it is up to the court to fix the nature and value of collateral provided for in the preceding paragraph.

3. The request for lifting the arrest provided in this article does not constitute liability recognition or waiver of the benefit of the legal limitation of liability of the owner or operator of the vessel.

4. The arrest or the collateral given in replacing is also bailed, upon request of the detainee, in the case of the expiry referred to in Article 770.

CHAPTER V

Multiple arrests, unjustified arrests and expiry

Article 768

Prohibition of multiple arrests

1. No arrest may be ordered and no collateral can be given more than once for the same claim and at the request of the same author, considering for this purpose also the foreclosures enacted abroad.

2. If a ship is detained, even abroad, and given bail, whether to lift the arrest as to avoid it, any subsequent arrest of the ship or another belonging to the same owner, made at the request of the author of the same maritime claim is lifted by the court, unless the author proves that the guarantee or collateral was improperly void.

Article 769

Liability for unjustified arrest

1. If the arrest is judged as unjustified or expires by the author's negligence, it is responsible for this damage and expenses incurred in the provision of the collateral by the detained with a purpose to its lifting.

2. The court may make the ban on prior presentation by the author of collateral or adequate guarantee according to the class, value, features and contractual commitments undertaken by the ship.

Article 770

Expiry of the arrest

1. The arrest is void:

a) By the termination of the maritime claim which it intends to guarantee;

b) Failure to submit the main action within 30 (thirty) days from the date of notification of the decision that decreed the arrest or when the main action of the process remains still for longer than 60 (sixty) days, due to inaction of the author;

c) Deciding the main action is unfavourable to the author, *res judicata*;

d) If a favourable decision was obtained in the main proceedings, the author does not promote the execution in the next 6 (six) months or once promoted the execution, the process is stopped for more then 30 (thirty) days by negligence of the judgement creditor.

2. When the arrest was been replaced by collateral or other guarantee, this becomes void in the cases provided in the preceding paragraph.

TITLE III

JUDICIAL SALE OF VESSELS

CHAPTER I

Procedure and guarantee of the sale

Article 771

Scope and supplementary regime

1. The standards and procedural guarantees specified in this Chapter shall apply to the judicial sale of ships or remains of ships.
2. In all matters not regulated by this Title, the general procedural rules on execution and judicial sale of movable property subject to registration, shall apply.

Article 772

Notification of the judicial sale

Prior to the judicial sale of the vessel, the competent court must notify:

- a) The Maritime Administration and, in the case of foreign ships, the nearest diplomatic or consular representative of the flag State;
- b) The owner of the vessel;
- c) To the holders of the registered mortgages or charges set up not to the bearer;
- d) To the holders of registered mortgages or charges made to the carrier, as well as the holders of the privileged maritime claims listed in Article 273, where the court has to know such claims.

Article 773

Deadline and content of the notification

1. The notification referred to in the previous article must be done 30 (thirty) days prior to the date set for the judicial sale and contain:
 - a) The date, place and time of the judicial sale as well as the circumstances of the case which the court deems important to protect the interests of the notified;
 - b) If the date, place and time of sale, cannot be determined, it shall notify the closest date and place scheduled for the judicial sale as well as the circumstances referred for in the preceding paragraph;
 - c) When there is certainty in relation to the items referred to in the preceding paragraph, the court notifies the interested parties with at least 7 (seven) days of the date set for the judicial sale.
2. The notification shall be in writing outputs to interested persons mentioned in the previous article, if known, through the means set out in general procedural law, by registered mail, by electronic means or by any other suitable means from which allows to obtain the certainty of the reception, even when the person to be notified has its residence outside of Cape Verde.

Article 774

General advertising of the sale

1. The sale is also advertised in the national newspapers.
2. If concerning vessels, the notice of the sale in court notices displayed in the appropriate places and the local maritime administration of the port of registry and the port where the vessel is, if they are different, is sufficient.
3. Upon request of the interested party or on its own initiative, the court may determine advertising the sale in other means.

4. The advertisements referred to in this Article shall be published 15 (fifteen) days before the date set for the judicial sale.

