

No. 9420

**BRAZIL
and
ARGENTINA**

**Agreement on Maritime Transport. Signed at Buenos Aires
on 27 September 1968**

Authentic texts : Portuguese and Spanish.

Registered by Brazil on 21 February 1969.

**BRÉSIL
et
ARGENTINE**

**Accord sur les transports maritimes. Signé à Buenos Aires
le 27 septembre 1968**

Textes authentiques : portugais et espagnol.

Enregistré par le Brésil le 21 février 1969.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE FEDERATIVE REPUBLIC
OF BRAZIL AND THE REPUBLIC OF ARGENTINA
ON MARITIME TRANSPORT

The Government of the Federative Republic of Brazil and

The Government of the Republic of Argentina,

Considering the desirability of developing trade between Brazil and Argentina and of promoting a better and more rational use of the shipping capacity of the two countries,

Recognizing the need for effective and regular maritime transport services and for adequate and stable freight rates,

Bearing in mind the fact that Brazilian and Argentine shipowners are the carriers directly concerned with marine freight in the trade between the two countries,

Taking into account the recommendations made in the Final Act adopted by the Special Brazilian-Argentine Commission on Co-ordination at its IVth meeting,

Have agreed as follows :

Article I

1. The Contracting Parties shall endeavour to establish efficient shipping services between Brazilian and Argentine ports which will operate as frequently and as regularly as trade may require. The services shall be made available by shipowners of both countries.
2. The term " authorized shipowner or shipowners " means any national shipowner or shipowners of either Contracting Party authorized by the competent maritime authorities to provide the shipping services mentioned in paragraph 1 of this article.
3. The term " competent maritime authorities " means, respectively, the Merchant Marine Commission of Brazil (Commissao de Marinha Mercante do Brasil) and the National Merchant Marine Council of Argentina (Consejo Nacional de la Marina Mercante de la Argentina).

¹ Came into force on 27 September ~~1958~~¹⁹⁶⁸ by signature, in accordance with article IX.

4. The shipping capacity to be made available by the authorized shipowner or shipowners of the two Contracting Parties shall, in the aggregate, be adapted to the requirements of the trade between the two countries, always bearing in mind the balance between the space made available, on the one hand, by the authorized shipowner or shipowners of one Contracting Party and, on the other hand, by the authorized shipowner or shipowners of the other Contracting Party.

5. For the purposes of the authorization provided for in paragraph 2, the competent maritime authorities shall undertake, before such authorization is granted, to ensure strict compliance in every case with the conditions specified in point 2 of the Final Act on Maritime Transport of 22 December 1958.

Article II

1. Goods consigned from Brazilian ports to Argentine ports, and *vice versa*, shall be transported in vessels flying the national flag of the Contracting Parties, each Party to receive an equal share of the total freight carried. For the purpose of ensuring an equal division of the total freight carried, the Freight Conference mentioned in Article III, paragraph 1, shall set up operational machinery to ensure, in respect of traffic moving in either direction, an equitable apportionment among the group of authorized shipowners of the Contracting Parties.

2. The transport mentioned in paragraph 1 of this article covers cargoes receiving favoured treatment from the Government of either Contracting Party.

3. Implementation of the provisions of paragraph 1 of this article shall be subject to the following order of priorities :

3.1 transport, in either direction, in vessels flying the Brazilian or Argentine flag, the freight to be pro-rated in accordance with the conditions laid down in paragraph 1 of this article ;

3.2 transport, in vessels flying one of the national flags, of that portion of the other's quota which the country concerned is unable to carry.

4. For the purposes of paragraph 1 of this article, the vessels owned by the authorized shipowner or shipowners, and the domestic or foreign vessels chartered or hired by the shipowner or shipowners authorized by the competent maritime authorities of one or other of the Contracting Parties to provide the shipping services envisaged in this Agreement, shall be regarded as " vessels flying the national flag ".

5. In the case of chartering or hiring, the shipowner or shipowners authorized by the competent maritime authorities of one Contracting Party must give preference, all other conditions being equal, to vessels flying the flag of their own country and, if none are available, to vessels flying the flag of the other Contracting Party or of a third country
6. Chartering is understood to mean the complete chartering of a vessel for a given period.
7. Where the shipowner or shipowners of the Contracting Parties are unable to carry shipments in their own vessels or in vessels chartered in accordance with paragraphs 5 and 6 above, the consignments may be released to vessels of third countries, subject to prior consultation with the competent maritime authorities of the Contracting Parties.

