

Commercial Code

(Act No. 48 of March 9, 1899)

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Part I General Provisions
Chapter I General Rules

(Purpose, etc.)

Article 1 (1) The business of Merchants, commercial transactions, and other commercial matters are governed by the provisions of this Code, except as otherwise provided by other laws.

(2) A commercial matter not provided for in this Code is governed by commercial custom, and if there is no commercial custom, it is governed by the provisions of the Civil Code (Act No. 89 of 1896).

(Commercial Transactions by Public Corporations)

Article 2 Commercial transactions conducted by public corporations are governed by the provisions of this Code, except as otherwise provided for by laws and regulations.

(Transactions Constituting Commercial Transactions for One Party)

Article 3 (1) If an act constitutes a commercial transaction for one of the parties, this Code applies to both parties.

(2) If two or more persons form one of the parties and an act constitutes a commercial transaction for any one of them, this Code applies to all of them.

Chapter II Merchants

(Definitions)

Article 4 (1) The term "Merchant" as used in this Code means a person in the business of conducting commercial transactions in its own name.

(2) A person in the business of selling goods at a store or other similar facility or a person engaged in the mining business is deemed to be a Merchant even if that person is not in the business of conducting commercial transactions.

(Commercial Registration of Minors)

Article 5 If a minor carries out a business referred to in the preceding Article, this must be registered.

(Commercial Registration of Guardians)

Article 6 (1) If a guardian carries out a business referred to in Article 4 on behalf of a ward, this must be registered.

(2) A limitation on a guardian's authority of representation may not be asserted against a third party in good faith.

(Petty Merchants)

Article 7 The provisions of Article 5, the preceding Article, the following Chapter, Article 11, paragraph (2), Article 15, paragraph (2), the first sentence of Article 17, paragraph (2), Chapter V, and Article 22 do not apply to a petty merchant (meaning a Merchant with an asset value as provided by Ordinance of the Ministry of Justice that does not exceed the amount prescribed by Ordinance of the Ministry of Justice, for assets that the Merchant uses for its business).

Chapter III Commercial Registration

(General Rules)

Article 8 The information that must be registered pursuant to the provisions of this Part is registered in the commercial register at the application of the party concerned, pursuant to the provisions of the Commercial Registration Act (Act No. 125 of 1963).

(Effect of Registration)

Article 9 (1) Information that must be registered pursuant to the provisions of this Part may not be asserted against a third party in good faith until after the registration. The same applies after the registration if a third party had a legitimate reason for not knowing that the information was registered.

(2) A person that registers false information intentionally or through negligence may not assert the falsity of that information against a third party in good faith.

(Registration of Changes and Extinction)

Article 10 If information registered pursuant to the provisions of this Part changes or if such information becomes extinct, the relevant party must register the change or extinction without delay.

Chapter IV Trade Names

(Selection of Trade Name)

Article 11 (1) A Merchant (other than a company or foreign company; hereinafter the same applies in this Part) may use the Merchant's surname, full name, or any other name as a trade name.

(2) A Merchant may register its trade name.

(Prohibition on Use of Names Causing Misconception That Merchant Is Another Merchant)

Article 12 (1) No person may use, with a wrongful purpose, a name or trade name that could give rise to the misconception that the person is another Merchant.

(2) A Merchant whose business interests have been or are likely to be infringed upon by the use of a name or trade name that violates the provisions of the preceding paragraph may demand that the person infringing or likely to infringe upon those business interests discontinue or refrain from the infringement.

(Non-Criminal Fines)

Article 13 A person violating the provisions of paragraph (1) of the preceding Article is subject to a non-criminal fine of not more than one million yen.

(Liability of Merchant Permitting Others to Use the Trade Name Thereof)

Article 14 A Merchant that permits another person to carry on a business or engage in operations using the Merchant's trade name is jointly and severally liable, together with that other person, to a party that has dealings with the other person based on the misconception that the Merchant is the one carrying on the business, for performance of the obligations arising from those dealings.

(Transfer of Trade Names)

Article 15 (1) A Merchant's trade name may be transferred only if the Merchant's business is also transferred or is discontinued.

(2) The transfer of a trade name under the provisions of the preceding paragraph may not be asserted against a third party unless it is registered.

(Non-Competition by Transferor of Business)

Article 16 (1) Unless the parties manifest a different intention, a Merchant that transfers business (hereinafter referred to as the "transferor" in this Chapter) must not engage in the same line of business within the limits of the same city, town, or village (or within the limits of the same ward, in a part of Tokyo that has special wards and in the designated cities set forth in Article 252-19, paragraph (1) of the Local Autonomy Act (Act No. 67 of 1947); the same applies hereinafter), or within the limits of a neighboring city, town, or village, for 20 years after the day of the business transfer.

(2) If a transferor enters into a special agreement not to engage in the same line of business, that special agreement is only valid for 30 years after the day of the business transfer.

(3) Notwithstanding the provisions of the preceding two paragraphs, the transferor may not engage in the same line of business with the intention of engaging in unfair competition.

(Liability of Transferee Using Transferor's Trade Name)

- Article 17 (1) If a Merchant to which business is transferred (hereinafter referred to as the "transferee" in this Chapter) continues to use the trade name of the transferor, the transferee is also liable for performance of obligations arising from the business of the transferor.
- (2) The provisions of the preceding paragraph do not apply if, without delay after the business transfer, the transferee makes a registration indicating that the transferee is not liable for performance of the transferor's obligations. If the transferee and transferor notify third parties of this without delay after the business transfer, the same applies with respect to a third party that has been so notified.
- (3) If the transferee is liable for performance of the transferor's obligations pursuant to the provisions of paragraph (1), the transferor's liability to an obligee that fails to demand performance or give advance notice of its claim within the two years after the business transfer date is extinguished once those two years have passed.
- (4) In a case as prescribed in paragraph (1), any performance made to the transferee on a claim arising from the business of the transferor is valid if the party performing the obligation does so in good faith and without gross negligence.

(Assumption of Obligations by Transferee)

- Article 18 (1) Even if a transferee does not continue to use the trade name of the transferor, if the transferee advertises that it will assume the obligations arising from the business of the transferor, the obligees of the transferor may demand that the transferee perform those obligations.
- (2) If the transferee is liable for performance of the transferor's obligations pursuant to the provisions of the preceding paragraph, the transferor's liability to an obligee that fails to demand performance of the obligations or give advance notice of its claim within the two years after the day that the transferor advertises as referred to in that paragraph is extinguished once those two years have passed.

(Demand for Transferee Involved in Fraudulent Business Transfer to Perform Obligations)

- Article 18-2 (1) If a transferor transfers business knowing that this will harm the obligee of an obligation not assumed by the transferee (hereinafter referred to as a "person that remains the obligee" of the transferor in this Article), the person that remains the obligee of the transferor may demand that the transferee perform that obligation, up to the value of the assets to which the

transferee has succeeded; provided, however, that this does not apply if the transferee, at the time the business transfer becomes effective, has no knowledge of the fact that the transfer will harm the persons that remain the obligees of the transferor.

- (2) If a transferee is liable to perform the obligations referred to in the preceding paragraph pursuant to the provisions of that paragraph, its liability towards a person that remains the obligee of the transferor but that fails to demand performance of the obligation or give advance notice of its claim within the two years after the day that it learns that the transferor has transferred the business with the knowledge that it harms the persons that remain its obligees is extinguished once those two years have passed. The same applies once 20 years have passed since the day on which the business transfer becomes effective.
- (3) A person that remains the obligee of the transferor may not exercise the right to a claim against the transferee pursuant to the provisions of paragraph (1) if an order commencing bankruptcy proceedings or order commencing rehabilitation proceedings involving the transferor has been issued.

Chapter V Commercial Books

Article 19 (1) A Merchant's accounting is subject to the accounting practices generally accepted as fair and appropriate.

- (2) A Merchant must prepare accurate commercial books (meaning accounting books and balance sheets; hereinafter the same applies in this Article) in a timely manner and as provided by Ordinance of the Ministry of Justice.
- (3) A Merchant must keep commercial books and important business materials on file for ten years from the time of the closing of the books.
- (4) The court, upon petition or by its own authority, may order the parties to a suit to submit all or part of their commercial books.

Chapter VI Mercantile Employees

(Managers)

Article 20 A Merchant may appoint a manager and have that manager carry out its business at its place of business.

(Manager's Authority to Represent)

Article 21 (1) A manager has the authority to engage in all acts in and out of court on behalf of the Merchant in connection with the Merchant's business.

- (2) A manager may appoint and dismiss other employees.
- (3) A limitation on a manager's authority to represent the Merchant may not be

asserted against a third party in good faith.

(Registration of Managers)

Article 22 If a Merchant appoints a manager, this must be registered. The same applies if a manager's authority to represent the Merchant is extinguished.

(Non-Competition by Managers)

Article 23 (1) A manager must not engage in any of the following conduct without the permission of the Merchant:

- (i) carrying on an independent business;
- (ii) conducting a transaction that is in the Merchant's line of business for the benefit of the manager or a third party;
- (iii) becoming the employee of another Merchant or of a company or foreign company;
- (iv) becoming the director, executive officer, or executive managing member of a company.

(2) If a manager engages in the conduct set forth in item (ii) of the preceding paragraph in violation of the provisions of that paragraph, the amount of profit earned by the manager or third party as a result of the conduct is presumed to be the amount of damage that the Merchant has suffered.

(Apparent Manager)

Article 24 An employee with a title indicating that employee to be responsible for operations at a Merchant's place of business is deemed to have the authority to engage in all acts out of court in connection with the operations of that place of business; provided, however, that this does not apply if the other party knows this not to be the case.

(Employees Entrusted with Categories of Business Matters or with Specific Business Matters)

Article 25 (1) An employee that is entrusted with a category of business matter or a specific business matter of the Merchant's has the authority to engage in all acts out of court in connection with such a matter.

(2) A limitation on the authority of the employee referred to in the preceding paragraph to represent the Merchant may not be asserted against a third party in good faith.

(Employees of Stores at Which It Is Intended That Goods Will Be Sold)

Article 26 The employee of a store at which it is intended that goods will be sold or otherwise transferred (meaning sold, rented out, or subject to any other similar action; hereinafter the same applies in this Article) is deemed to have

the authority to sell or otherwise transfer the goods located in the store; provided, however, that this does not apply if the other party knows this not to be the case.

Chapter VII Commercial Agents

(Duty of Notice)

Article 27 Having acted as agent or intermediary in a transaction, a commercial agent (meaning a person that is not the employee of a Merchant but that acts on behalf of the Merchant as the agent or intermediary in a transaction that is in the Merchant's ordinary line of business; hereinafter the same applies in this Chapter) must issue notice of this to the Merchant without delay.

(Non-Competition by Commercial Agents)

Article 28 (1) A commercial agent must not engage in any of the following conduct without the permission of the Merchant:

- (i) conducting a transaction that is in the Merchant's line of business for the benefit of the agent or a third party;
- (ii) becoming the director, executive officer, or executive managing member of a company that carries on the same kind of business as the Merchant.

(2) If a commercial agent engages in the conduct set forth in item (i) of the preceding paragraph in violation of the provisions of that paragraph, the amount of profit earned by the commercial agent or third party as a result of the conduct is presumed to be the amount of damage that the Merchant has suffered.

(Authority to Receive Notice)

Article 29 A commercial agent entrusted with the sale of goods or the role of intermediary for the sale thereof has the authority to receive a notice as referred to in Article 526, paragraph (2) or any other notice regarding the sale.

(Contract Cancellation)

Article 30 (1) If a contract between a Merchant and a commercial agent is without a fixed term, either may cancel it with two months' advance notice.

