

**No. 14149**

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**BRAZIL  
and  
CHILE**

**Agreement on maritime transport. Signed at Brasília on  
25 April 1974**

*Authentic texts: Portuguese and Spanish.*

*Registered by Brazil on 8 August 1975.*

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**BRÉSIL  
et  
CHILI**

**Accord sur les transports maritimes. Signé à Brasília le  
25 avril 1974**

*Textes authentiques : portugais et espagnol.*

*Enregistré par le Brésil le 8 août 1975.*

## [TRANSLATION — TRADUCTION]

AGREEMENT<sup>1</sup> BETWEEN THE FEDERATIVE REPUBLIC OF BRAZIL AND THE REPUBLIC OF CHILE ON MARITIME TRANSPORT

The Government of the Federative Republic of Brazil and  
The Government of the Republic of Chile,

Considering the desirability of developing trade between the Federative Republic of Brazil and the Republic of Chile,

Bearing in mind the particular desirability of promoting reciprocal trade by strengthening and duly protecting the economic stability of their respective merchant marines, the existence and development of which are deemed essential not only for the expansion and diversification of economic relations between the two countries, but also for strengthening the foundations on which trade between them can be increased,

Considering that bilateral trade in goods should be accompanied by an effective exchange of services,

Recognizing the need for effective and regular maritime transport services and for the adoption of appropriate and stable freight rates,

Recognizing that the merchant marines of both countries have the right to accord priority to the transport of cargoes shipped in the context of their reciprocal trade,

Bearing in mind that Brazilian and Chilean shipowners are the carriers directly concerned with marine freight in the trade between the two countries and that the proceeds of the freight charges in respect of the maritime transport of such cargoes should benefit shipowners of both countries,

Considering that it is desirable that the shipping companies should strengthen relations and maintain permanent contacts with each other,

Have agreed as follows:

*Article I.* 1. The maritime transport of goods shipped in the context of the trade between the two countries, including cargoes receiving favoured treatment from the Government of either country, must be effected in vessels flying the Brazilian or Chilean flag.

2. Transport shall be effected in such a way that the total freight carried, in either direction, is divided equally between the vessels of the two Contracting Parties.

3. In the event that one of the Contracting Parties is unable to carry freight in accordance with paragraph 2 of this article, the freight shall be carried, where possible, in vessels of the other Contracting Party, and shall be reckoned as part of the ceding party's share of 50 (fifty) per cent.

4. Either Contracting Party may, subject to prior notification of the competent maritime authority of the other Contracting Party, authorize its shipowners to

<sup>1</sup> Came into force on 8 January 1975, i.e., 90 days after the date of the exchange of the instruments of ratification, which took place at Santiago on 10 October 1974, in accordance with article XXIX.

cede part of their 50 (fifty) per cent share to shipowners from member countries of LAFTA. Such a cession may be authorized only when there is reciprocal treatment in respect of other traffic with a country which is a member of ALALC and shall not affect the responsibilities of the Contracting Parties under this Agreement.

5. Bulk shipments of ore, where ore is the sole cargo, and of petroleum and its derivatives shall be subject to the domestic legislation of each Contracting Party.

*Article II.* 1. Vessels shall be considered as flying the Brazilian or the Chilean flag respectively if they are so registered in accordance with the legislation in force in each of the Contracting Parties.

2. Vessels owned by shipowners of countries members of LAFTA, which participate in the traffic in accordance with article I, paragraph 4, shall have the same rights and obligations under the present Agreement as vessels flying the Brazilian or the Chilean flag. This provision shall not apply to vessels hired under voyage charter.

3. Vessels hired under time charter by national shipowners or legally constituted shipping companies, whose charter parties have been registered with the competent maritime authority of each Contracting Party and which are consequently authorized to participate in the commercial traffic between the two countries shall be treated in either country as national vessels for the duration of the charter.

4. In the case of chartering, the shipowners of one Contracting Party must give preference, wherever possible, all other conditions being equal, to vessels flying the flag of their own country and, if none are available, firstly to vessels flying the flag of the other Contracting Party and secondly to vessels flying the flag of a third country.

5. The competent maritime authorities shall notify each other whenever they grant authorization for the chartering of vessels to be used in commercial traffic between the two countries.

*Article III.* The application of the present Agreement shall not entail any discrimination with regard to cargo and shall not cause delays of more than five days for the shipment of perishable or easily spoilt goods and twenty days for other cargoes.

*Article IV.* Shipment in vessels flying the flag of a third State may be authorized when no space is available in vessels flying the Brazilian or Chilean flag within the time-limits established in article III for the cargoes in question. Such authorization shall be granted by the competent maritime authority of the country of shipment at the shipper's request.

*Article V.* Preference with respect to transport shall be applied in such a way that it does not result in higher freight rates which might affect trade between the two countries.

*Article VI.* 1. For the purpose of the application of the present Agreement, Brazilian and Chilean shipowners shall form an Agreement on Rates and Services.

2. The said Agreement shall deal with the various aspects of Brazilian-Chilean maritime transport and shall provide for continuous contacts with interested commercial sectors and the competent authorities in both countries.