Article III

1. For the purpose of the execution of this Agreement, the shipowners authorized by the competent maritime authorities of the Contracting Parties shall form a new Brazilian-Argentine Freight Conference covering traffic in both directions.
2. The statutes of the Freight Conference shall include all the provisions required to ensure its proper operation. These statutes shall include, but not restrict, the following provisions and attributes : appointment of its authorities ; equitable division of loading and unloading ports ; establishment and operation of a full money pool ; setting up of committees ; rules of procedure ; the fixing of freight rates and the establishment of the voting procedures by which the rates are fixed ; penalties for its members ; statement of principles, including the principle of essential trade co-operation between member shipowners to ensure the proper application of the provisions on traffic exploitation set forth in this Agreement. The new Freight Conference shall start to operate as soon as its statutes are approved by the competent shipping authorities of the Contracting Parties.
3. Shipowners who do not comply with the provisions of the statutes of the Brazilian-Argentine Freight Conference shall be liable to the penalties prescribed therein, which shall range from an admonition and fine to loss of the offending shipowner's membership.
4. Goods consigned from Brazilian to Argentine ports, and *vice versa*, may be carried only by shipowners who are members of the Brazilian-Argentine Freight Conference.

Article IV

1. The shipowner or shipowners authorized by the competent maritime authorities of the Contracting Parties shall lay down, by common consent and through the Freight Conference, the transport conditions and the freight rates to be charged for the services to be provided under this Agreement. The agreed freight rates shall not go into effect until they have been duly approved by the competent maritime authorities of the Contracting Parties.
2. Where an agreement on transport conditions and freight rates is not reached in the Freight Conference, the conditions and rates shall be fixed by agreement between the competent maritime authorities of the two Contracting Parties.
3. In the event of the competent maritime authorities of one Contracting Party stating their intention not to approve the rates referred to in paragraph 1, the rates shall be reviewed by the Freight Conference in the light of the objections raised.
4. In the event of an agreement not being reached with the Freight Conference, the competent maritime authority of the Contracting Party which raised the objection shall apply for a consultative meeting in accordance with article VI of this Agreement.

Article V

1. For the purpose of controlling the services and degree of participation provided for in this Agreement, the authorized shipowners of the two Contracting Parties shall submit each month to the competent maritime authorities and to the Freight Conference copies of their bills of lading and data indicating the number of arrivals and departures and the itineraries covered by their vessels during the same period, that is to say during the previous month. Calculations to determine the percentage share of the shipowners of each Contracting Party shall be made periodically, as agreed in the Freight Conference.
2. The itineraries of the vessels mentioned in the preceding paragraph may include ports of other countries, providing that the Freight Conference zones recognized by one or other of the Contracting Parties are respected.

Article VI

1. The Contracting Parties shall, in a spirit of close co-operation, consult each other from time to time in order to consider the conditions under which this Agreement is applied and to effect improvements.

2. Either Contracting Party may request a consultation between the competent maritime authorities for the purpose of suggesting amendments to the provisions of this Agreement. Once a consultation has been requested, it must take place within ninety days of the date of notification of the respective request and must be held in the territory of the country to which the request was made.
3. This Agreement may be amended at any time, by common agreement of the Contracting Parties, by an exchange of diplomatic notes.

Article VII

This Agreement shall not apply to bulk shipments of petroleum and its derivatives or to bulk shipments of ore.

Article VIII

The provisions of the Final Act on Maritime Transport of 22 December 1958 which are not repealed or amended by this Agreement shall remain in force.

Article IX

This Agreement shall enter into effect on the date of its signature and shall remain in force for a period of five years, automatically renewable for the same period, unless one of the Contracting Parties informs the other at any time, on at least ninety days' notice, of its desire to denounce it.

Transitional provisions

Thirty days from the date of signature of this Agreement, the shipowners authorized by the competent maritime authorities of the Contracting Parties shall meet in the city of Buenos Aires for the purpose of drafting the statutes of the Brazilian-Argentine Freight Conference, covering traffic in both directions.

Within sixty days of the date of signature of this Agreement, the shipowners concerned shall submit the statutes to the competent maritime authorities of the Contracting Parties for approval.

IN WITNESS WHEREOF the undersigned, duly authorized by their respective Governments, have signed, and affixed their seal to, this Agreement in duplicate in the Portuguese and Spanish languages, both texts being equally authentic.

DONE at Buenos Aires on 27 September 1968.

For the Government
of the Federative Republic
of Brazil :

José Celso DE LA ROCQUE
DE MACEDO SOARES GUIMÃRES
Rear Admiral,
President of the Merchant
Marine Commission

For the Government
of the Republic of Argentina :

Julio QUES
Rear Admiral,
President of the Merchant
Marine Council