(2) Notwithstanding the provisions of the preceding paragraph, if there is a compelling reason, a Merchant or a commercial agent may cancel the contract between them at any time.

(Commercial Agent's Right of Retention)

Article 31 If performance is due on a claim arising from a commercial agent's actions as an agent or intermediary in a transaction, the agent may retain

property or negotiable instruments of value that the agent is holding for the Merchant until the claim is satisfied; provided, however, that this does not apply if the parties have manifested a different intention.

Chapter VIII Miscellaneous Provisions

Article 32 If a person's signature is required pursuant to the provisions of this Code, the affixation of that person's name and seal may be substituted for the signature.

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Part II Commercial Transactions
Chapter I General Provisions

(Transactions Absolutely Regarded as Commercial Transactions Due to Their Nature)

Article 501 The following actions are commercial transactions:

- (i) an action through which a person seeks to acquire for value a movable, real property, or a negotiable instrument of value from whose transfer the person wishes to profit, or an action through which a person seeks to transfer an object so acquired;
- (ii) an action through which a person seeks to make an acquisition for value in order to form and perform on a contract to supply a movable or negotiable instrument of value acquired from another person;
- (iii) a transaction conducted on an exchange;
- (iv) an action involving a bill, note, or other commercial instrument.

(Transactions Regarded as Commercial Transactions If Conducted as Business)

Article 502 The following actions are commercial transactions only if they are taken as a part of business; provided, however, that this does not apply if the action is taken by a person that manufactures a product or engages in labor for the sole purpose of earning wages:

- (i) an action through which a person seeks to acquire for value or rent from another person a movable or real property from whose rental to another person the person wishes to profit, or an action through which a person seeks to rent to another person property so acquired or rented;
- (ii) an action relating to manufacturing or processing undertaken for another person's benefit;
- (iii) an action relating to the supplying of electricity or gas;
- (iv) an action relating to transportation;
- (v) undertaking a contract for work or labor;
- (vi) an action relating to publishing, printing, photography, or filming;
- (vii) a transaction at an establishment at which it is intended for customers to gather;
- (viii) exchanging money or making another banking transaction;
- (ix) providing insurance;
- (x) undertaking a deposit;
- (xi) an action relating to brokerage or intermediation;
- (xii) undertaking the role of agent for a commercial transaction;

(xiii) undertaking a trust.

(Auxiliary Commercial Transactions)

Article 503 (1) An action taken by a Merchant for the benefit of its business is a commercial transaction.

(2) The actions of a Merchant are presumed to be done for the benefit of its business.

(Agency for Commercial Transactions)

Article 504 Even if the agent for a commercial transaction conducts the transaction without representing that it is doing so on behalf of the principal, the actions of the agent are binding on the principal; provided, however, that if the other party does not know that the agent is conducting the transaction on behalf of the principal, these provisions do not preclude the other party from demanding that the agent perform on the transaction.

(Entrustment of Commercial Transactions)

Article 505 A person entrusted with a commercial transaction may take actions that the person is not entrusted with taking, to the extent that this does not conflict with the main purpose of the entrustment.

(Special Provisions on Reasons for Expiration of Authority to Represent Based on Entrustment with Commercial Transactions)

Article 506 A person's authority to represent a principal based on the person's entrustment with a commercial transaction does not terminate upon the death of the principal.

(Offers to Contract between Merchants in Direct Communication)

Article 507 If Merchants are in direct communication with each other and the party receiving an offer to contract does not immediately accept it, the offer ceases to be valid.

(Offers to Contract between Merchants at Distance)

Article 508 (1) If Merchants are at a distance from each other and the party receiving an offer to contract not specifying a period for acceptance does not issue notice of its acceptance within a reasonable period of time, the offer ceases to be valid.

(2) The provisions of Article 523 of the Civil Code apply mutatis mutandis to a case as referred to in the preceding paragraph.

(Duty of Party Receiving Offer to Contract to Give Notice of Acceptance or

Refusal)

Article 509 (1) Having received an offer to contract that is in its line of business from a person with which it has regular dealings, a Merchant must issue notice of its acceptance or refusal of the offer to contract without delay.

(2) If a Merchant neglects to issue a notice as referred to in the preceding paragraph, it is deemed to have accepted the offer to contract referred to in that paragraph.

(Duty of the Party Receiving Offer to Contract to Take Custody of Goods)

Article 510 If, along with the offer that a Merchant receives for a contract that is in its line of business, the Merchant also receives goods, it must store those goods at the expense of the offeror, even if it refuses the offer; provided, however, that this does not apply if the value of the goods is insufficient to compensate for the costs of the storage, or if the Merchant will suffer damage from the storage.

(Joint and Several Liability for Obligations among Multiple Parties)

Article 511 (1) When two or more persons assume an obligation by way of an action that constitutes a commercial transaction for any one or all of them, they assume that obligation jointly and severally.

(2) If there is a guarantor and an obligation arises from a commercial transaction by the principal obligor or the guarantee constitutes a commercial transaction, the principal obligor and the guarantor assume the obligation jointly and severally, even if they have assumed the obligation by way of separate actions.

(Claim to Remuneration)

Article 512 When a Merchant takes an action for another person that is within the scope of the Merchant's business, it may claim a reasonable remuneration.

(Claim to Interest)

Article 513 (1) If money is lent between Merchants, the lender may claim statutory interest (meaning interest at a statutory interest rate as set forth in the following Article; the same applies hereinafter).

(2) If a Merchant pays money on behalf of another person within the scope of the Merchant's business, the Merchant may claim statutory interest for the period beginning on the date of the payment.

(Statutory Interest Rate for Commercial Matters)

Article 514 The statutory interest rate applicable to obligations arising from commercial transactions is six percent per annum.

(Exclusion from Application of Prohibition on Use or Disposal of Thing Pledged by Contract)

Article 515 The provisions of Article 349 of the Civil Code do not apply to a pledge created to secure an obligation arising from a commercial transaction.

(Place for Performance of Obligations)

Article 516 (1) If the place where an obligation arising from a commercial transaction is to be performed cannot be specified owing to the nature of the transaction or the manifestation of the intentions of the parties, the delivery of a specific thing must be effected at the place where the thing is at the time of the transaction, and any other obligation must be performed at the current place of business of the obligee (or at the domicile thereof, if the obligee has no place of business).

(2) Debt instruments payable to order and debt instruments payable to bearer must be paid at the current place of business of the obligor (or at the domicile thereof, if the obligor has no place of business).

(Presentation of Debt Instruments Payable to Order and Delay in Performance of Obligations)

Article 517 The obligor of a debt instrument payable to order or to bearer is responsible for any delay after the time that the debt becomes due and the bearer demands performance on the obligation by presenting the instrument of the debt, even if a term has been set for performance on the obligation.

(Manner of Exercising One's Rights in Event of Loss of Negotiable Instruments of Value)

Article 518 If the holder of a negotiable instrument of value whose purpose is to allow the delivery of money or any other such thing or to allow the delivery of a negotiable instrument of value loses the negotiable instrument of value and files a petition for public notification as prescribed in Article 114 of the Non-Contentious Cases Procedure Act (Act No. 51 of 2011), the holder may have the obligor of the negotiable instrument deposit the subject matter of the obligation, or may provide reasonable collateral and have the obligor perform the obligation in line with the intent of the negotiable instrument.

(Manner of Negotiating Negotiable Instruments of Value; Bona Fide Acquisition)

Article 519 (1) The provisions of Article 12, Article 13, and Article 14, paragraph (2) of the Bills and Notes Act (Act No. 20 of 1932) or the provisions of Article 5, paragraph (2) and Article 19 of the Checks Act (Act No. 57 of 1933) apply mutatis mutandis to the negotiation of a negotiable instrument of value whose

purpose is to allow the delivery of money or any other such thing or to allow the delivery of a negotiable instrument of value, depending on the nature of the negotiable instrument of value.

- (2) The provisions of Article 21 of the Checks Act apply mutatis mutandis to the acquisition of a negotiable instrument of value whose purpose is to allow the delivery of money or any other such thing or to allow the delivery of a negotiable instrument of value.

(Trading Hours)

Article 520 If trading hours for Merchants are fixed by laws and regulations or custom, obligations may be performed and performance of obligations may be demanded only during those trading hours.

(Right of Retention between Merchants)

Article 521 If performance is due on a claim arising between Merchants from an action that constitutes a commercial transaction for both parties, the obligee may retain an object or negotiable instrument of value belonging to the obligor that the obligee has gained possession of in the commercial transaction with the obligor, until the claim is satisfied; provided, however, that this does not apply if the parties have manifested a different intention.

(Extinctive Prescription in Commercial Matters)

Article 522 Unless otherwise provided for in this Code, a claim arising from a commercial transaction is extinguished by prescription if not exercised for five years; provided, however, that if a period of prescription shorter than five years is provided for in other laws and regulations, those provisions prevail.

Article 523 Deleted

Chapter II Sales Transactions

(Depositing and Auctioning Off of Object of Sale by Seller)

Article 524 (1) If, in a sales transaction between Merchants, the buyer refuses to receive or is unable to receive the object of the sale, the seller may deposit the object or put it up for auction after demanding that the buyer receive the object within a reasonable period of time. In such a case, once the seller deposits the object or puts it up for auction, the seller must issue notice of this to the buyer without delay.

- (2) If the price of an object is likely to decline for reasons such as damage, the seller may put it up for auction without making the demand referred to in the preceding paragraph.

- (3) If a seller puts the object of a sales transaction up for auction pursuant to the provisions of the preceding two paragraphs, the seller must deposit the proceeds of the auction; provided, however, that this does not preclude the seller from appropriating all or part of the proceeds to cover the purchase price.

(Cancellation Due to Delay in Performance in Sales Transaction If Time Is of the Essence)

Article 525 In a sales transaction between Merchants in which, due to the nature of the sale or the manifestation of intention of the parties, the purpose of the contract cannot be achieved unless the obligation is performed at a specified date and time or within a fixed period of time, if one of the parties fails to perform the obligation before the date and time or period passes, the other party is deemed to cancel the contract unless it immediately demands that the non-performing party perform the obligation.

(Inspection of Property by Buyer; Notice of Defects)

Article 526 (1) In a sales transaction between Merchants, upon receiving the object of the sales transaction the buyer must inspect it without delay.

(2) In a case prescribed in the preceding paragraph, if the buyer, as a result of the inspection under the provisions of that paragraph, discovers a defect or shortfall in the quantity of the object of the sales transaction, it may not cancel the contract nor demand a reduction of the purchase price or compensation on the grounds of that defect or shortfall unless it immediately issues notice of the defect or shortfall to the seller. The same applies if the object of a sales transaction has a defect that is not immediately obvious which the buyer discovers within six months.

(3) The provisions of the preceding paragraph do not apply if the seller had knowledge of the defect or the shortfall.

(Storage and Depositing of Object of Sale by Buyer)

Article 527 (1) In a case prescribed in paragraph (1) of the preceding Article, the buyer must store or deposit the object of the sales transaction at the expense of the seller, even if the buyer cancels the contract; provided, however, that if the object is likely to be lost or damaged, the buyer must put it up for auction with the permission of the court and store or deposit the proceeds from the auction.

(2) A case in which a person seeks the permission referred to in the proviso to the preceding paragraph is subject to the jurisdiction of the district court having jurisdiction over the locality of the object of the sales transaction referred to in that paragraph.

(3) Once the buyer puts the object of a sales transaction up for auction pursuant to the provisions of paragraph (1), it must issue notice of this to the seller

without delay.

- (4) The provisions of the preceding three paragraphs do not apply if the seller's and buyer's places of business (or their domiciles, if they do not have places of business) are located within the limits of the same municipality.