Article 775

Opportunity to examine and inspect the vessel

1. During the term of the advertisement, any interested party may examine and inspect the vessel for sale, on weekdays and during normal working hours of the judicial and maritime institutions.

2. The court and the local maritime administration must create the necessary conditions for inspections referred to in the preceding paragraph so they may be carried out safely.

Article 776

Claims of privileged maritime claims or mortgage

1. The privileged maritime claims or mortgage holders can attend and make the corresponding claims in the manner and with the effects provided by the civil procedural law.

2. The provisions of the preceding paragraph shall apply to the judicial procedure of the maritime mortgage.

CHAPTER II

Performances subsequent to the sale

Article 777

Product destination in the sale

1. As the product of the sale, the claims contemplated in Chapters II and III of Title V of Book IV are paid by the order set out in them.

2. Satisfying all the claims, the balance, if any, reverts to the ship owner.

Article 778

Entry in the registry of judicial sale

1. The title of auction sale serves as a title for the interested contractor for the registration of its property in the conventional shipping registry.

2. In any case and as soon as the sale is made, the court communicates the maritime administration setting forth the identity, nationality and address of the new owner.

3. The Maritime Administration shall proceed to the registration of the new owner in the conventional ship registry or cancel the registration if the new owner does not meet the requirements in Article 166.

4. In case the ship is sold abroad, the court shall communicate the sale to the registry authority of the flag state, for the registry.

Article 779

Cancellation of mortgages and charges

1. As a result of the judicial sale of the ship, the registered mortgages and charges, except those in which the buyer has subrogated with the consent of the creditors, as well as all the maritime privileges credits and other charges of any kind that weigh on the ship, are discarded.

2. In the same communication referred to in paragraph 2 of the previous article, the court orders the cancellation of the registrations of the mortgages and charges that exist on the ship.

TITLE IV

JUDICIAL DEPOSIT AND SALE OF GOODS

Article 780

Deposit

1. According to the provisions of Article 517 the transporter can ask for the deposit and sale of goods carried where its recipient has not paid the freight or other claims arising from the transportation.

2. It can also carry out the deposit and sale of the carried goods, when the recipient is not found or not present to remove them from the ship, requiring it in accordance with Articles 515 and 782.

3. The provisions of this Title shall apply with the necessary adaptations, to the deposit and sales, as a guarantee of the special freight payment, the passenger luggage to the carriers in order to store them.

Article 781

Territorial Jurisdiction

The competent court of law in order to know the procedure regulated in this Title, is the place of the port of discharge and delivery of goods.

Article 782

Application Requirements

The deposit requirement and judicial sale must clearly contain the following:

- a) The type of transportation, with a copy of the bill of lading or charter party;
- b) The identity of the recipient, if known;
- c) Freight or expenses claimed;
- d) The description of the class or quantity of goods whose deposit is required, with rough indication of their value;
- e) The grounding, whether for non-payment or undeliverable.

Article 783

The notification to the recipient

- 1. Accepting the application, the court notifies the recipient within 8 (eight) days to pay the claimed amount.
- 2. If the title is not registered, the application must indicate the recipient, without which there is no place for notification referred to in the preceding paragraph.

Article 784

Verifying the deposit

- 1. If the defendant fails to pay or provide sufficient security for the payment within the period specified in the preceding paragraph, the court draws up the act authorizing the deposit of the goods or luggage as requested.
- 2. If there is disagreement regarding the amount, class or value of the goods necessary to cover the claimed amount, the court appoints an expert to determine it.

Article 785

Sale

Upon doing the deposit and naming the depositary, the court shall proceed to the sale under the applicable terms for the judicial sale of the movable property.

Article 786

Product destination of the sale

- 1. With the product of the sale proceeding to the payment of fees, expenses and rights referred to in Article 523, and the remainder reverts to the requesting paying the freight and other unclaimed credits.
- 2. Have the payments been paid, provided for in the preceding paragraph and if there is surplus, this is recorded in deposit under the civil procedural law.

