



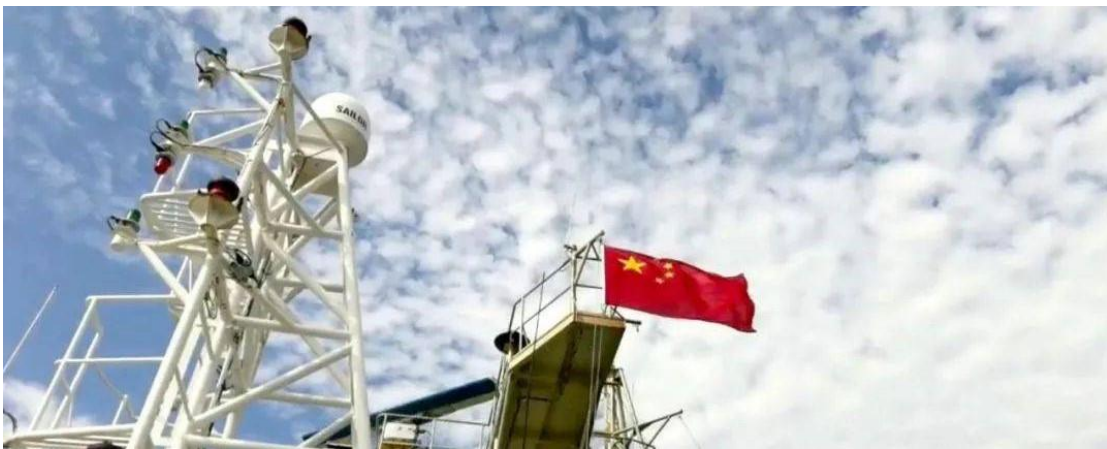
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## **Properly Fly the Port State Flag to Avoid Administrative Penalties**

Dear Sir/Madam,

Recently, Huatai has dealt with a number of cases in which ships were punished by the Maritime Safety Administration (hereinafter referred to as the “MSA”) for failing to fly, improperly flying, or flying a damaged or defiled National Flag of the People's Republic of China. Meanwhile, we have also received relevant inquiries from the Clubs and their Members. In order to prevent the recurrence of similar cases, we

hereby issue this Circular, introducing relevant laws, administrative regulations and the legal basis of administrative penalty imposed by the maritime authority, and provide loss prevention suggestions for the Clubs and Members' reference.

## **Laws and Regulations Relating to Ships Flying Chinese National Flag**

Laws and regulations relating to flying of the Chinese National Flag by ships include the "*Maritime Traffic Safety Law of the People's Republic of China*", the "*Measures for the Administration of Flying the National Flag by Ships*", and the "*Law of the People's Republic of China on the National Flag*". The relevant provisions of the laws and regulations are quoted below:

**1. The "*Maritime Traffic Safety Law of the People's Republic of China*", Article 10, Paragraph 1**

**Article 10** A ship may not navigate, berth, and carry out operations under the flag of China until it has applied to the maritime safety administration for ship nationality registration and obtained a nationality certificate in accordance with the applicable laws and administrative regulations on ship registration.

**2. The "*Maritime Traffic Safety Law of the People's Republic of China*", Article 33, Paragraph 1**

**Article 33** To navigate, berth, and carry out operations, a ship shall hold a valid nationality certificate and other statutory certificates and documents, be equipped with navigational books and materials published in accordance with relevant provisions, fly the flag of the relevant country, region or organization, and indicate its name, identification number, port of registry, and load line mark.

**3. The "*Measures for the Administration of Flying the National Flag on Ships*",**

## **Article 6**

**Article 6** Foreign ships entering the inland waters, ports and anchorages of the People's Republic of China shall fly the Chinese National Flag daily.

### **4. The “Measures for the Administration of Flying the National Flag on Ships”, Article 9**

**Article 9** The Chinese National Flag flown by ships shall be clean and tidy, and shall not be damaged, defiled, faded or substandard, nor shall it be displayed upside down.