Article 528 The provisions of the preceding Article apply to goods delivered by the seller to the buyer which are different from the goods ordered, and also applies to any part of the goods delivered by the seller to the buyer which exceeds the quantity of goods ordered.

Chapter III Open Accounts

(Open Accounts)

Article 529 An open account becomes effective if Merchants, or a Merchant and a person that is not a Merchant, have regular dealings and they agree to set off the total amounts of claims and obligations arising from their dealings during a fixed period of time and to pay the balance.

(Special Provisions on Claims and Obligations Arising from Commercial Instruments)

Article 530 If claims and obligations arising from bills and notes and other commercial instruments are included in an open account, and the obligor of a commercial instrument does not perform on its obligation, the parties may exclude the item relating to that obligation from the open account.

(Open Account Terms)

Article 531 If the parties do not specify a term during which a set-off must be made, the term is six months.

(Acknowledgment of Open Accounts)

Article 532 Once a party acknowledges an account statement showing each of the items under claims and obligations, it may not object to those items; provided, however, that this does not apply if an entry in the account statement contained a mistake or omission.

(Claim to Interest on Balances)

Article 533 (1) An obligee may claim statutory interest on the balance after set-off beginning on the date of the closing of the account.

(2) The provisions of the preceding paragraph do not preclude the accrual of interest from the day on which each of the items under the claims and obligations subject to the set-off were included in the open account.

(Cancellation of Open Accounts)

Article 534 Either of the parties to an open account may cancel the account at any time. In such a case, the party canceling the open account may immediately close the account and demand payment of the balance.

Chapter IV Silent Partnerships

(Silent Partnership Agreements)

Article 535 A silent partnership agreement becomes effective when the first party to the agreement promises to make a contribution to the second party's business, and the second party promises to distribute profits arising from its business to the first party.

(Contributions by Silent Partners and Rights and Obligations Thereof)

Article 536 (1) A silent partner's contribution is part of the property of the proprietor.

(2) A silent partner may only make money and other assets the subject matter of the contribution.

(3) A silent partner may not be engaged in executive management of the proprietor's business nor represent the proprietor.

(4) A silent partner holds no rights against or obligations towards a third party in connection with the actions of the proprietor.

(Liability of Silent Partners Permitting Use of Their Own Names)

Article 537 If a silent partner permits the use of the partner's own surname or full name in the trade name of the proprietor or permits the use of its own trade name in the trade name of the proprietor, the partner is liable, jointly and severally with the proprietor, for any obligations arising once the name is in use.

(Restriction on Dividends of Profits)

Article 538 If a contribution decreases due to a loss, a silent partner may not claim a dividend of profits until after compensating for the loss.

(Inspecting Balance Sheets; Checking on State of Business and Assets)

Article 539 (1) At the end of the business year, during the business hours of the proprietor, a silent partner may make the following requests and check on the state of the proprietor's business and assets:

(i) if the proprietor's balance sheet is prepared in the form of a paper document, a request to inspect or copy that document;

- (ii) if the proprietor's balance sheet is prepared in the form of an electronic or magnetic record (meaning a record used in computerized data processing as provided for by Ordinance of the Ministry of Justice, which is created in electronic form, magnetic form, or any other form that cannot be perceived by the human senses), a request to inspect or copy something that has been made to show the information recorded in the electronic or magnetic record, in the manner that Ordinance of the Ministry of Justice prescribes.
- (2) If there are material grounds for a silent partner to do so, the partner may check on the state of the business and assets of the proprietor at any time, with the permission of the court.
- (3) A case in which a person seeks the permission referred to in the preceding paragraph is subject to the jurisdiction of the district court having jurisdiction over the locality of the proprietor's place of business (or its domicile, if it has no place of business).

(Cancellation of Silent Partnership Agreements)

Article 540 (1) If a silent partnership agreement does not specify the duration of the silent partnership or if it provides that the silent partnership is to continue to exist for the life of either party, either party may cancel the agreement at the end of the business year; provided, however, that the party canceling the agreement must give six months' advance notice.

- (2) Regardless of whether or not the duration of a silent partnership is specified, either party may cancel the silent partnership agreement at any time, if there is a compelling reason to do so.

(Grounds for Termination of Silent Partnership Agreements)

Article 541 Other than in cases as referred to in the preceding Article, a silent partnership agreement is terminated on the following grounds:

- (i) the successful completion of the business that is the objective of the silent partnership, or the impossibility of its successful completion;
- (ii) the death of the proprietor or the proprietor's becoming subject to a ruling for the commencement of guardianship;
- (iii) the proprietor's or silent partner's becoming subject to an order commencing bankruptcy proceedings.

(Return of Value of Contribution upon Termination of Silent Partnership Agreement)

Article 542 When a silent partnership agreement is terminated, the proprietor must return the value of the contribution to the silent partner; provided, however, that if the contribution has decreased due to a loss, it is sufficient for the proprietor to return the remaining value.

Chapter V Brokerage Business

Article 543 The term "Broker" means a person in the business of acting as an intermediary for commercial transactions between other persons.

Article 544 A Broker may not receive payment or any other performance on behalf of the parties for an action that the Broker undertakes as an intermediary; provided, however, that this does not apply if a party manifests a different intention or if custom dictates otherwise.

Article 545 If a Broker receives a sample in connection with an action that the Broker undertakes as an intermediary, the Broker must retain the sample until the action is completed.

Article 546 (1) Once an action is formed and effected between the parties, the Broker, without delay, must prepare documents giving the name or trade name of each party, the date, and an outline of the action, and deliver those documents to the parties after signing them.

(2) Unless the parties are required to perform on their obligations immediately, the Broker must have each party sign one of the documents referred to in the preceding paragraph and deliver the signed copy of the document to the other party.

(3) In a case referred to in the preceding two paragraphs, if one of the parties will not receive or sign the document, the Broker must issue notice of this to the other party without delay.

Article 547 (1) A Broker must enter the information set forth in paragraph (1) of the preceding Article in its books.

(2) A party may request a Broker to deliver a certified copy of the Broker's books regarding an action that the Broker has undertaken on the party's behalf.

Article 548 If a party orders a Broker not to disclose its name or trade name to the other party, the Broker may not give that party's name or trade name in the document referred to in Article 546, paragraph (1) or in the certified copy referred to in paragraph (2) of the preceding Article.

Article 549 If a Broker does not disclose a party's name or trade name to the other party, the Broker is personally liable to the other party for performance.

Article 550 (1) A Broker may not claim remuneration until completing the

process referred to in Article 546.

(2) A Broker's remuneration is borne equally by the parties.

Chapter VI Business of Commission Merchants

Article 551 The term "Commission Merchant" means a person in the business of selling or purchasing goods in its own name on behalf of another person.

Article 552 (1) A Commission Merchant acquires rights against and bears obligations toward the other party by reason of a sale or purchase that the Commission Merchant undertakes on behalf of another person.

(2) In addition to the provisions of this Chapter, the provisions on mandates and agency apply *mutatis mutandis* between a Commission Merchant and the consignor.

Article 553 A Commission Merchant is personally liable for performance if the other party fails to perform an obligation in a sale or purchase that the Merchant has made on a consignor's behalf; provided, however, that this does not apply if the consignor manifests a different intention or custom dictates otherwise.

Article 554 If a Commission Merchant sells goods at a price lower than that designated by the consignor or purchases goods at a price higher than that designated by the consignor but the Merchant personally assumes the difference, the sale or purchase is valid for the consignor.

Article 555 (1) When a Commission Merchant is entrusted to sell or purchase goods with quotations on an exchange, the Merchant may personally stand as the purchaser or seller. In such a case, the sale or purchase price is determined by the quotations on the exchange at the time the Commission Merchant issues notice that it will stand as the purchaser or seller.

(2) In the case referred to in the preceding paragraph, the Commission Merchant may claim remuneration from the consignor.

Article 556 The provisions of Article 524 apply *mutatis mutandis* if a Commission Merchant is entrusted with the purchase of goods but the consignor refuses to receive or is unable to receive the goods purchased.

Article 557 The provisions of Article 27 and Article 31 apply *mutatis mutandis* to Commission Merchants.

Article 558 The provisions of this Chapter apply mutatis mutandis to a person in the business of undertaking actions other than selling or purchasing goods in the its own name on behalf of another person.

Chapter VII Freight Forwarding Business

Article 559 (1) The term "Freight Forwarder" means a person in the business of brokering the transportation of goods in its own name.

(2) Unless otherwise provided in this Chapter, the provisions on Commission Merchants apply mutatis mutandis to Freight Forwarders.

Article 560 A Freight Forwarder may not be released from the liability to compensate for damage, loss, or delay of goods unless it proves that neither it nor its employees neglected to exercise due care in receiving, delivering, or storing the goods, choosing a Carrier or another Freight Forwarder, or acting in other respects with regard to the transportation.

Article 561 (1) A Freight Forwarder may claim remuneration immediately upon delivery of the goods to a Carrier.

(2) If the amount of freight charges is specified in the freight forwarding contract, the Freight Forwarder may not claim additional remuneration unless there are special provisions to the contrary.

Article 562 A Freight Forwarder may retain goods only against the remuneration receivable for the goods, the freight charges, payments it has made on behalf of the consignor, or advance payments it has made to the consignor.

Article 563 (1) If two or more persons conduct brokerage for freight forwarding in succession, the second or subsequent forwarder bears the obligation to exercise the rights of the previous forwarder in its stead.

(2) In a case referred to in the preceding paragraph, the second or subsequent forwarder acquires the rights of the previous forwarder once it performs its obligations to the previous forwarder.

Article 564 A Freight Forwarder acquires the rights of a Carrier once it performs its obligations to the Carrier.

Article 565 (1) A Freight Forwarder may transport goods itself if there are no special provisions to the contrary. In such a case, the Freight Forwarder has the same rights and obligations as a Carrier.

(2) If a Freight Forwarder prepares an inland bill of lading at the request of the consignor, it is deemed to transport the goods itself.

Article 566 (1) The liability of a Freight Forwarder is extinguished by prescription once one year has passed since the day on which the consignee received the goods.

(2) In the event of a total loss of goods, the period referred to in the preceding paragraph is counted from the day on which the goods should have been delivered.

(3) The provisions of the preceding two paragraphs do not apply if the Freight Forwarder has knowledge of the loss or damage to the goods.

Article 567 A claim held by a Freight Forwarder against a consignor or a consignee is extinguished by prescription once one year has passed.

Article 568 The provisions of Article 578 and Article 583 apply mutatis mutandis to the freight forwarding business.

Chapter VIII Transportation Business

Section 1 General Provisions

Article 569 The term "Carrier" means a person in the business of transporting goods or passengers on land, over lakes and rivers, or at ports and harbors.

Section 2 Freight Transportation

Article 570 (1) A consignor must issue an invoice at the request of the Carrier.

(2) An invoice must give the following information and bear the consignor's signature:

(i) the type, weight, or volume of the goods, the type of packaging, the number of packages, and the marks;

(ii) the destination;

(iii) the name or trade name of the consignee;

(iv) the place and date of preparation of the invoice.

Article 571 (1) A Carrier must issue an inland bill of lading at the request of the consignor.

(2) An inland bill of lading must give the following information and bear the Carrier's signature:

(i) the information set forth in item (i) to item (iii) of paragraph (2) of the preceding Article;

- (ii) the name or trade name of the consignor;
- (iii) the freight charges;
- (iv) the place and date of preparation of the inland bill of lading.

Article 572 If an inland bill of lading is prepared, the particulars of transportation between the Carrier and the holder are governed by what is specified on the inland bill of lading.

Article 573 If an inland bill of lading is prepared, it is not permissible to subject the goods to handling other than based on the inland bill of lading.