Article 787

Opposition to the payment

1. If the holder of the goods opposes to payment, the court holds the remaining deposit until the final decision.
2. The holder shall, within 20 (twenty) days from the date of the judicial sale, submit an objection to the payment in court, following that, the form of process compatible with its amount.
3. If the recipient of the goods provides collateral and thus avoids or lifts the deposit and sale of that, it must submit its claim within the period referred to preceding paragraph accounting since the provision of the collateral.

TITLE V

PROCEDURE FOR SETTLE THE THICK FAILURE

CHAPTER I

Settlement process

Article 788

Settlement means

If the parties interested in a sea voyage do not make an agreement for the extrajudicial settlement of the thick breakdown, any of them may require the settlement of this breakdown.

Article 789

Duty to cooperate

Those interested should provide the appointed liquidator with the cooperation, information and requested documentation.

Article 790

Form and content of application

The application must clearly state the circumstances of the facts occurred, the expenses and the damage caused, the nominal relation of the parties and the documents justifying the petition.

Article 791

Notification

Receiving the petition, the court orders the notification of the parties in the maritime journey, giving them a period of 15 (fifteen) days to intervene in the process and present proposals for appointing a liquidator expert.

Article 792

Appointment of liquidator expert

1. Once the proposals have been received, the court appoints the liquidator expert proposed by all the parties.
2. If the parties do not submit the proposal within the period mentioned in the previous article, or present various experts, the court appoints a liquidator expert of the breakdown and also makes it known to the interested parties.
3. The appointment made by the court can be contested by the parties pursuant to the civil procedure law.
4. The liquidator expert is entitled to receive honorary fees, not less than 1% (one percent) of the active mass distributed between the contributors and can ask for a provision of the funds for expenses that should be borne by the requester.

Article 793

Deadline for settlement

Appointing the liquidator expert, the court grants him reasonable time to prepare the settlement, which may not exceed 6 (six) months and may be renewed for an equal period, if reasons related to the settlement or the liquidator justify it.

CHAPTER II

Performances subsequent to the settlement proposal

Article 794

Settlement Proposal

Once presenting the proposed settlement of the thick breakdown by the liquidator, or report concluding the settlement dismissal, the parties concerned are notified that they may appeal within 30 (thirty) days.

Article 795

Appeals

If there is an appeal, the court notifies the liquidator to issue an opinion reasoned based its merits, or promote the changes it deems appropriate in its settlement proposal within 30 (thirty) days.

Article 796

Approval of Settlement

Assessing the challenges and the opinion or proposals for the modification of the settlement proposal, the court draws a settlement act which appeals under civil procedural law.

Article 797

Execution

The settlement act approved by sentence, constitutes a basis that is enough for execution against the parties that do not pay the contribution fixed in the sentence, within 15 (fifteen) days.

TITLE VI

PROCEDURE TO LIMIT THE LIABILITY

CHAPTER I

Claim of the right and of the funding

Article 798

Right claim

1. He, who in the course of a civil proceedings, invokes the right to limit the liability that is required, shall initiate the procedures for setting up the limitation fund or of funds within 10 (ten) days from the date of the application.

2. The application of constitution of the limitation fund or of funds provided in the preceding paragraph must be fined by attaching to the file of the main action, and meeting the requirements of this Code.

Article 799

Invocation in non-civil proceedings

1. He, who in the course of non-civil proceedings, invokes the right to limit the liability that is required from it, shall present the application for setting up the limitation fund or of funds in the court where the process is in, within 10 (ten) days from the date of claiming the right.

2. The applicant of the limitation right shall annex to the constitution request of limitation fund or funds, the allegations of law applicable to the case.

3. The sentences or resolutions declaring the civil liability in non-civil cases can only be enforceable against the regularly constituted fund or funds before the civil court.

Article 800

Application content of fund constitution

1. The establishment of the limitation fund or funds constitution must be done in writing and contain the relevant facts of limitation that is invoked, accompanied with the following documents:

a) A document proving the deposit in favour of the court of the amounts of compensations calculated pursuant to Title III of Book IX of this Code;

b) Certified copy of the tonnage certificate;

c) The ship's crew list at the time of the accident;

d) Maximum passenger capacity certificate that the ship is certified to carry, where the limitation refers to claims for death or injury of passengers;

e) Certified copy of the ship's seaworthiness certificate;

f) Document that has record of the limitation calculation value;

g) List of known creditors and subject to limitation, indicating their residences, claim titles and their estimated value;

h) The name of the liquidator expert jointly proposed by the applicant and all the creditors referred to in the preceding paragraph.

