

**No. 14143**

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**BRAZIL  
and  
PERU**

**Agreement on maritime transports. Signed at Lima on  
12 April 1973**

*Authentic texts: Portuguese and Spanish.*

*Registered by Brazil on 8 August 1975.*

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**BRÉSIL  
et  
PÉROU**

**Accord sur les transports maritimes. Signé à Lima le 12 avril  
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*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 PERU ON MARITIME TRANSPORTS

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

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

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 considered 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, which should be complemented by parallel action by the port authorities, a similar attitude on the part of the stevedore organizations of both countries being recommended,

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 Peruvian 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 the principle of the apportionment between Brazilian and Peruvian vessels of cargoes shipped in the context of their reciprocal trade was expressly laid down by both Governments in the third paragraph of article IV of the Final Act of the first meeting of the Joint Brazilian-Peruvian Commission on Economic and Technical Co-operation, signed at Lima on 25 August 1971,

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 Peruvian 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.

<sup>1</sup> Came into force on 11 November 1974, i.e., 90 days after the date of the last of the diplomatic notifications by which the Contracting Parties had informed each other of its ratification, in accordance with article XXXI.

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 Contracting Party, irrespective of the division into equal shares provided for in paragraph 2.

4. A Contracting Party may, subject to prior notification of the competent maritime authority of the other Contracting Party, authorize its shipowners to cede part of their 50 (fifty) per cent share to shipowners from countries members of LAFTA (Latin American Free Trade Association), in return for reciprocal treatment with regard to other traffic. Such a cession shall not affect the responsibilities of the Contracting Parties under this Agreement.

5. The present Agreement shall not apply to bulk shipments of petroleum and its derivatives or to bulk shipments of ore.

*Article II.* 1. Vessels shall be considered as flying the Brazilian or the Peruvian 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 Peruvian or the Brazilian flag.

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 concerned, 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 cases 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 four days for the shipment of perishable or easily spoilable goods and eighteen 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 Peruvian 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 Peruvian shipowners shall form an Agreement on Rates and Services.

2. The said Agreement shall deal with the various aspects of Brazilian-Peruvian 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 countries 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 Peruvian 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 Peruvian shipowner shall assume responsibility with respect to the said Agreement for any failure to comply with the provisions of the present Agreement and with any other supplementary provisions which may subsequently be laid down, including those set out in the Regulations governing the implementation of the present Agreement, in the Regulations governing the implementation of the Agreement on Rates and Services and in the full money pool agreements.

*Article IX.* During the period between the signing of the present Agreement and the date on which the Agreement on Rates and Services enters into force, arrangements shall be made by the shipowners of both countries to ensure regularity of frequency and of services sufficient to meet the requirements of trade.

*Article X.* 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 XI.* 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.

2. The freight rate structure shall be based on a comprehensive system of 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 XII.* 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 XIII.* 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 XIV.* 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 new increases in freight rates.

*Article XV.* In the event of failure to reach a solution in the Agreement on Rates and Service, within the specified time-limits, regarding objections to or disapproval of rates or 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 XIV of the present Agreement.

*Article XVI.* 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 or transport conditions.

*Article XVII.* 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 the 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 may be requested of it in connexion with its activities.

*Article XVIII.* The Contracting Parties undertake to facilitate the smooth and prompt liquidation and transfer of the sums resulting from the payment of freight charges to the participating shipowners in accordance with the provisions in force governing reciprocal payments between the two countries.

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

*Article XX.* 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 XXI.* Vessels flying the Brazilian or Peruvian 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.

*Article XXII.* 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 XXIII.* 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 or the granting of rebates which might adversely affect the participation of vessels flying the flag of either Contracting Party.

*Article XXIV.* 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 this Agreement.

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

*Article XXVI.* 1. For the purposes of the present Agreement, the competent maritime authorities shall be, for the Federative Republic of Brazil, the National Department of the Merchant Marine (SUNAMAM) of the Ministry of Transport, and, for the Republic of Peru, the General Directorate of Water Transport of the Ministry of Transport and Communications.

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

*Article XXVII.* 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.

2. Requests for consultations in accordance with the provisions of paragraph 1 of this article shall be made through the normal diplomatic channels. 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 XXVIII.* The Brazilian and Peruvian maritime authorities referred to in article XXVI shall draw up the Regulations for the prompt implementation of the present Agreement. The Regulations 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 XXIX.* The present Agreement shall not apply to the transport of goods by river, which may be dealt with in a specific agreement, should the parties so decide.

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

*Article XXXI.* The present Agreement shall enter into force ninety days after the date of the last notification, through the diplomatic channel, of its ratification by each of 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 ninety days' notice, of its desire to denounce it.

#### TRANSITIONAL PROVISIONS

1. Within thirty days from the date of the last notification of ratification, in accordance with the provisions of article XXXI, 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.

2. Within forty days of the date of the last notification of ratification, in accordance with the provisions of article XXXI, 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.

3. Within sixty days of the date of the last notification of ratification, in accordance with the provisions of article XXXI, the competent maritime authorities of the Contracting Parties shall meet in order to give effect to the provisions of article XXVIII.

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

IN WITNESS WHEREOF the plenipotentiaries, duly designated, have signed this Agreement, in four originals, in the Portuguese and Spanish languages, both texts being equally authentic, in the city of Lima on the twelfth day of April nineteen hundred and seventy-three.

For the Government  
of the Federative Republic of Brazil:  
MANUEL ANTONIO MARÍA  
DE PIMENTEL BRANDÃO  
Ambassador of the Federative Republic  
of Brazil to Peru

For the Government  
of the Republic of Peru:  
LUIS MARCHAND STENS  
Ambassador, Under-Secretary  
for Economic Affairs and Integration  
Ministry for Foreign Affairs