Article 574 Even if an inland bill of lading is registered, it may be negotiated by means of endorsement; provided, however, that this does not apply if the inland bill of lading indicates that endorsement is prohibited.

Article 575 When an inland bill of lading is delivered to a person entitled to receive the goods pursuant to the inland bill of lading, the delivery of the inland bill of lading has the same effect as the delivery of the goods in relation to the acquisition of the rights exercisable on the goods.

- Article 576 (1) If goods is totally or partially lost due to force majeure, the Carrier may not request freight charges for it. If the Carrier has already received all or part of the freight charges, it must return them.
- (2) If goods is totally or partially lost due to the nature of the goods, a defect in the goods, or the negligence of the consignor, the Carrier may request the full amount of freight charges.

Article 577 A Carrier may not be released from the liability to compensate for damage, loss, or delay of goods unless it proves that neither it, its Freight Forwarder nor the employees thereof, nor any other person employed for transportation neglected to exercise due care in the receipt, delivery, storage, or transportation of the goods.

Article 578 A Carrier is not liable to compensate for damage to cash, negotiable instruments of value, or other expensive goods unless the consignor declared the type and value thereof upon entrusting the Carrier with the goods for transportation.

Article 579 If two or more Carriers transport goods in succession, they are jointly and severally liable to compensate for damage, loss, or delay of the goods.

Article 580 (1) The amount of damages in the event of the total loss of goods is determined based on the value of the goods at its destination as of the day on which it should have been delivered.

(2) The amount of damages in the event of a partial loss or damage to goods is determined based on the value of the goods at its destination as of the day on which it is delivered; provided, however, that the provisions of the preceding paragraph apply *mutatis mutandis* in the event of a delay.

(3) Freight charges and other costs that are not required to be paid by reason of loss or damage to goods are deducted from the amount of damages referred to in the preceding two paragraphs.

Article 581 If goods are lost, damaged, or delayed due to an intentional action of the Carrier or due to gross negligence, the Carrier is liable to compensate for all damage arising therefrom.

Article 582 (1) The consignor or the holder of an inland bill of lading may request a Carrier to stop transporting or to return or otherwise handle the goods. In such a case, the Carrier may request payment of freight charges in proportion to transportation already completed, payment for monies it has paid on behalf of another person, and payment of costs arising from its other handling of the goods.

(2) The right of the consignor as prescribed in the preceding paragraph is extinguished if the consignee requests delivery of the goods after its arrival at the destination.

Article 583 (1) After goods arrive at the destination, the consignee acquires the rights of a consignor arising pursuant to a transportation contract.

(2) Once a consignee receives goods, it bears the obligation to pay freight charges and other costs to the Carrier.

Article 584 If an inland bill of lading has been prepared, a person may not request delivery of the goods unless it is in exchange for the inland bill of lading.

Article 585 (1) A Carrier may deposit goods if it is unable to ascertain the identity of the consignee.

(2) In the case referred to in the preceding paragraph, if the Carrier demands that the consignor instruct it as to how to handle the goods within a reasonable period of time but the consignor does not give any such instructions, the Carrier may put the goods up for auction.

(3) Once a Carrier deposits goods or puts it up for auction pursuant to the provisions of the preceding two paragraphs, it must issue notice of this to the consignor without delay.

Article 586 (1) The provisions of the preceding Article apply *mutatis mutandis* if there is any dispute over the delivery of the goods.

(2) In order to put goods up for auction, the Carrier must first demand that the consignee receive the goods within a reasonable period of time, and must also issue a demand to the consignor after that period expires.

(3) A Carrier must also issue notice to the consignee without delay of the goods' being deposited or put up for auction.

Article 587 The provisions of Article 524, paragraph (2) and paragraph (3) apply *mutatis mutandis* to the cases referred to in the preceding two Articles.

Article 588 (1) The liability of a Carrier is extinguished if the consignee receives the goods without reservation and pays the freight charges and other costs; provided, however, that this does not apply if the goods contains a defect that cannot be immediately discovered or the goods is partially lost and the consignee issues notice of this to the Carrier within two weeks from the date of delivery.

(2) The provisions of the preceding paragraph do not apply if the Carrier has knowledge of the defect or partial loss to the goods.

Article 589 The provisions of Article 562, Article 563, Article 566, and Article 567 apply *mutatis mutandis* to a Carrier.

Section 3 Passenger Transportation

Article 590 (1) A passenger carrier may not be released from the liability to compensate for damage suffered by a passenger due to transportation unless the passenger carrier proves that neither it nor its employees neglected to exercise due care in transporting the passenger.

(2) When determining amounts of damages, the court must take into consideration the circumstances of the victim and the family thereof.

Article 591 (1) A passenger carrier has the same liability as a freight carrier with regard to the baggage that passengers have delivered to it, even if the passenger carrier does not claim any special freight charges for the baggage.

(2) The provisions of Article 524 apply *mutatis mutandis* if a passenger does not demand delivery of the passenger's baggage within one week from the day on

which the baggage arrives at the destination; provided, however, that if the passenger's domicile or residence is unknown, the passenger carrier is not required to issue a demand or give notice to the passenger.

Article 592 A passenger carrier is not liable to compensate for loss or damage to baggage that a passenger has not delivered to it, unless there is negligence on the part of the passenger carrier or its employee.

Chapter IX Depositing of Goods

Section 1 General Provisions

Article 593 If a Merchant has goods deposited with it within the scope of its business, it must act with the due care of a prudent manager even if it does not receive remuneration.

Article 594 (1) If the proprietor of a hotel, eating and drinking establishment, bathhouse, or other establishment at which it is intended for customers to gather has goods deposited with it by a customer, the proprietor may not be released from the liability to compensate for loss or damage to the deposited goods unless it proves that such loss or damage is due to force majeure.

(2) If a customer does not deposit but carries goods into an establishment and those goods are lost or damaged due to the carelessness of the proprietor of the establishment or the employee thereof, the proprietor of the establishment is liable to compensate for the damage.

(3) A proprietor may not be released from the liability referred to in the preceding two paragraphs even if giving public notice that the proprietor does not assume liability for the personal effects of customers.

Article 595 The proprietor of an establishment as referred to in the preceding Article is not liable to compensate for loss or damage to the cash, negotiable instruments of value, or other expensive goods of a customer unless the customer deposits those goods with the proprietor of the establishment and declares their type and value.

Article 596 (1) The liability referred to in the preceding two Articles is extinguished by prescription one year's time after the proprietor returns the deposited goods or the customer leaves the establishment with the personal effects thereof.

(2) In the event of the total loss of goods, the period set forth in the preceding paragraph is calculated from the time the customer left the establishment.

(3) The provisions of the preceding two paragraphs do not apply if the proprietor

has knowledge of the loss or damage to the goods.

Section 2 Warehousing Business

Article 597 The term "Warehouse Proprietor" means a person in the business of storing goods at a warehouse on behalf of other persons.

Article 598 A Warehouse Proprietor must deliver a deposit receipt and a pledge receipt for deposited goods at the request of the depositor.

Article 599 A deposit receipt and a pledge receipt must give the following information as well as a number, and bear a signature from the Warehouse Proprietor:

- (i) the type, quality, and quantity of deposited goods, the type of packaging, the number of packages, and the marks;
- (ii) the name or trade name of the depositor;
- (iii) the place of storage;
- (iv) the storage fees;
- (v) the storage period, if specified;
- (vi) the insured amount, the coverage period, and the name or trade name of the insurer, if the deposited goods are covered by insurance;
- (vii) the place and date of preparation of the receipts.

Article 600 If a Warehouse Proprietor issues a deposit receipt and a pledge receipt to a depositor, it must enter the following information in its books:

- (i) the information set forth in item (i), item (ii), and item (iv) to item (vi) of the preceding Article;
- (ii) the numbers assigned to the receipts and the date of their preparation.

Article 601 (1) The holder of a deposit receipt and a pledge receipt may request a Warehouse Proprietor to divide the deposited goods and deliver new deposit receipts and pledge receipts for the respective portions of the goods. In such a case, the holder must return the initial deposit receipt and pledge receipt to the Warehouse Proprietor.

(2) The costs for the division of deposited goods and the delivery of deposit receipts and pledge receipts as prescribed in the preceding paragraph are borne by the holder of the initial receipts.

Article 602 If a deposit receipt and a pledge receipt are prepared, the particulars of the depositing of goods between the Warehouse Proprietor and the holder of the receipts are governed by what is specified on the receipts.

Article 603 (1) Even if a deposit receipt and a pledge receipt are registered, they may be negotiated or pledged by means of endorsement; provided, however, that this does not apply if the receipts indicate that their endorsement is prohibited.

(2) A deposit receipt and a pledge receipt may not be negotiated separately until the holder of the deposit receipt puts the deposited goods in pledge.

Article 604 The provisions of Article 573 and Article 575 apply *mutatis mutandis* to deposit receipts and pledge receipts.

Article 605 If a deposit receipt or pledge receipt is lost, the holder may request to be issued another receipt, providing reasonable collateral. In such a case, the Warehouse Proprietor must make an entry in its books indicating this.

Article 606 (1) In order to make the first endorsement on a pledge receipt, the endorser must enter the amount of the claim, interest, and due date on the receipt.

(2) Unless the first pledgee enters the information set forth in the preceding paragraph on the deposit receipt and signs it, the pledge may not be asserted against a third party.

Article 607 The holder of a deposit receipt bears the obligation to pay the amount of the claim and interest as entered on the deposit receipt, using the deposited goods.

Article 608 A claim held by the holder of a pledge receipt must be satisfied at the place of business of the Warehouse Proprietor.

Article 609 If the holder of a pledge receipt is not paid by the due date, the holder must have a protest prepared in accordance with provisions related to bills and notes.

Article 610 The holder of a pledge receipt may not demand that deposited goods be auctioned off until one week's time after the day a protest is prepared.

Article 611 (1) In exchange for a pledge receipt, a Warehouse Proprietor must pay the holder of the receipt the amount arrived at after the costs of the auction, taxes imposed on the deposited goods, storage fees and other storage costs, and monies the Warehouse Proprietor has paid on another person's behalf are deducted from the proceeds from the auction.

(2) If there is any remainder after costs, taxes, storage fees, and monies paid on another person's behalf as set forth in the preceding paragraph, as well as the amount of the claim of the holder of a pledge receipt, interest, and expenses of the protest are deducted from the proceeds from an auction, the Warehouse Proprietor must pay that remainder to the holder of the deposit receipt in exchange for the receipt.

Article 612 If the proceeds from an auction are insufficient to pay the full amount of the claim entered on a pledge receipt, the Warehouse Proprietor must enter the amount paid on the pledge receipt, return the receipt, and make an entry in its books indicating this.

Article 613 (1) The holder of a pledge receipt is paid first from deposited goods, and if this is insufficient, the holder may demand payment of the insufficient amount from an endorser.

(2) The provisions of Article 45, paragraph (1), paragraph (3), paragraph (5), and paragraph (6); Article 48, paragraph (1); Article 49; and Article 50, paragraph (1) of the Bills and Notes Act apply mutatis mutandis to a demand for payment of an insufficient amount as prescribed in the preceding paragraph.

(3) The provisions of Article 52, paragraph (3) of the Bills and Notes Act apply mutatis mutandis to the calculation of an amount of reimbursement if the place of business or domicile of the person subject to a demand for payment of an insufficient amount is in a different locality from that of the place of business or domicile of the person making the demand.

Article 614 If the holder of a pledge receipt is not paid by the due date but either does not have a protest prepared or does not demand that the deposited goods be auctioned off within two weeks from the day the protest is prepared, the holder loses its claim against an endorser.