2. The deposit referred to in subparagraph *a)* of paragraph 1 may be replaced by another sufficient collateral in favour of the court, issued by a credit institution authorized to operate in Cape Verde.

Article 801

Admission and improvement

1. Presenting the request, the court issues the order for admission or improvement in the case of missing some requirement, the omission needing to be rectified within 5 (five) days.

2. The court issues the rejection order considering that the amount of the fund or funds that do not meet the calculation provided for in this Code, granting 5 (five) days for the applicant to rectify the error.

Article 802

Orders of admission and rejection

1. In the application of the admission order referred to in the previous articles, the court declares the limitation fund of funds as constituted, which may be contested.

2. The certificate of the order referred to in the preceding paragraph, shall be enough in any other legal inquiry or proceedings in respect of the same accident, if it obtains the arrest lifting, collaterals or other precautionary measures on the ship or other property belonging to the holder of the right to limit.

3. The processes referred to in the preceding paragraph, continue its normal course, but in its implementation against people benefited from the limitation taking into account the sharing of the fund or funds.

4. The order for rejection of the constitution of the fund or funds, appeal under civil procedural law.

Article 803

Termination of the limitation proceedings

1. The sentence dismiss the limitation of liability declares the limiting process as extinguished.

2. At the request of creditors, the court may retain the deposit or guarantee referred to in paragraph *a)* of paragraph 1 and paragraph 2 of Article 800, as it guarantees the claims submitted against the debtor until they complete the corresponding process.

CHAPTER II

Formulating the masses and the fund's distribution

Article 804

Appointment of liquidator expert

1. In the sentence referred to in paragraph 1 above, the court appoints a liquidator expert, it should be the person proposed in accordance with paragraph *h)* of paragraph 1 of article 800 or, failing that, one appointed by the court.

2. When the expert is appointed by the court, the interested parties may refuse the appointment, as provided in the civil procedural law.

3. The appointed expert must declare within 3 (three) days before the court, that he accepted the position.

4. The expert is entitled to a compensation equal to 1% (one percent) of the fund or funds distributed between the creditors as a way of fees, and may request an advance for immediate expenses, which must be authorized by the applicant.

Article 805

Constitution of masses and provisional share

1. The liquidator expert regulates the passive and active masses of the fund or funds, as well as the proposal of sharing.

2. The expert can propose the court a provisional sharing to and, if it is approved, it can carry out advance payments, which are considered the final sharing.

Article 806

Advertising of the formulating of the masses

1. Constituting the fund or funds, the expert notify the known creditors in order to take part of the process and claim their credits.

2. The notification shall be published in one of the most widely read newspapers in the country.

3. For the creditors resident in the country and abroad, they have been granted a 30 (thirty) and 60 (sixty) days period, respectively, in order to present their titles and justification in the process.

4. The expert may require from the creditors the documentation it may consider necessary in order to support the claimed credits.

Article 807

Act of formulating the passive mass

1. The debtor applicant of the limitation and the creditors may challenge the credits or their value, as well as their inclusion in the passive mass, with the liquidator expert, within 60 (sixty) days from the date of its notification.

2. The expert shall present to the court a report with a list of credits and their admitted values in the passive provisional or final mass, as well as the received objections and the reasons for its decision.

3. The court decides the composition of passive mass, taking into account the report referred for in the preceding paragraph.

4. The decision referred for in the preceding paragraph, may be appealed under civil procedural law.

Article 808

Constitution of the active mass

1. For the composition of the active mass, the liquidator expert makes it known to the applicant of the objections of the creditors on the substance of the right of limitation of liability or the amount and form of the fund or funds, for contesting effects within 20 (twenty) days.