### **5. The “Law of the People’s Republic of China on the National Flag”, Article 19**

**Article 19** No damaged, defiled, faded or substandard national flag shall be raised or used, and the national flag shall not be displayed upside down, inserted upside down, or displayed or used in any other manner that undermines the dignity of the national flag.

## **Legal Basis of Administrative Penalty**

The legal basis for the MSA to impose administrative penalty on the involved ships is as follows:

### **1. The “Maritime Traffic Safety Law of the People's Republic of China”, Article 96, Paragraph 2**

**Article 96** A ship or offshore installation falling under any of the following circumstances shall be ordered by the maritime safety administration to take corrective action, the owner, operator or manager of the ship or offshore installation in violation of the law shall be fined not less than 20,000 yuan nor more than 200,000 yuan, and the master and relevant liable persons shall be fined not less than 2,000 yuan nor more than 20,000 yuan; and under serious circumstances, the owner, operator or manager of the ship in violation of the law shall be subject to revocation of

relevant certificates and documents, and the master and liable crew members shall be subject to suspension for 12 to 24 months or even revocation of their certificates of competency:

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(2) A ship fails to fly the national flag according to the law, or flies a flag of another country, region or organization in violation of the law.

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## **2. The “Provisions of the People's Republic of China on Marine and Maritime Administrative Penalties”, Article 11, Paragraph 2**

**Article 11** Where, in violation of Article 9, Article 10, Article 33 of the Maritime Traffic Safety Law, a ship or offshore installation falls under any of the following circumstances, the maritime authority shall order corrective action to be taken, fine the owner, operator, or manager of the violating ship or offshore installation not less than 20,000 yuan nor more than 200,000 yuan, and fine the master and any relevant liable person each not less than 2,000 yuan nor more than 20,000 yuan; and if the circumstances are serious, revoke the relevant certificates and documents of the owner, operator, or manager of the violating ship and suspend for 12 to 24 months or even revoke the seafarer's certificates of competency of the master and any liable seafarer:

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(2) The ship fails to fly the national flag according to the law, or illegally flies the flag of another country, region, or organization.

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## **3. The “Provisions of the People's Republic of China on Marine and Maritime Administrative Penalties”, Article 7, Paragraph 1**

**Article 7** Where the party committing a maritime administrative violation is under any of the following circumstances, a lighter or mitigated maritime administrative penalty shall be imposed in accordance with the law:

(1) Voluntarily eliminating or mitigating the harmful consequences caused by the maritime administrative violation.

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**4. The “Regulations of the People's Republic of China on Administration of Traffic Safety in Inland Rivers”, Article 68, Paragraph 1**

**Article 68** Where a ship navigating in inland waters, in violation of these Regulations, comes under any of the following circumstances, the maritime safety authority shall order it to make corrections and impose a fine of not less than 5,000 yuan but not more than 50,000 yuan; if the circumstances are serious, the maritime safety authority shall prohibit it from entering or leaving ports or order it to stop navigation, and may suspend the certificates of competency or the equivalent documents of the responsible crewmembers for three to six months:

(1) failing to fly its national flag or failing to have its name, ports of registry, or load lines explicitly marked in accordance with the provisions;

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**5. The “Provisions of the People's Republic of China on Inland-Water-Related Maritime Administrative Penalties”, Article 16, Paragraph 1**

**Article 16** In the case of committing any of the following conduct when navigating in any inland water in violation of the provisions of Article 14 , 18 , 19 , 20 or 22 of the Regulation on the Administration of Traffic Safety in Inland Waters , the violator shall be, in accordance with the provisions of Article 68 of the Regulation on the Administration of Traffic Safety in Inland Waters , ordered to make correction and be fined 5,000 yuan up to 50,000 yuan; if the circumstances are serious, the ship shall be prohibited from entering or leaving the harbor or ordered to cease navigation, and the liable seafarer shall be subject to the punishment of having his or her certificate of competency for seafarers or other credentials of competency withheld for three to six months:

(1) Failing to hang the national flag as required.