Article 615 The claim of the holder of a pledge receipt is extinguished by prescription once one year has passed since the due date if the claim is against the holder of a deposit receipt, and once six months have passed since the day on which the holder of the pledge receipt is delivered the deposited goods if the claim is against an endorser of the pledge receipt; and the claim of an endorser of a pledge receipt against a previous endorser is extinguished by prescription once six months have passed since the day on which reimbursement is made.

Article 616 (1) A depositor or the holder of a deposit receipt may file a request with a Warehouse Proprietor, at any time during its business hours, to inspect the deposited goods, take samples out of the goods, or take the necessary

measures to store the goods.

(2) The holder of a pledge receipt may file a request with a Warehouse Proprietor, at any time during its business hours, to inspect the deposited goods.

Article 617 A Warehouse Proprietor may not be released from the liability to compensate for loss or damage to deposited goods unless it proves that neither it nor its employees have neglected to exercise due care in storing the goods.

Article 618 A Warehouse Proprietor may request to be paid storage fees, monies it has paid on another person's behalf, and other costs for the deposited goods only at the time the goods are removed from the warehouse; provided, however, that if part of the deposited goods are removed from the warehouse, the Warehouse Proprietor may request to be paid in proportion to the part that is removed.

Article 619 If the parties do not specify a storage period, the Warehouse Proprietor may not return the deposited goods until more than six months have passed since the date that the goods were placed in the warehouse; provided, however, that this does not apply if there are extenuating circumstances.

Article 620 If a deposit receipt and a pledge receipt have been prepared, a person may not demand the return of the deposited goods unless it is in exchange for the receipts.

Article 621 The holder of a deposit receipt may demand the return of deposited goods even before the due date of the claim that is entered on a pledge receipt, on depositing the full amount of the claim and the interest thereon for the period up until the due date with the Warehouse Proprietor.

Article 622 (1) If deposited goods comprise divisible goods of the same kind and quality, the holder of a deposit receipt may make a deposit to cover a part of the claim amount and interest thereon for the period up until the due date and demand the return of the part of the deposited goods that corresponds to that amount. In such a case, the Warehouse Proprietor must enter the amount of money deposited and the quantity of deposited goods returned on the deposit receipt, and make an entry in its books indicating this.

(2) The costs for the partial removal of deposited goods as prescribed in the preceding paragraph are borne by the holder of the deposit receipt.

Article 623 (1) In a case as referred to in the preceding two Articles, the holder of the pledge receipt has a right to the money deposited.

(2) The provisions of Article 612 apply mutatis mutandis if part of the claim entered on a pledge receipt is satisfied with the money deposited as set forth in paragraph (1) of the preceding Article.

Article 624 (1) The provisions of Article 524, paragraph (1) and paragraph (2) apply mutatis mutandis if the depositor or holder of a deposit receipt refuses to receive or is unable to receive the deposited goods. In such a case, the holder of the pledge receipt has a right to the proceeds from an auction

(2) The provisions of Article 611 and Article 612 apply mutatis mutandis to a case as referred to in the preceding paragraph.

Article 625 The provisions of Article 588 apply mutatis mutandis to a Warehouse Proprietor.

Article 626 (1) The liability of a Warehouse Proprietor arising from loss or damage to deposited goods is extinguished by prescription once one year has passed since the date of the removal of the goods from the warehouse.

(2) In the event of the total loss of deposited goods, the period set forth in the preceding paragraph is counted from the day on which the Warehouse Proprietor issued notice of the loss to the holder of the deposit receipt, or if the holder of the deposit receipt is unknown, to the depositor.

(3) The provisions of the preceding two paragraphs do not apply if the Warehouse Proprietor has knowledge of the loss or damage to the goods.

Article 627 (1) At the request of a depositor, a Warehouse Proprietor must issue a warehouse receipt in lieu of a deposit receipt and pledge receipt.

(2) The provisions on deposit receipts apply mutatis mutandis to a warehouse receipt.

Article 628 If a pledge is created on a warehouse receipt, the depositor, with the consent of the pledgee, may demand the return of part of the deposited goods even before the due date of the claim. In such a case, the Warehouse Proprietor must enter the type, quality, and quantity of the deposited goods thus returned on the warehouse receipt, and make an entry in its books indicating this.

Chapter X Insurance

Section 1 Casualty Insurance

Subsection 1 General Provisions

Article 629 Deleted

Article 630 Deleted

Article 631 Deleted

Article 632 Deleted

Article 633 Deleted

Article 634 Deleted

Article 635 Deleted

Article 636 Deleted

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Part III Maritime Commerce
Chapter I Ships and Shipowners

Article 684 (1) The term "Ship" as used in this Act means one used in a voyage at sea for the purpose of conducting a commercial transaction.

(2) The provisions of this Part do not apply to ships' tenders or to boats steered solely or mainly using oars or paddles.

Article 685 The objects entered in a Ship's inventory of equipment are presumed to be accessories of the Ship.

Article 686 (1) A shipowner, as provided by special laws, must register the Ship and obtain a certificate of the vessel's nationality.

(2) The provisions of the preceding paragraph do not apply to a Ship with a gross tonnage of not more than 20 tons.

Article 687 The transfer of ownership of a ship may not be asserted against a third party unless it is registered and entered in the certificate of the vessel's nationality.

Article 688 If ownership is transferred while a Ship is at sea, profits and losses arising from the voyage are to be attributed to the transferee, unless there are special provisions to the contrary.

Article 689 No seizure or provisional seizure (other than a provisional seizure by means of registration) may be executed against a Ship whose preparations for departure have been finished; provided, however, that this does not apply in connection with an obligation arising from the Ship being due to depart.

Article 690 A shipowner is liable to compensate for damage that the captain and other mariners cause to others intentionally or negligently in the course of performing their duties.

Article 691 Deleted

Article 692 Deleted

Article 693 The particulars of the use of a Ship are determined among the ship's co-owners by majority, in accordance with the value of the co-owners' shares.

Article 694 The co-owners of a ship bear the costs for the use of the Ship in proportion to the value of their shares.

Article 695 (1) When the co-owners of a ship reach a resolution to embark on a new voyage or make a major repair to the Ship, co-owners objecting to the resolution may demand that the other co-owners buy out the shares of the objecting co-owners at a reasonable price.

(2) A co-owner seeking to make a demand as set forth in the preceding paragraph must issue notice of this to the other co-owners or the ship's husband within three days from the date of the resolution; provided, however, that in the case of a co-owner not participating in the resolution, this period is counted from the day after that on which the co-owner is notified of the resolution.

Article 696 The co-owners of a ship are liable for performance of the obligations arising from the use of the Ship in proportion to the value of their shares.

Article 697 Profits and losses arising from each voyage are distributed among the co-owners of the ship at the end of the voyage in proportion to the value of their shares.

Article 698 Even if the co-owners of a ship form a partnership, a co-owner may transfer that co-owner's share in whole or in part to another person without the consent of another co-owner; provided, however, that this does not apply to the ship's husband.

Article 699 (1) The co-owners of a ship must appoint a ship's husband.

(2) All of the co-owners of a ship must consent in order to appoint a person that is not a co-owner as the ship's husband.

(3) The appointment of a ship's husband and the extinction of the ship's husband's authority to represent the co-owners must be registered.

Article 700 (1) A ship's husband has the authority to take all actions in and out of court on behalf of the co-owners of the ship in connection with the use of the Ship, except for those set forth in the following:

(i) transferring or leasing the Ship or mortgaging the Ship;

(ii) buying insurance for the Ship;

(iii) embarking on a new voyage;

(iv) making a major repair to the Ship;

(v) borrowing money.

(2) A limitation on the ship's husband's authority to represent the co-owners may not be asserted against a third party in good faith.

Article 701 (1) A ship's husband must keep books and enter in them all information concerning the use of the Ship.

(2) Without delay after the end of each voyage, the ship's husband must settle the accounts of the voyage and request approval from the co-owners of the ship.

Article 702 (1) If a Ship would lose Japanese nationality due to the transfer of the share of a co-owner of the ship or due to a co-owner's loss of Japanese nationality, another co-owner may buy out the share of that co-owner at a reasonable price or file a request with the court to put the share up for auction.

(2) If a Ship owned by a company would lose Japanese nationality due to the transfer of the share of a member, another member may buy out the share of that member at a reasonable price if the company is a general partnership company, and another unlimited liability member may buy out the share of that member at a reasonable price if the company is a limited partnership company.

Article 703 The lease of a Ship, after it is registered, is also valid against a person that later acquires a real right on the Ship.

Article 704 (1) If a Ship's lessee uses the Ship for a voyage for the purpose of conducting a commercial transaction, the lessee has the same rights and obligations as the shipowner toward third parties as concerns the particulars of the use of the Ship.

(2) In a case as referred to in the preceding paragraph, any statutory lien arising from the use of the Ship is also valid against the shipowner; provided, however, that this does not apply if the holder of the statutory lien knows that the use of the Ship is in violation of the contract.

Chapter II Ships' Captains

Article 705 (1) A ship's captain may not be released from the liability to compensate a shipowner, charterer, consignee, or other interested person for damage unless it is proven that the captain did not neglect to exercise due care in performing the duties thereof.

(2) A ship's captain may not be released from the liability prescribed in the preceding paragraph toward any person other than the shipowner even if the captain has followed the shipowner's instructions.

Article 706 If a mariner causes damage to another person in the course of performing the duties thereof, the captain may not be released from the liability to compensate for the damage unless it is proven that the captain did not neglect to supervise the mariner.

Article 707 If a ship's captain is unable to command the Ship due to a compelling reason, the captain may appoint another person to perform the duties thereof, unless otherwise provided for by law or regulation. In such a case, the captain is responsible to the shipowner for the appointment.

Article 708 Deleted

Article 709 (1) A ship's captain must keep the equipment inventory and the documents related to the transportation contract on board the Ship.

(2) Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism may provide that Ships not sailing abroad are not required to keep an equipment inventory as set forth in the preceding paragraph.

Article 710 Deleted

Article 711 Deleted

Article 712 (1) While a Ship is at sea, the ship's captain must handle goods being shipped in a way that is in the best interests of the interested parties.

(2) An interested person may be released from liability by abandoning its interest in goods being shipped to the obligee of a claim that has arisen against the goods being shipped as a result of an action of the ship's captain; provided, however, that this does not apply if there is negligence on the part of the interested person.

Article 713 (1) Outside the port of registry, a ship's captain has the authority to take all actions in and out of court as are necessary for the voyage.

(2) At the port of registry, unless specially mandated, the captain has only the authority to hire and dismiss mariners.

Article 714 A limitation on the captain's authority to represent the shipowner may not be duly asserted against a third party in good faith.

Article 715 (1) A ship's captain may not take any of the following actions unless it is in order to pay the costs of a repair to the Ship, salvage charges, or any other costs necessary to continue the voyage:

(i) mortgaging the Ship;

(ii) borrowing money;

(iii) selling or pledging all or part of the goods being shipped, except in the case referred to in Article 712, paragraph (1).

(2) The amount of damages payable if the captain sells or pledges goods being shipped is determined by their value at the port of discharge as of the time that the goods being shipped should have arrived at the port; provided, however, that any costs not required to be paid out of the value of those goods must be deducted.

Article 716 Deleted

Article 717 If a Ship becomes unrepairable outside the port of registry, the captain may put it up for auction with the authorization of the maritime authorities.

Article 718 (1) A Ship is deemed to have become unrepairable if:

(i) it cannot be repaired at its current location and is unable to travel to any

place where it could be repaired;

(ii) the cost of the repair exceeds three-fourths of the value of the Ship.

(2) The value referred to in item (ii) of the preceding paragraph is its value at the time of departure, if the Ship was damaged while at sea; or its value at the time of the damage, in other cases.