2. The period laid down in paragraph 1 above, whether there are or not contests, the liquidator expert takes to court its report on the origin and value of the fund or limitation of funds, as well as, their views on the challenges presented.

3. The court decides by judgement on the constitution of the active mass and its value, leaving that decision brought under the civil procedural law.

Article 809

Complement of the active mass

1. If the judgement referred to in the previous article establishes an amount of the fund or funds that above the already deposited or incorporated, the applicant must complete the latter within 10 (ten) days.

2. If the applicant does not meet the provisions of the preceding paragraph, it loses the right to limit its liability, ending the incident with the consequences provided for in Article 803.

Article 810

Sharing act

1. Signed the acts approving the composition of the passive and active masses, liquidator expert prepares a proposal for the distribution in accordance with the provisions of Article 680, which is notified to the creditors, that by not agreeing, they can contest it within 20 (twenty) days.

2. The court decides with a sentence the sharing, taking into account the final report of the liquidator expert, which can be appealed under the civil procedural law.

BOOK XII

OFFENCES AND ADMINISTRATIVE PENALTIES

TITLE I

GENERAL PROVISIONS

CHAPTER I

General principles and skills

Article 811

Typicality, guilt and subsidiary regime

1. The conduct typified in this book constitutes as an administrative misdemeanour.
2. Negligence and attempt are always punishable.
3. The provisions of the general administrative law apply alternatively to the regime of offences and administrative sanctions.

Article 812

Supervisory powers, prosecuted and punished

1. It is the responsibility of the maritime administration, at the services of the Coast Guard and the national police, the supervision necessary in order to prevent the conduct set forth in this book as part of their powers.
2. It is the responsibility of the Maritime Administration, the prosecution, the imposition of fines and sanctions of interdiction or suspension of exercising the profession or activity for the offences referred to in this book, as provided in the following article.
3. The maritime administration of the decisions taken under the preceding paragraph, fit hierarchical appeal for the Government member responsible for maritime the administration.

Article 813

Jurisdiction in the matter

1. The maritime authorities in locations whose areas was its wrongful act or, on the high seas are competent for carrying out the offence processes, the local maritime administration of the ship's port of registry or the first national port of scale.
2. Responsibility for the application of the fines is carried out as follows:
 - a) Up to 50,000\$00 for maritime delegate;
 - b) From 50,000\$00 - 200.000\$00 escudos, for the captain of the port;
 - c) More than 200,000\$00 escudos by the maritime administration.

CHAPTER II

Nature of the sanctions

Article 814

Fines, ancillary measures and precautionary measures

1. The administrative sanctions are fines or ancillary measures, notwithstanding the application of precautionary measures in order to ensure the collection of fines or other financial charges or to prevent subsequent damage for the general interests.

2. The precautionary measures and sanctions provided for in this chapter are without prejudice to those contained in Title II.

Article 815

Destination of the fines

The product of the fine shall revert to 50% in favour of one fund for the maritime administration of the sector and is intended to finance the monitoring and inspection activities carried out by the regulator entity.

Article 816

Precautionary measures and additional sanctions

1. As a precautionary measure or additional sanction of maritime offences, the arrest of ships or other floating bodies or objects and instruments which served to its practice or result from it, can be ordered.

2. The arrest may only be ordered when the ship or objects listed in the previous paragraph:

a) Being held by the agent, presenting a danger to the community or to the commission of a crime or other offence;

b) Having been sold or are in the possession of third parties, known, or reasonably known, that they served for the practice of the offence;

c) In the case of a foreign vessel and its arrest is considered necessary by the Maritime Administration in order to ensure the collection of fines, damages or other penalties in favour of public administration under the provisions of this Code and other administrative law.

3. In the case referred to in subparagraph *c)* above, the vessel is freed as soon as sufficient guarantee is constituted in Cape Verde, as defined by the decree approved by the Government member responsible for the maritime administration.

4. When the severity or frequency of the contravention justifies it, the prohibition of the exercise of profession or activity related to the offence can still be applied as a precautionary measure or additional sanction.