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## **Objects of Administrative Penalty**

The Objects of administrative penalty shall be Owners, Operators or Managers of illegal ships or marine installations, as well as the Master and relevant responsible persons.

## **Precautions for Flying the Chinese National Flag**

### **1. Ships Required to Fly the Chinese National Flag**

The following Chinese ships shall fly the Chinese National Flag daily:

- (1) Ships of 50 gross tons and above.
- (2) Ships sailing in waters outside China's territorial waters and in Hong Kong, Macau.
- (3) Official ships.

Foreign ships entering the internal waters, ports, and anchorages of the People's Republic of China shall fly the Chinese National Flag daily.

### **2. General Dimensions of the Chinese National Flag**

The 5 general dimensions of the Chinese National Flag are listed as follows:

Class A: 288 cm in length, 192 cm in height;

Class B: 240 cm in length, 160 cm in height;

Class C: 192 cm in length, 128 cm in height;

Class D: 144 cm in length, 96 cm in height;

Class E: 96 cm in length, 64 cm in height.

### **3. The Corresponding Dimensions of the Chinese National Flag should the Ships fly**

Ships shall fly the Chinese National Flag of the corresponding dimensions according to their length:

(1) Ships with a length of 150 meters and above shall fly Class A, Class B, or Class C Chinese National Flags.

(2) Ships with a length of 50 meters or above but less than 150 meters shall fly either Class C or Class D Chinese National Flags.

(3) Ships with a length of 20 meters or above but less than 50 meters shall fly either Class D or Class E Chinese National Flags.

(4) Ships less than 20 meters shall fly Class E Chinese National Flags.

The dimensions of the Chinese National Flag to be flown by a foreign ship shall generally not be less than the dimensions of the flag of the Flag State she is flying.

### **4. When should Ships Fly the Chinese National Flag**

Ships shall hoist the Chinese National Flag in the morning and lower it in the evening. However, in case of bad weather, the Chinese National Flag may not be hoisted.

### **5. Where should Ships Fly the Chinese National Flag**

(1) Chinese ships shall fly the Chinese National Flag on the ensign staff. If there is no ensign staff fitted at the ship's stern, it shall be displayed on the top of the bridge signal pole or on the starboard yard arm.

(2) Foreign ships shall fly the Chinese National Flag on the top of the foremast or on the top of the bridge signal pole or on the starboard yard arm.

(3) When the Chinese National Flag and other flags are simultaneously flown on the starboard yard arm of the bridge signal pole, the Chinese National Flag shall be displayed on the outermost side.

## Loss Prevention Suggestions

According to relevant laws and regulations, the MSA shall order ships and crew members who violate the "Law of the People's Republic of China on the National Flag" and the "Measures for the Administration of flying the National Flag on Ships" to rectify the violation immediately, and may impose penalties in accordance with the "Law of the People's Republic of China on the National Flag" and other relevant provisions of China according to the circumstances. If a foreign ship refuses to make corrections according to the requirements of the MSA, the MSA may order it to depart from the inland waters, ports, or anchorage of the People's Republic of China.

Therefore, we suggest the responsible crew members on board to carry out necessary training to familiarize them with the requirements of flying the Chinese National Flag. In addition, it is recommended that ships promptly check whether they are equipped with a sufficient number of standard Chinese National Flag prior to entering Chinese waters. After entering Chinese waters, ships shall properly fly the Chinese National Flag to avoid administrative penalties for violation of relevant laws and regulations.

Should you have any inquiries, please feel free to contact us ([pni.bj@huatai-serv.com](mailto:pni.bj@huatai-serv.com)) or our local branches.

Best regards,



**CUI Jiyu**

Head of Marine Team