Article 719 A ship's captain may use the goods being shipped for the voyage if this is necessary in order to continue the voyage. In such a case, the provisions of Article 715, paragraph (2) apply *mutatis mutandis*.

Article 720 (1) A ship's captain must report material information about the voyage to the shipowner without delay.

(2) Without delay after the end of each voyage, the ship's captain must settle the accounts of the voyage and request approval from the shipowner, and must report on the accounts to the shipowner at any time upon its request.

Article 721 (1) A shipowner may dismiss the ship's captain at any time; provided, however, that if the captain is dismissed without a valid reason, the captain may demand compensation from the shipowner for damage arising from the dismissal.

(2) If a ship's captain is one of the co-owners of the ship and is subject to involuntary dismissal, the captain may demand that the other co-owners buy out the captain's share at a reasonable price.

(3) If a ship's captain seeks to make the demand referred to in the preceding paragraph, the captain must issue notice of this to the other co-owners or to the ship's husband without delay.

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Chapter III Transportation

Section 1 Freight Transportation

Subsection 1 General Provisions

Article 737 When a transportation contract is entered into involving all or part of a Ship, each party must deliver a written transportation contract to the other party upon request.

Article 738 A shipowner guarantees to a charterer or a consignor that the Ship is capable of making a safe voyage as of the time of its departure.

Article 739 A shipowner may not be released from the liability to compensate for damage arising from the shipowner's own negligence, from an intentional action or the gross negligence of a mariner or other employee, or from the Ship's not being seaworthy, even if special provisions are made to the contrary.

Article 740 (1) A ship's captain, at any time, may discharge goods that has been loaded onto the Ship in violation of laws and regulations or not in accordance with the contract, and may abandon such goods if it is likely to harm the Ship or goods being shipped; provided, however, that if the captain transports such goods, the captain may demand the highest freight charges for the same type of goods at the place and time of the loading.

(2) The provisions of the preceding paragraph do not preclude the shipowner or any other interested person from claiming compensation for damage.

Article 741 (1) If a transportation contract is entered into involving the whole of a Ship, once the preparations necessary for loading the goods onto the Ship have been made, the shipowner must issue notice of this to the charterer without delay.

(2) If the period during which a charterer must load its goods onto the Ship is specified, that period is counted from the day after that on which the notice referred to in the preceding paragraph is issued. If the goods is loaded onto the Ship after that period has passed, the shipowner may claim reasonable remuneration even if there are no special provisions to that effect.

(3) The period referred to in the preceding paragraph does not include days during which loading of the Ship is impeded due to force majeure.

Article 742 If a ship's captain is to receive goods from a third party, but the identity of that party cannot be ascertained or that party does not load the goods onto the ship, the captain must immediately issue notice of this to the charterer. In such a case, the charterer may load the goods onto the Ship only within the period for loading the Ship.

Article 743 (1) A charterer may lodge a request with the ship's captain for the Ship to depart even if not all of the goods are loaded onto the Ship.

(2) If a charterer lodges a request as referred to in the preceding paragraph, it must pay the full amount of freight charges and any costs arising from the fact that not all of the goods are loaded onto the Ship, and must also provide reasonable collateral if requested to do so by the shipowner.

Article 744 (1) After the period for loading the Ship has passed, a ship's captain may immediately cause the Ship to depart even if not all of the goods are loaded onto the Ship.

(2) The provisions of paragraph (2) of the preceding Article apply mutatis mutandis to a case referred to in the preceding paragraph.

Article 745 (1) Before a ship's departure, the charterer may cancel the contract by paying half of the freight charges.

(2) In the case of a round-trip voyage, if the charterer cancels the contract before the ship's departure on the return voyage, it must pay two-thirds of the freight charges. The same applies if the Ship must navigate to the port of loading from another port and the charterer cancels the contract before the Ship departs from the port of loading.

(3) If a charterer cancels the contract pursuant to the provisions of the preceding two paragraphs after the goods have been loaded onto the Ship in whole or in part, it bears the costs of loading and discharging the goods.

(4) If a charterer fails to load goods onto the Ship during the period for loading, it is deemed to cancel the contract.

Article 746 (1) Even if a charterer cancels a contract pursuant to the provisions of the preceding Article, it may not be released from the liability to pay ancillary costs and monies paid by another person on its behalf.

(2) In the case referred to in paragraph (2) of the preceding Article, the charterer must pay the amount that it would bear in terms of general average or salvage, in proportion to the value of the goods, in addition to the ancillary costs and payments referred to in the preceding paragraph.

Article 747 After a ship's departure, the charterer may not cancel the contract unless it performs the obligations prescribed in Article 753, paragraph (1) in addition to paying the full amount of the freight charges, and unless it compensates for damage arising from the discharging or provides reasonable collateral.

Article 748 (1) If a transportation contract is entered into involving part of a Ship, and a charterer cancels the contract before departure independently from other charterers and consignors, it must pay the full amount of freight charges; provided, however, that freight charges that the shipowner receives because of other goods are deducted.

(2) Even before a ship's departure, if a charterer has already loaded goods onto the Ship in whole or in part, it may not cancel the contract without the consent of the other charterers and consignors.

(3) The provisions of the preceding seven Articles apply *mutatis mutandis* if a transportation contract is entered into involving part of a Ship.

Article 749 (1) If a transportation contract is entered into involving individual pieces of goods, the consignor must load the goods onto the Ship according to the captain's instructions without delay.

(2) If a consignor neglects to load goods onto a Ship, the captain may cause the Ship to depart immediately. In such a case, the consignor must pay the full amount of the freight charges; provided, however, that freight charges that the shipowner receives because of other goods are deducted.

Article 750 The provisions of Article 748 apply *mutatis mutandis* if a consignor cancels a contract.

Article 751 A charterer or consignor must deliver the documents necessary for transportation to the ship's captain within the period for loading the Ship.

Article 752 (1) If a transportation contract is entered into involving the whole or part of a Ship and the preparations necessary for discharging the goods have been made, the ship's captain must issue notice of this to the consignees without delay.

(2) If the period during which goods must be discharged is specified, that period is counted from the day after that on which the notice referred to in the preceding paragraph is issued. If the goods are discharged after that period has passed, the shipowner may claim reasonable remuneration even if there are no special provisions to that effect.

(3) The period referred to in the preceding paragraph does not include days during which the discharge is impeded due to force majeure.

(4) If a transportation contract is entered into involving individual pieces of goods, the consignee must discharge the goods according to the captain's instructions without delay.

Article 753 (1) Once a consignee receives goods, it bears the obligation to pay, in accordance with the purport of the transportation contract or bill of lading, freight charges, ancillary costs, monies that another person has paid on its behalf, anchorage, and any amount that it must bear in terms of general average or salvage, in proportion to the value of the goods.

(2) A ship's captain is not required to deliver goods except in exchange for payment of the amount prescribed in the preceding paragraph.

Article 754 (1) If a consignee neglects to receive goods, the ship's captain may deposit it. In such a case, the captain must issue notice of this to the consignee without delay.

(2) If the identity of a consignee cannot be ascertained or a consignee refuses to receive goods, the ship's captain must deposit those goods. In such a case, the captain must issue notice of this to the charterer or the consignor without delay.

Article 755 If it is agreed that freight charges are to be rated on the basis of the weight or volume of the goods, the amount of those charges is determined based on the weight or volume of the goods at the time of delivery.

Article 756 If it is agreed that freight charges are to be rated on the basis of time, the amount of those charges is determined based on the period of time from the date that the goods started to be loaded onto the Ship until the date that the discharge of the goods was completed; provided, however, that if it is necessary to have the Ship berth in the port of departure or in any port during

the voyage due to force majeure, or if it is necessary to make a repair to the Ship during the voyage, the period based on which the charges are determined does not include the period of the berthing or repair. In a case as referred to in Article 741, paragraph (2) or Article 752, paragraph (2), the period based on which the charges are determined does not include the number of days that it takes to load or discharge the goods after the period for loading or discharging has passed.

- Article 757 (1) A shipowner may auction off goods with the permission of the court in order to be paid the amount prescribed in Article 753, paragraph (1).
- (2) A case in which a person seeks the permission referred to in the preceding paragraph is subject to the jurisdiction of the district court having jurisdiction over the locality of the goods referred to in that paragraph.
- (3) Even after a ship's captain delivers goods to a consignee, the shipowner may exercise rights over the goods; provided, however, that this does not apply once two weeks have passed since the date of the delivery or once a third party takes possession of the goods.

Article 758 If a shipowner does not exercise the right prescribed in the preceding Article, the shipowner loses the claim against the charterer or consignor; provided, however, that a charterer or consignor must reimburse the shipowner to the extent actually enriched.

Article 759 If a transportation contract is entered into involving the whole or part of a Ship and the charterer also enters into another transportation contract with a third party, only the shipowner is liable to the third party to perform on those of the obligations under the latter contract which fall within the scope of the captain's duties.

- Article 760 (1) If a transportation contract is entered into involving the whole of a Ship, the contract is terminated due to:
- (i) the sinking of the Ship;
 - (ii) the Ship's becoming unrepairable;
 - (iii) the Ship's being captured;
 - (iv) the goods' being lost due to force majeure.
- (2) If a circumstance as set forth in item (i) to item (iii) of the preceding paragraph occurs while the Ship is at sea, the charterer must pay freight charges in proportion to transportation completed, to the extent that this payment does not exceed the value of the goods.

Article 761 (1) If a voyage or transportation is no longer in compliance with laws

and regulations or if it becomes otherwise impossible to accomplish the purpose of a contract due to force majeure, the parties may cancel the contract.

- (2) If a circumstance as set forth in the preceding paragraph occurs after the ship's departure and the contract is cancelled, the charterer must pay freight charges in proportion to transportation completed.

Article 762 (1) If a circumstance as set forth in Article 760, paragraph (1), item (iv), or paragraph (1) of the preceding Article occurs in connection with any part of the goods, the charterer may load other goods onto the Ship to the extent that doing so will not increase the burden on the shipowner.

- (2) If a charterer seeks to exercise the right prescribed in the preceding paragraph, it must discharge and load goods onto the Ship without delay, and if the charterer neglects to discharge and load the relevant goods, it must pay the full amount of the freight charges.

Article 763 (1) The provisions of Article 760 and Article 761 apply mutatis mutandis if a transportation contract is entered into involving part of a Ship or individual pieces of goods.

- (2) Even if a circumstance set forth in Article 760, paragraph (1), item (iv) or Article 761, paragraph (1) occurs with regard to a part of the goods, the charterer or consignor may cancel the contract; provided, however, that it must pay the full amount of freight charges.

Article 764 A shipowner may demand the full amount of freight charges if:

- (i) the captain sells or pledges goods being shipped pursuant to the provisions of Article 715, paragraph (1);
- (ii) the captain uses goods being shipped for the voyage pursuant to the provisions of Article 719;
- (iii) the captain handles goods being shipped pursuant to the provisions of Article 788.

Article 765 A claim held by a shipowner against a charterer, consignor, or consignee is extinguished by prescription once one year has passed.

Article 766 The provisions of Article 566, Article 576 to Article 581, and Article 588 apply mutatis mutandis to a shipowner.

Subsection 2 Bills of Lading

Article 767 At the request of a charterer or consignor, a ship's captain must deliver one or more bills of lading without delay after the loading of the goods

onto the Ship.

Article 768 A shipowner may entrust a person other than the ship's captain to issue a bill of lading on behalf of the captain.