3. The Contracting Parties shall, if it should prove desirable to do so, promote the establishment of a Freight Conference comprising the shipowners of both coun-

tries who are authorized by the competent maritime authorities to engage in the traffic covered by the present Agreement.

*Article VII.* The Contracting Parties shall promote the establishment of one or more Full Money Pools comprising the shipowners of both countries.

*Article VIII.* 1. Goods consigned from Brazilian to Chilean ports and vice versa may be carried only by shipowners authorized by their respective Governments to engage in such traffic.

2. Shipowners of LAFTA countries who have been authorized in accordance with the provisions of article I, paragraph 4, shall not be members of the Agreement on Rates and Services. The ceding Brazilian or Chilean shipowner shall assume responsibility with respect to the said Agreement for any failure to comply with the provisions of the present Agreement, with any other supplementary provisions which may be laid down in the Regulations governing the implementation of the present Agreement, the Regulations governing the implementation of the Agreement on Rates and Services and the Full Money Pool agreements, or with any other provisions that may subsequently be established.

*Article IX.* The Agreement on Rates and Services shall be responsible for organizing the maritime traffic covered by the present Agreement in such a way as to ensure maximum efficiency and economy.

*Article X.* 1. The Regulations governing the implementation of the Agreement on Rates and Services shall include provisions to ensure its proper operation. These provisions shall be established in a broad and non-restrictive manner by the authorized shipping companies of both countries and shall be subject to approval by the competent maritime authorities of both Contracting Parties.

2. The freight rate structure shall be based on a comprehensive classification of the cargoes involved in the trade between the two countries in accordance with the rules laid down in the customs nomenclature adopted by both Contracting Parties.

*Article XI.* Where agreement on freight rates and transport conditions is not reached in the Agreement on Rates and Services, they shall be determined by agreement between the competent maritime authorities of the two Contracting Parties.

*Article XII.* The freight rates which may be established shall enter into force only after approval by the competent maritime authorities of the two Contracting Parties.

*Article XIII.* 1. The competent maritime authorities of the Contracting Parties shall decide directly between themselves on the time-limits for approving, formulating objections to or disapproving freight rates and the procedure for consultation in the event that one of the Parties, with the knowledge of the other, enters an objection to or signifies its disapproval of the said rates.

2. The competent maritime authorities of the Contracting Parties shall fix the time-limits for communications with each other concerning approval of, objection to or disapproval of rates and transport conditions, as well as the length of advance notice which must be given to shippers concerning changes in freight rates.

*Article XIV.* In the event of failure to reach a solution in the Agreement on Rates and Services within the specified time-limit regarding objections to or disapproval of rates of transport conditions by the competent maritime authority of one Contracting Party, the said maritime authority shall arrange a meeting with the

competent maritime authority of the other Contracting Party in order to proceed in accordance with the provisions of article XIII of the present Agreement.

*Article XV.* The Contracting Parties shall, within their respective jurisdictions, promote consultations between the sectors concerned when the interests of trade, shippers or carriers are adversely affected by the application of freight rates of transport conditions.

*Article XVI.* 1. In order to enable the competent maritime authorities of each Contracting Party to supervise the services and verify the degree of participation of shipowners and vessels flying its flag in the traffic provided for in the present Agreement, the Agreement on Rates and Services shall transmit each month to the said authorities copies of the schedules of accounts of the Pools and of the itineraries covered during that period by the vessels of authorized shipowners.

2. The authorized shipowners of each of the Contracting Parties shall transmit to the Agreement on Rates and Services copies of the bills of lading and corrections thereto, and information relating to itineraries covered by their vessels.

3. The Agreement on Rates and Services shall supply the competent maritime authority with such information as the latter may request of it in connexion with its activities.

*Article XVII.* The Contracting Parties undertake to facilitate on a reciprocal basis the smooth and prompt liquidation and transfer of the sums resulting from the payment of freight charges to the Brazilian and Chilean shipowners authorized to participate in the traffic covered by this Agreement, in accordance with the provisions governing reciprocal payments between the two Parties.

*Article XVIII.* The Contracting Parties undertake to adopt, within their respective jurisdictions, the necessary measures to expedite the operations of vessels.

*Article XIX.* For the purpose of implementing the provisions of article I of the present Agreement, the competent authorities of the Contracting Parties shall take the necessary measures to ensure that documents in respect of cargoes shipped in the context of the trade between the two countries bear a stamp indicating that shipment must be made in vessels flying the flag of one of the signatories to the Agreement.

*Article XX.* 1. Vessels flying the Brazilian or Chilean flag, which carry cargo between the two countries, shall be entitled in either country to the same treatment as that received by vessels flying the national flag, which are engaged in the same traffic, without prejudice to the sovereign rights of each country to impose restrictions in respect of certain areas for reasons of national security.

2. The provisions of paragraph 1 of this article shall not affect the payment of lighthouse and beacon fees or the obligation of foreign merchant ships to use pilotage services in the national waters of each country, in accordance with the domestic regulations of each Contracting Party.