CHAPTER III

Procedural specialities

Article 817

Validity of the notifications to the captain and the agent

The notifications made to the captain of the ship, have been addressed by the shipowner, such as the approaches to the shipping agent serving in relation to the Captain, shipowner and its manager.

Article 818

Notification to the consul

Whenever precautionary measures provided for in the previous articles in relation to a foreign ship are taken, the competent authorities shall immediately inform the consul or diplomatic representative of the flag State of the measures taken, observing the provisions of international law in this matter.

Article 819

Judicial contest

1. Except as provided in the following paragraph, the decisions imposing fines or sanctions may be contested before the district court in whose area of jurisdiction where the offence was committed.

2. The decisions of the Government member responsible for maritime the administration may be contested in the general terms.

3. The legal appeal has suspensive effect, unless the defendant gives bail in the amount fixed by the Maritime Administration.

Article 820

Constitutive breach of an offence

1 If the competent authority finds that the misdemeanour constitutes a criminal offence, it draws the official report and refers to the prosecutor for the purpose of prosecution and suspends the administrative process.

2. The criminal penalties imposed exclude any administrative penalty.

3. If there is no room for the application of criminal sanction, the court returns the case to the Maritime Administration in order to continue the administrative procedure to safeguard the maritime safety, pollution prevention and ordination of maritime traffic, whose implementation is consistent with suspension set out in paragraph 1, must be complied.

TITLE II

CRIMINALIZATION OF OFFENCES AND SANCTIONS

CHAPTER I

Offences and sanctions on the public maritime domain

Article 821

Violation of rules on works and buildings

Constitutes as an administrative misdemeanour:

a) The execution of works or buildings or the maritime public domain occupation in contravention of the rules laid down in Title I of Book II;

b) The occupation or execution of works or buildings in the areas surrounding the maritime public domain in contravention of the regulations referred for in the preceding paragraph.

Article 822

Illegal sand extraction

1. Constitute as an administrative misdemeanour:

a) The unlicensed or license sand extraction whose validity has expired;

b) The sand extraction in areas or in different locations than those for which the licenses issued were issued;

c) The use of means of action not authorized by the Maritime Administration;

d) Failure to comply with any of the obligations imposed on specific legislation on sand extraction;

e) The unaccompanied sand transport of the carriage;

f) The unlicensed or license sand sale whose validity has expired;

g) The unlicensed or license sand buy whose validity has expired;

h) Sand sale above the maximum selling prices to the public.

2. The offences referred to in the previous number are subject to the penalties provided for in special legislation that regulates and governs the extraction and exploration of sand in dunes, beaches and inland waters.

3. Incidentally, they may be arrested and removed at the risk of the offender, all equipment, and means of action used in the extraction and transport of sand, and the sand itself extracted in violation of the provisions of this Ordinance.

Article 823

Pollution of the public maritime domain

1. Administrative misdemeanour is the spill or landfill or waste of any kind on the goods that constitute public maritime domain.

2. The offence under the preceding paragraph shall be punished in accordance with the general rules of maritime offences, contained in the special legislation.

3. The foregoing shall notwithstanding the provisions of Chapter III of this Title for the pollution caused by ships.

CHAPTER II

Misdemeanours and Sanctions on maritime safety, findings and extractions

Article 824

Navigation, manoeuvring and dockage of ships

Constitutes as an administrative misdemeanour:

- a)* Violation of the rules that set the limits within which they can operate, the vessels referred to in Title I of Book IV;
- b)* Violation of administrative rules on maritime trailers or on compulsory pilotage;
- c)* Violation of the legally established rules or imposed by maritime administrations on locations of anchorage, mooring and dockage;
- d)* Violation of the rules contained in Title III of Book III on the entry, stay and exit of ships from the port;

Article 825

Safety of ships and ports

Constitutes as an administrative misdemeanour:

- a)* Violation of national or international laws on maritime radio, when it affects the safety of the ship;
- b)* Violation of laws and health regulations for ships and vessels;
- c)* Violation of the rules contained in Title III of Book IV on inspections and certification of ships;
- d)* Violation of the rules contained in Title II of Book III on port safety and protection.