Article 769 A bill of lading must give the following information and bear the signature of the ship's captain or of a person acting on the captain's behalf:

- (i) the name and nationality of the Ship;
- (ii) the name of the ship's captain, if the captain is not the person preparing the bill of lading;
- (iii) the type and weight or volume of the goods, the type of packaging, the number of packages, and the marks;
- (iv) the name or trade name of the charterer or the consignor;
- (v) the name or trade name of the consignee;
- (vi) the port of loading the ship;
- (vii) the port of discharge, or if the charterer or the consignor is to designate the port of discharge after departure, the ports from among which it must be designated;
- (viii) the freight charges;
- (ix) the number of bills of lading, if more than one is prepared;
- (x) the places and dates of preparation of the bills of lading.

Article 770 At the request of a ship's captain or the person acting on the captain's behalf, a charterer or consignor must sign a copy of the bill of lading and deliver the signed copy to the captain or person.

Article 771 At the port of discharge, the ship's captain may not refuse to deliver goods even if only one of the holders of bills of lading demands its delivery.

Article 772 Outside the port of discharge, a ship's captain may not deliver goods unless all of the bills of lading are returned thereto.

Article 773 If two or more holders of bills of lading demand the delivery of goods, the ship's captain must deposit the goods without delay and issue notice of this to each holder. If the captain delivers part of the goods pursuant to the provisions of Article 771 to one of the holders and then another holder demands delivery of the goods, the captain must also deposit the remaining part of the goods and issue notice of this.

Article 774 If there are two or more holders of bills of lading and one of the holders is delivered goods by the ship's captain before the other holders, the

bills of lading held by the other holders cease to be valid.

Article 775 If there are two or more holders of bills of lading and the ship's captain has yet to deliver the goods, the person holding the first bill that has been sent or delivered by the original holder exercises the rights of a holder prior to the other holders.

Article 776 The provisions of Article 572 to Article 575, and Article 584 apply mutatis mutandis to a bill of lading.

Section 2 Passenger Transportation

Article 777 A registered boarding ticket may not be transferred to another person.

Article 778 It is a shipowner's responsibility to have food for the passengers while the Ship is at sea.

Article 779 A shipowner may not demand additional freight charges for baggage that passengers may carry on board the Ship pursuant to the contract, unless there are special provisions to the contrary.

Article 780 If a passenger does not board a Ship by the boarding time, the ship's captain may cause the Ship to depart or continue the voyage without the passenger. In such a case, the passenger must pay the full amount of freight charges.

Article 781 (1) Before the departure of a Ship, a passenger may cancel the contract by paying half of the freight charges.

(2) After the departure of a Ship, no passenger may cancel the contract without paying the full amount of freight charges.

Article 782 (1) If a passenger becomes unable to make a voyage due to death, injury, illness, or any other event of force majeure in relation to the passenger prior to the departure of the Ship, the shipowner may claim one-fourth of the freight charges.

(2) If any of the events set forth in the preceding paragraph occurs after the departure of the Ship, a shipowner, at its own discretion, may claim one-fourth of the freight charges or claim freight charges in proportion to transportation completed.

Article 783 If it is necessary to make a repair to a Ship during a voyage, the shipowner must provide passengers with reasonable accommodation and food while the repair is being made; provided, however, that this does not apply if the shipowner provides passengers with another Ship to transport them to the port of landing, to the extent that so transporting them does not infringe their rights.

Article 784 Passenger transportation contracts are terminated upon the occurrence of a circumstance as set forth in Article 760, paragraph (1), item (i) to item (iii). If the circumstance occurs during the voyage, passengers must pay freight charges in proportion to transportation completed.

Article 785 In the event of the death of a passenger, the ship's captain must handle any baggage of the passenger's that is on board the Ship in the way that is considered to be in the best interests of the heirs.

Article 786 (1) The provisions of Article 590, Article 591, paragraph (1), Article 592, Article 738, Article 739, Article 761, and Article 765 apply mutatis mutandis to the transportation of passengers by sea.

(2) The provisions of Article 740 and Article 764 apply mutatis mutandis to the baggage of passengers.

Article 787 If a transportation contract is entered into involving the whole or part of a Ship for the purpose of providing passenger transportation, the provisions of Subsection 1 of the preceding Section apply mutatis mutandis to the relationship between the shipowner and the charterer.

Chapter IV Averages

Article 788 (1) Damage and costs arising from the handling of a Ship or goods being shipped which the captain undertakes to avoid common peril to the Ship or the goods being shipped constitute general average.

(2) In the event of peril caused by negligence, the provisions of the preceding paragraph do not preclude an interested person from filing a claim for recovery against the negligent party.

Article 789 Each interested person contributes in general average in proportion to the ratios of their shares of the value of the Ship and of the goods being shipped that have been successfully saved to their shares of half of the freight charges to their shares of the amount of damage constituting general average.

Article 790 In determining the amount of the general average contribution, the value of the Ship is its value at the place and time of its arrival and the value of the goods being shipped is their value at the place and time of their discharge; provided, however, that any freight charges and other costs that are not required to be paid in the event of the loss of goods being shipped is deducted from the value of the goods being shipped.

Article 791 Persons that must contribute in general average pursuant to the provisions of the preceding two Articles are liable to do so only up to the value actually existing at the time of the Ship's arrival or the delivery of the goods being shipped.

Article 792 The value of any weapons, salaries for the mariners, and food and clothing for the mariners and passengers that are kept on a Ship is not included in the amount of general average contributions; provided, however, that damage caused by an interested person to any such item is borne by the other interested persons.

Article 793 (1) Interested persons are not required to share liability for damage caused to goods loaded without a bill of lading or other document by which the value of the goods being shipped can be estimated, or to equipment not recorded in the equipment inventory.

(2) The provisions of the preceding paragraph also apply to damage caused to goods loaded on deck; provided, however, that this does not apply in the case of a short voyage on a coastal route.

(3) Even a person with an interest in goods being shipped as set forth in the preceding two paragraphs may not be released from the liability to contribute in general average.

Article 794 (1) The amount of damage constituting general average is determined based on the value of the Ship at the place and time of its arrival and the value of the goods being shipped at the place and time of their discharge; provided, however, that all costs not required to be paid in the event of loss or damage to the goods being shipped must be deducted from the value of the goods being shipped.

(2) The provisions of Article 578 apply mutatis mutandis to general average.

Article 795 (1) If the value of goods being shipped as indicated in a bill of lading or any other document by which the value of the goods being shipped can be estimated is lower than the real value of the goods being shipped, the amount of damage caused to the goods being shipped is determined based on the value

indicated in the bill or document.

- (2) If the indicated value of goods being shipped is higher than their real value, persons with an interest in the goods being shipped contribute in general average based on the indicated value.
- (3) The provisions of the preceding two paragraphs apply *mutatis mutandis* if a false indication is given with regard to information that may affect the value of the goods being shipped.

Article 796 If, after interested persons have contributed in general average pursuant to the provisions of Article 789, the whole or part of the Ship, its equipment or the goods being shipped are returned to the owner, that owner must return the compensation, after deducting the amount of the salvage charges and the amount of damages arising from the partial loss or damage to the property.

Article 797 If two Ships collide with each other due to the negligence of the mariners of both Ships, and it is impossible to determine which Ship was more seriously negligent, both shipowners bear the damage arising from the collision equally.

Article 798 (1) A claim arising in general average or from the collision of Ships is extinguished by prescription once one year has passed.

- (2) In the case of general average, the period set forth in the preceding paragraph is counted from the time of the completed settlement of the account.

Article 799 The provisions of this Chapter apply *mutatis mutandis* to the costs required to have a Ship berth in the port of departure or in any other port during a voyage due to force majeure.

Chapter V Marine Salvage

Article 800 If the whole or part of a Ship or the goods being shipped are involved in a marine accident, a person that has salvaged these without being obliged do so may claim reasonable salvage charges commensurate with the results of the salvage.

Article 801 If there are no special provisions on salvage charges and a dispute arises over their amount, the court determines the amount of salvage charges, taking into consideration the degree of risk, the results of the salvage, the labor and costs incurred in the salvage, and all other circumstances.

Article 802 If the salvage charges for a marine accident are specified by a contract but their amount turns out to be extremely inadequate or unreasonable, a party to the contract may demand an increase or reduction. In such a case, the provisions of the preceding Article apply *mutatis mutandis*.

Article 803 (1) Unless there are special provisions to the contrary, the amount of salvage charges may not exceed the value of the property salvaged.

(2) If there is a statutory lien with a prior rank, the amount of salvage charges may not exceed the amount remaining after the amount of the claim held by the holder of the statutory lien is deducted from the value of the salvaged property.

Article 804 (1) If two or more persons carry out a salvage, the provisions of Article 801 apply *mutatis mutandis* to the ratio of the distribution of the salvage charges.

(2) A person engaged in saving human lives may also be distributed salvage charges pursuant to the provisions of the preceding paragraph.

Article 805 (1) The owner of a ship engaged in salvage must be paid two-thirds of the salvage charges if the Ship is a steamship, or half of the salvage charges if the Ship is a sailing ship, and the remaining amount is divided into halves, of which one half must be paid to the captain and the other to the mariners.

(2) The amount to be paid to the mariners pursuant to the provisions of the preceding paragraph is distributed to them by the captain. In such a case, the provisions of the preceding Article apply *mutatis mutandis*.

(3) A contract that is incompatible with the provisions of the preceding two paragraphs is void.

Article 806 To distribute salvage charges pursuant to the provisions of paragraph (2) of the preceding Article, the ship's captain must prepare a distribution plan and give public notice of it to the mariners by the end of the voyage.

Article 807 (1) If a mariner seeks to object to the distribution plan referred to in the preceding Article, the mariner must file an objection with the maritime authorities of the first port at which it is possible to file an objection after public notice of the plan has been given.

(2) If maritime authorities find there to be grounds for an objection, they may correct the distribution plan.

(3) A ship's captain may not pay the salvage charges until objections are settled.

Article 808 (1) If a ship's captain neglects to prepare a distribution plan, the maritime authorities may order the captain to prepare a distribution plan, at the request of a mariner.

(2) If the captain disobeys an order as referred to in the preceding paragraph, the maritime authorities may prepare a distribution plan.

Article 809 A salvager may not claim salvage charges if:

- (i) the salvager provoked the marine accident intentionally or through negligence;
- (ii) the salvager unnecessarily and arbitrarily engages in salvage despite being turned away for legitimate reasons;
- (iii) the salvager conceals salvaged property or uses or disposes of it without good reason.

Article 810 (1) A salvager, in connection with its claim, holds a statutory lien over goods being shipped that have been salvaged.

(2) The provisions on statutory liens held by a ship's creditors apply mutatis mutandis to a statutory lien as referred to in the preceding paragraph.

Article 811 (1) A ship's captain has the authority to take all actions in and out of court in connection with the payment of salvage charges on behalf of the obligor of those charges.

(2) In an action involving salvage charges, the captain may stand as a plaintiff or defendant; provided, however, that a judgment rendered in such an action is also valid against the obligor of the salvage charges.

Article 812 The owner of goods being shipped is liable to pay salvage charges for salvaged property.

Article 813 A statutory lien over goods being shipped may not be exercised after the obligor delivers them to a third party acquirer.

Article 814 A claim for salvage charges is extinguished by prescription once one year has passed since the salvage.

Chapter VI Insurance

Article 815 (1) The purpose of a marine insurance policy is to compensate for damage arising from an accident relating to a voyage.

(2) Unless otherwise provided for in this Chapter, the provisions of Chapter II, Section 1 to 4 and 6, and Chapter V of the Insurance Act (Act No. 56 of 2008)

apply to marine insurance policies.

Article 816 Unless otherwise provided for in this Chapter or in an insurance policy, the insurer is liable to compensate for all damage arising from accidents relating to voyages that occur to the insured property during the coverage period.