*Article XXI.* 1. None of the provisions of the present Agreement shall be interpreted as restricting the right of either country to regulate its domestic coastal shipping or shipping to and from third countries.

2. Similarly, none of the said provisions shall be interpreted as restricting the right of each country to facilitate in any manner the domestic coastal shipping services provided by its vessels.

3. For the purposes of the present Agreement, trade and domestic coastal shipping shall mean water transport services between ports or geographical points within the same country in accordance with its legislation.

*Article XXII.* The application of the provisions of this Agreement shall not result in discrimination with regard to cargoes, unjustified refusal of shipments, excessive freight rates, delays in shipment, the granting of rebates or the adoption of other practices involving unfair competition which might adversely affect the participation of vessels flying the flag of either Contracting Party.

*Article XXIII.* 1. The Contracting Parties undertake to require the Agreement on Rates and Services envisaged in article VI to adopt a uniform system of statistics showing the true and balanced share of vessels flying the flags of both countries in the traffic covered by the present Agreement.

2. The competent maritime authorities shall exchange full information relating to cargoes carried in the conditions referred to in article IV of the present Agreement.

*Article XXIV.* The competent maritime authorities shall exchange information with a view to achieving maximum efficiency in maritime transport between the Contracting Parties.

*Article XXV.* 1. For the purposes of this Agreement, the competent maritime authorities shall be, for the Federative Republic of Brazil, the National Department of the Merchant Marine (SUNAMAM), Ministry of Transport, and, for the Republic of Chile, the Department of Maritime and Inland Water Transport of the Under-Secretariat of Transport, Ministry of Public Works and Transport.

2. If, as a result of any change in the legislation of either Contracting Party, the competence of either maritime authority referred to in paragraph 1 of this article is modified, the other Contracting Party shall be notified of the designation of the new authority by means of a diplomatic note.

*Article XXVI.* 1. Either Contracting Party may request meetings for consultation between the competent maritime authorities concerning the provisions and the application of the present Agreement. The consultations 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, unless otherwise agreed. Requests for consultations shall be made through the normal diplomatic channel.

2. The competent maritime authorities may also communicate with each other directly, either by correspondence or through representatives, for the purposes of dealing with matters which are not of such importance as to require formal consultations and considering the conditions and results of the application of the present Agreement and seeking to improve them.

3. At the end of the first year in which the present Agreement is in force, the Contracting Parties shall meet to consider and adopt, in the light of the experience acquired during that period, such changes or adjustments as may be necessary.

*Article XXVII.* 1. The Brazilian and Chilean maritime authorities referred to in article XXV shall be responsible for drawing up regulations for the prompt implementation of the present Agreement, subject to the approval, where required, of other competent authorities in either country in respect of matters for which they are directly responsible.

2. The regulations referred to in paragraph 1 of this article shall deal primarily with the establishment of procedures for the operation of the Agreement, the fixing, extension or reduction of periods of time required for improving the application of the provisions of the Agreement and, in general, any matter relating to its proper application.

*Article XXVIII.* 1. The present Agreement and the regulations pertaining thereto may be revised or amended, as necessary, by agreement between the Contracting Parties.

2. The commitments undertaken by virtue of the present Agreement shall be modified as appropriate if both Contracting Parties ratify the LAFTA treaty on water transport and that treaty enters into force.

*Article XXIX.* The present Agreement shall enter into force 90 days after the exchange of instruments of ratification by the Contracting Parties 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 one hundred and twenty days' notice, of its desire to denounce it.

#### TRANSITIONAL PROVISIONS

1. During the period between the signing of the present Agreement and the date on which the Agreement on Rates and Services becomes operational, the authorized shipowners of both countries shall make arrangements, subject to the approval of the competent maritime authorities, to ensure regularity of frequency and of services sufficient to meet the requirements of trade.

2. Within 20 days of the entry into force of the present Agreement, in accordance with the provisions of article XXIX, the shipowners authorized to participate in the Agreement on Rates and Services shall meet for the purpose of drawing up the regulations governing its implementation, applicable to traffic in both directions, and the Full Money Pool Agreements.

3. Within 40 days of the date of the entry into force of the present Agreement, in accordance with the provisions of article XXIX, the shipowners shall submit the said Regulations, the freight rates and the Full Money Pool Agreements for the approval of the competent maritime authorities of both countries.

4. Within 60 days of the date of the entry into force of this Agreement, in accordance with the provisions of article XXIX, the competent maritime authorities of the Contracting Parties shall meet in order to give effect to the provisions of article XXVII.

5. The Agreement on Rates and Services shall commence operations immediately following approval of its Regulations by the competent maritime authorities of the Contracting Parties.

DONE in two original versions in the Portuguese and Spanish languages, both texts being equally authentic, at Brasília on 25 April 1974.

For the Government  
of the Federative Republic  
of Brazil:

ANTONIO FRANCISCO AZEREDO  
DA SILVEIRA

For the Government  
of the Republic of Chile:

HERNÁN CUBILLOS