Article 826

Disobedience to the captain and rescue omission

Constitutes as an administrative misdemeanour:

- a)* The unjustified breaking of the captain's orders referred to in Article 365;
- b)* Failure to provide assistance in the cases and conditions imposed by the provisions of this Code or the international conventions in force in Cape Verde.

Article 827

Maritime findings and extractions

Constitutes as an administrative misdemeanour:

- a)* Violation of administrative rules on the reporting duties and marking of wrecks provided for in Book VIII of Title IV;
- b)* The lack of notification of losses and findings of anchors as well as chains and other property at sea, according to the provisions of Title IV of Book VIII;
- c)* Carrying out maritime extractions without having the required authorization according to the provisions of Title VIII of Book IV.

CHAPTER III

Offences and sanctions for marine pollution

Article 828

Failure to comply with the reporting duties

The failure to comply with the notification obligations of pollution acts contemplated in Title IV of Book II constitutes as administrative infraction.

Article 829

Marine pollution from ships

The unlawful acts of pollution originating from ships provided for in Title IV of the rules of Book II of this Code is an administrative offence.

Article 830

Ancillary measures to tackle pollution

1. In addition to the fine applied and as ancillary measure, the Maritime Administration may require the shipowner of the ship originator, the obligation to collect the unloaded substances and to clean the marine environment.
2. Moreover, the Maritime Administration can carry out the collection and cleaning operations referred to in the preceding paragraph, making use of the public means or contractors for this purpose.
3. The expenses of the collection and cleaning operations are due to the owner of the ship that caused the pollution.
4. The maritime administration can proceed to arrest as a guarantee for the payment of the expenses, or apply the precautionary arrest of the ship originator or other ships of the same owner, pursuant to Title II of Book XI.

CHAPTER IV

Offences and sanctions on the registration and identification of ships

Article 831

Registration, nationality, use of the flag and documentation

Constitutes as an administrative misdemeanour:

- a) Breach of rules governing the registration of ships and vessels;
- b) Lack of or irregularities in the on board documentation of ships pursuant to Chapter I of Title II of Book IV;
- c) Breach of the rules on the use of the nationality flag and other flags, distinctive or trademarks of ships, as provided in Chapter II of Title II of Book IV;
- d) Other breaches of the administrative regulations on registration, nationality, documentation and tonnage provided for in Title II of Book IV of this Code.

CHAPTER V

Offences and sanctions on the subjects of navigation

Article 832

Exercise of unlicensed activities

Aside of the cases specifically contemplated in the following articles of this Chapter, constitutes as administrative misdemeanours the exercise of maritime activities or execution of work on or in the ship without having the required license.

Article 833

Port Operations

1. Constitutes as an administrative misdemeanour:
 - a) The exercise of the port operations without a license and unauthorized provision of nautical port services, as provided in Chapter II of Title I of Book III of this Code and port legislation.
 - b) The use of workers not properly registered and legally entitled to carry out the port operations or in the provision of nautical port activities;
 - c) The use of infrastructure or public facilities for purposes other than those contained in the respective licenses, authorizations or concessions.
2. With a legal decision, the Port administration can impose against the infringer an immediate ban on the respective activities up to one year, where such matter is duly justified.

Article 834

Fine amounts

1. Notwithstanding the application of penalty or other severe sanctions applicable under other legal provision, the amounts of the fines relating to the mentioned infractions are as follows:

- a) From 5,000\$00-50.000\$00 (five thousand to fifty thousand escudos) for breaching the provisions of Article 831, as well as all other misdemeanours for the provisions of this Code, especially when they are not sanctioned in accordance with the following points;
- b) From 5,000\$00-100.000\$00 (five thousand to one hundred thousand escudos) for breaching the provisions of paragraph 1 of Article 823 and paragraphs *a*) of Articles 824 and 827;
- c) From 10,000\$00-100.000\$00 (ten thousand to one hundred thousand escudos) for breaching the provisions of paragraph *b*) of Article 824;
- d) From 20,000\$00-200.000\$00 (twenty thousand to two hundred thousand escudos) for breaching the provisions of paragraph *c*) of Article 824 and paragraph *a*) of Article 825;
- e) 20,000\$00-300.000\$00 (twenty thousand three hundred thousand escudos) for violation of Article 832;
- f) From 50,000\$00-500.000\$00 (fifty thousand to five hundred thousand escudos) for breaching the provisions of paragraph *d*) of Article 824,
- g) From 10,000\$00-1.000.000\$00 (ten thousand to one million escudos) for breaching the provisions of paragraphs *b*) and *c*) of article 827;
- h) From 50,000\$00-1.000.000\$00 (fifty thousand to one million escudos) for breaching the provisions in paragraphs *c*) and *d*) of article 825;
- i) From 100,000\$00-1.000.000\$00 (one hundred thousand to one million escudos) for breaching the provisions in paragraphs *a*) and *b*) of Article 821 and paragraph *b*) of Article 826;

Article 835

Maritime transportation industry

Constitutes as an administrative misdemeanour:

- a*) The exercise of the maritime transportation industry by those who do not comply with the requirements laid down in Chapter II of Title I of Book VI.
- b*) The exercise of the maritime transportation industry in conditions other than those authorized and registered in accordance with the provisions of Chapter II of Title I of Book VI.

Article 836

Chartering of ships

Constitutes as an administrative misdemeanour:

- a*) Failure to comply with the preferential arrangements for the chartering of merchant vessels set out in Chapter II of Title I of Book VI.
- b*) Non-compliance by the charterers of the duty to report their charters to the maritime administration as set out in Article 426.

Article 837

Shipping agents

They constitute administrative misdemeanours, the infringements of the provisions of Section 2 of Chapter II of Title II of Book V of this Code.

Article 838

Freight Forwarders

Constitute as administrative misdemeanours:

- a) The exercise of shipping activity by an entity not licensed;
- b) The performance of the role of administrator, director or manager of forwarding companies by people legally prohibited from exercising the trade or declared insolvent;
- c) The omission of the duty to notify the Maritime Administration of the modification of the requirements required by the license that concern the forwarding companies, or its officers, directors or managers, or technical director;
- d) Violations of the provisions of Section 2 of Chapter III of the Title II of Book V of this Code and not specifically provided for in the preceding paragraphs.

Article 839

Sailors and crew

1. Constitute as administrative misdemeanours:

- a) When the seafarer has more than one registration;
- b) Exercising the profession by a non-registered seafarer or seafarer that does not have registration or regularized seaman's book;
- c) The exercise of functions without the required professional qualifications;
- d) The exercise by a crew member of category or department not registered in the ballot or is not enabled, unless it is duly authorized;
- e) Lack of crew or its irregularity or lack of boarding license when required;
- f) Non-fulfilment of duties indicated in paragraphs b) and d) of Article 411;
- g) Loading and the exercise of on board functions without holding or keeping on board or the validity of the documents referred to in Article 349.
- h) Failure to comply with the minimum safety crew or the lack or expiry of the relevant certificate;
- i) The boarding of crew or other seafarers or people beyond the limits of rescue means existing on board;
- j) Failure or lapse situation of manning document.

2. In the case mentioned in paragraph c) of paragraph 1, an additional penalty of temporary disqualification from practising the profession for a period of thirty to ninety days can be applied.

Article 840

Sanctions

Misdemeanours provided for in Articles 835 to 839 are punished in accordance with the provisions of special legislation.

Article 841

Subject responsible for the offences on seafarers

- 1. When the misdemeanours described in paragraph 1 above should occur, apart from the material author, the shipowner of the vessel and its hook are also punished, unless on this, the offence has occurred against instructions by it expressly given.
- 2. In the case of the misdemeanour provided for in paragraphs e) to j) of paragraph 1 of Article 839, the owner of the vessel and its captain are punished.

Article 842

Subsidiary Regime

In regards to breaches of the rules contained in this Code that impose administrative duties in all that is not specifically set forth in this book, the legal framework for administrative offences approved by Legislative Decree No. 9/95 of 27 of October is applied.

The Prime Minister, *Jose Maria Pereira Neves*

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