Article 817 An insurer is liable to compensate for a general average contribution payable by an insured; provided, however, that if the insurable value is partially covered by insurance, the insurer's liability is determined based on the ratio of the insured amount to the insurable value.

Article 818 In the case of insurance for a ship, the value of the Ship as of the time that the insurer's liability commences constitutes the insurable value.

Article 819 In the case of insurance for goods being shipped, the sum of the value of the goods being shipped at the place and time of their loading onto the Ship and the costs of loading and insurance constitute the insurable value.

Article 820 In the case of insurance for profits or remuneration to be gained upon the arrival of the goods being shipped, if the insurable value is not specified by the policy, the insured amount is presumed to be the insurable value.

Article 821 (1) If a Ship is covered by insurance for one voyage, the insurer's liability commences at the time that goods or ballast start to be loaded onto the Ship.

(2) If a Ship becomes covered by insurance after goods or ballast are loaded onto the Ship, the insurer's liability commences at the time of the formation of the policy.

(3) In a case as referred to in the preceding two paragraphs, the insurer's liability terminates at the time the discharge of goods or ballast is completed at the port of arrival; provided, however, that if there is any delay in the discharge due to reasons other than force majeure, the insurer's liability terminates at the time the discharge should have been completed.

Article 822 (1) If the goods being shipped are covered by insurance or if profits or remuneration to be gained upon the arrival of goods being shipped is covered by insurance, the insurer's liability commences at the time the goods being shipped leave land, and terminates at the time the discharge of those goods is completed at the port of discharge.

(2) The proviso to paragraph (3) of the preceding Article applies *mutatis mutandis* in the case referred to in the preceding paragraph.

Article 823 A written marine insurance policy must give the following information in addition to the information set forth in Article 6, paragraph (1) of the Insurance Act:

- (i) in the case of insurance for a Ship, the name, nationality, and type of Ship; the name of the captain; and the names of the port of departure, the port of arrival, and ports of call, if any such port is designated;
- (ii) in the case of insurance for goods being shipped or for profits or remuneration to be gained upon the arrival of the goods being shipped, the name, nationality and type of Ship; the port of loading the Ship; and the port of discharge.

Article 824 (1) If there is a change to a voyage before the insurer's liability commences, the insurance policy ceases to be valid.

(2) If there is a change to a voyage after the insurer's liability commences, the insurer is not liable for any accident that may occur after such change; provided, however, that this does not apply if the change is due to reasons not attributable to the policyholder or the insured.

(3) Once the port of arrival changes and operations for making that change have begun, there is deemed to have been a change to the voyage even if the Ship does not deviate from the insured route.

Article 825 If the insured neglects to cause the Ship to depart or continue a voyage, or changes the route or otherwise substantially changes or increases the risks of the voyage, the insurer is not liable for any accident that may occur after the change or increase; provided, however, that this does not apply if the change or increase has no influence on the occurrence of the accident or if the change or increase is caused by force majeure or a legitimate reason attributable to the insurer.

Article 826 Even if a ship's captain is designated by an insurance policy, the replacement of the captain has no influence on the validity of the policy.

Article 827 If goods being shipped are covered by insurance or profits or remuneration to be gained upon the arrival of the goods being shipped are covered by insurance and the Ship changes, the insurer is not liable for any accident that may occur after the change; provided, however, that this does not apply if the change is due to reasons not attributable to the policyholder or the insured.

Article 828 (1) If an insurance policy is entered into that does not designate the Ship to be loaded with goods, upon becoming aware that the goods have been loaded onto a Ship, the policyholder or the insured must issue notice to the insurer of the name and nationality of the Ship without delay.

(2) If the policyholder or the insured neglects the notice referred to in the preceding paragraph, the insurance policy ceases to be valid.

Article 829 An insurer is not liable to compensate for the following damage or costs:

(i) damage arising from the nature of or a defect in the insured property, from ordinary wear and tear, or from an intentional action or gross negligence by the policyholder or the insured;

(ii) damage arising from a failure to make the necessary preparations or keep the necessary documents for a safe voyage at the time of departure, if the insurance is for a Ship or freight charges;

(iii) damage arising from an intentional action or gross negligence by the charterer, consignor, or consignee, if the insurance is for goods being shipped or profits or remuneration to be gained upon the arrival of the goods being shipped;

(iv) pilotage charges, harbor charges, light dues, quarantine fees, and other ordinary costs incurred in connection with the Ship or the goods being shipped for the voyage.

Article 830 (1) If the amount of the damage or costs not constituting general average does not exceed two percent of the insurable value when the costs of calculating that amount are excluded, the insurer is not liable to compensate for that damage or those costs.

(2) If the amount of the damage or costs referred to in the preceding paragraph exceeds two percent of the insurable value, the insurer is liable to pay the full amount.

(3) The provisions of the preceding two paragraphs apply *mutatis mutandis* if the parties have specified, in the policy, the percentage of the damage or costs that will not be borne by the insurer.

(4) The percentages prescribed in the preceding three paragraphs are calculated for each voyage.

Article 831 If goods being shipped that are covered by insurance arrive at the port of discharge in a damaged state, the insurer is liable to compensate for part of the insurable value, based on the ratio of the value that the goods being shipped have in their damaged state to the value that the goods being shipped

would have had in an undamaged state.

Article 832 (1) If goods being shipped that are covered by insurance are sold during a voyage due to force majeure, the insurer is liable to pay the difference between the amount calculated when freight charges and other costs are deducted from the sales proceeds and the insurable value; provided, however, that this does not preclude the application of Article 19 of the Insurance Act if the insurable value is partially covered by insurance.

(2) In a case referred to in the preceding paragraph, if the buyer does not pay the price for which the goods are sold, the insurer must pay this; provided, however, that once the insurer pays, it acquires the rights held by the insured in relation to the buyer.

Article 833 The insured may claim the whole of the insured amount by abandoning its interest in the insured property to the insurer if:

- (i) the Ship sinks;
- (ii) the Ship goes missing;
- (iii) the Ship becomes unrepairable;
- (iv) the Ship or the goods being shipped are captured;
- (v) the Ship or the goods being shipped are seized due to the action of an official and are not released for six months.

Article 834 (1) If it is not known for six months whether a Ship is still in existence, the Ship is deemed to have gone missing.

(2) If a coverage period has been specified, even if that period expires within the timeframe referred to in the preceding paragraph, the insured may abandon its interest in the goods; provided, however, that if it is proved that the Ship was lost within the coverage period, that abandonment is void.

Article 835 In a case as referred to in Article 833, item (iii), if the ship's captain continues to transport the goods being shipped using another Ship without delay, the insured may not abandon its interest in the goods being shipped.

Article 836 (1) If the insured seeks to abandon its interest in goods, it must issue notice of this to the insurer within three months.

(2) In a case as referred to in Article 833, item (i), item (iii), or item (iv), the timeframe referred to in the preceding paragraph is counted from the time that the insured becomes aware that such is the case.

(3) In the case of reinsurance, the timeframe referred to in paragraph (1) is counted from the time the reinsured is notified by the insured of the abandonment.

Article 837 (1) The abandonment of an interest in property must be straightforward.

- (2) The insured must abandon its interest in the whole of the insured property; provided, however, that if the cause of the abandonment applies to only part of the insured property, the insured may abandon its interest in only that part.
- (3) If the insurable value is partially covered by insurance, the insured may abandon its interest based on the ratio of the insured amount to the insurable value.

Article 838 If an insurer approves an insured's abandonment of an interest in property, it may not object to the abandonment later.

Article 839 (1) By the insured's abandonment of its interest in property, the insurer acquires all rights that the insured holds in connection with the insured property.

- (2) Once the insured abandons its interest in property, it must deliver the instruments for the insured property to the insurer.

Article 840 (1) When abandoning an interest in property, the insured must notify the insurer of whether there is any other insurance policy on the insured property and of any obligations assumed by the insured, as well as of the type of policy and obligation.

- (2) An insurer is not required to pay the insured amount until it is notified as referred to in the preceding paragraph.
- (3) If a period for payment of the insured amount has been specified, that period is counted from the time the insurer is notified as referred to in paragraph (1).

Article 811 If an insurer does not approve an insured's abandonment of its interest in property, the insured may not claim payment of the insured amount until after proving grounds for abandonment.

Article 841-2 The provisions of this Chapter apply *mutatis mutandis* to mutual insurance; provided, however, that this does not apply if the nature of the mutual insurance does not permit their application.

Chapter VII Ships' Creditors

Article 842 A person holding a claim as set forth in one of the following has a statutory lien over the Ship, its equipment, and freight charges not yet received:

- (i) the costs for auctioning off a Ship and its equipment, as well as the costs for storing the same after the commencement of the auction procedures;
- (ii) the costs for storing a Ship and its equipment at the last port;
- (iii) the taxes imposed on a Ship in connection with a voyage;
- (iv) the pilotage charges and towage charges;
- (v) the salvage charges and general average to be borne by a Ship;
- (vi) a claim arising from the necessity of continuing a voyage;
- (vii) a claim held by the ship's captain or another mariner arising from an employment contract;
- (viii) a claim arising from the sale or manufacture and outfitting of a Ship, if the Ship makes no voyage after being sold or manufactured; or a claim arising from the outfitting of the Ship, food, and fuel required for its last voyage.

Article 843 A statutory lien held by a ship's creditor exists only over the freight charges for the voyage during which the statutory lien arises.

Article 844 (1) If a ship's creditors hold competing statutory liens, the order of priority of those liens follows the order set forth in Article 842; provided, however, that among the claims referred to in item (iv) to item (vi) of that Article, one arising later takes precedence over one arising earlier.

(2) If two or more persons hold statutory liens of the same rank, they are paid in proportion to the value of their claims; provided, however, that if claims as referred to in Article 842, item (iv) to item (vi) arise at different times, one arising later takes precedence over one arising earlier.

(3) Notwithstanding the provisions of the preceding two paragraphs, if statutory liens arise from two or more voyages, one arising from a later voyage takes precedence over one arising from an earlier voyage.

Article 845 If a statutory lien held by a ship's creditor and any other statutory lien conflict with each other, the statutory lien held by the ship's creditor takes precedence over the other statutory lien.

Article 846 (1) If a shipowner transfers the Ship, the transferee, after registering the transfer, must issue public notice to the holders of statutory liens informing them that they must file their claims within a certain period of time; provided, however, that this period may not be shorter than one month.

(2) If the holder of a statutory lien does not file a claim within the period referred to in the preceding paragraph, the statutory lien is extinguished.

Article 847 (1) A statutory lien held by a ship's creditor is extinguished one

year's time after it is created.

(2) A statutory lien as referred to in Article 842, item (viii) is extinguished due to the departure of the Ship.

Article 848 (1) A registered Ship may be the subject matter of a mortgage.

(2) A mortgage on a Ship extends to its equipment.

(3) The provisions on the mortgaging of real property apply *mutatis mutandis* to a mortgage on a Ship. In such a case, the phrase "[if the obligee] does not file a petition for auction by executing the mortgage [within two months after receipt of the documents listed in each item of the preceding article]" in Article 384, item (i) of the Civil Code is deemed to be replaced with "[if the obligee] does not file a petition for auction by executing the mortgage or give notice to the third party acquirer that the obligee has not approved its offer [within two months after receipt of the documents listed in each item of the preceding Article], or if the obligee giving that notice does not file a petition for auction by executing the mortgage within one week after the obligee is able to file it".

Article 849 A statutory lien over a Ship may be exercised prior to a mortgage.

Article 850 A registered Ship may be the subject matter of a pledge.

Article 851 The provisions of this Chapter apply *mutatis mutandis* to a Ship under construction.