

**No. 14609**

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**BRAZIL  
and  
MEXICO**

**Agreement on maritime transport. Signed at Brasília on  
24 July 1974**

*Authentic texts: Portuguese and Spanish.  
Registered by Brazil on 27 February 1976.*

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**BRÉSIL  
et  
MEXIQUE**

**Accord sur les transports maritimes. Signé à Brasília le  
24 juillet 1974**

*Textes authentiques : portugais et espagnol.  
Enregistré par le Brésil le 27 février 1976.*

[TRANSLATION — TRADUCTION]

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

The Government of the Federative Republic of Brazil and the Government of the United Mexican States;

Considering the desirability of developing trade between the Federative Republic of Brazil and the United Mexican States;

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;

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 the two countries have a priority right to transport cargoes shipped in the context of their reciprocal trade;

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

Considering it 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 the Mexican flag.

2. Transport shall be effected in such a way that the total freight charges carried, in both directions, are divided equally between the flags of the two Contracting Parties.

3. If one of the Contracting Parties is unable at any time to effect transport in accordance with paragraph 2 of this article, the transport in question shall, where possible, be effected in vessels of the other Contracting Party and shall be counted as part of the 50% (fifty per cent) share of the ceding Party.

<sup>1</sup> Came into force on 29 October 1975, i.e., 90 days after the date of the exchange of the instruments of ratification, which took place at Brasília on 31 July 1975, in accordance with article XXX.

4. Each Contracting Party shall, subject to prior notification of the competent maritime authority of the other Contracting Party, authorize its shipowners to cede 10% (ten per cent) of its 50% (fifty per cent) share to shipowners of third countries, giving preference to shipowners of States members of LAFTA.<sup>1</sup> In the meantime, each Contracting Party recognizes the right of the other Party to dispose of its share in accordance with its interests. Such cession shall not affect the responsibilities of the Contracting Parties under this Agreement.

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

*Article II.* In order to give effect to the provisions of article I, paragraph 2, the national shipping companies of both Contracting Parties in which the State holds an interest shall conduct discussions with a view to reaching an agreement for the joint provision of services in conditions of equality; the said agreement, when approved by the competent authorities of both Parties, shall serve as an interim arrangement pending the entry into force of the present Agreement, so that transport services between Brazilian and Mexican ports may be established as soon as possible.

*Article III.* 1. Vessels shall be considered as flying the Brazilian or the Mexican 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 States 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 Mexican flag. This treatment shall not be extended 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 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 the commercial traffic between the two countries.

*Article IV.* The application of the present Agreement shall not entail any discrimination with regard to cargo and shall not cause delays of more than 5 days for the shipment of perishable or easily spoiled goods and 20 days for other cargoes.

<sup>1</sup> Latin American Free Trade Association.

*Article V.* Shipment in vessels flying the flag of a third State may be authorized when no space is available in vessels flying the Brazilian or the Mexican flag within the time-limits established in article IV 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 VI.* 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 VII.* 1. For the purpose of implementing the present Agreement, Brazilian and Mexican shipowners shall form an Agreement on rates and services.

2. The said Agreement shall deal with the various aspects of Brazilian-Mexican maritime transport and shall maintain 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 VIII.* The Contracting Parties shall promote the establishment of one or more full money pools comprising the shipowners of both countries.

*Article IX.* 1. The transport of cargoes shipped from Brazilian to Mexican ports and vice versa shall be effected only by shipowners authorized by the respective competent maritime authorities to engage in such traffic.

2. Shipowners of States members of LAFTA 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 Mexican 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 supplementary rules which may be laid down in the regulations governing the implementation of the present Agreement, in the regulations of the Agreement on rates and services and in the full money pool agreements, and such other rules as may subsequently be established.

*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 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, subject to approval by the competent maritime authorities of both Contracting Parties.

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 to be adopted by both Contracting Parties.

*Article XII.* If 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.* Any 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 changes in freight rates.

*Article XV.* In the event of failure to reach a solution in the Agreement on rates and services, within the specified time-limit, regarding objection 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.* When the interests of trade, of shippers or of carriers are adversely affected by the application of freight rates or transport conditions, the Contracting Parties shall, within their respective jurisdictions, promote consultations between the sectors concerned.

*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 manifests and corrections thereto and information relating to the 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, 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 Mexican shipowners authorized to participate in the traffic covered by the present Agreement, 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 each Contracting Party 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.* 1. Vessels flying the Brazilian or the Mexican flag which carry cargo between the two countries shall be entitled in each 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 requirement that foreign merchant ships must use pilotage services within the national waters of each country, in accordance with the domestic laws and regulations of each Contracting Party.

*Article XXII.* 1. Nothing in the present Agreement shall be interpreted as restricting the right of each country to regulate its domestic coastal shipping or shipping to and from third countries.

2. Similarly, nothing herein 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, domestic coastal trade and shipping means 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 the present 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 measures constituting unfair competitive practices which might adversely affect the participation of vessels flying the flag of either Contracting Party.

*Article XXIV.* 1. The Contracting Parties undertake to require the Agreement on rates and services envisaged in article VII to adopt a uniform system of statistics showing the time and balanced share in the traffic covered by the present Agreement of vessels flying the flags of both countries.

2. The competent maritime authorities shall exchange the fullest information concerning cargoes carried under the conditions laid down in article V of the present 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, in the Federative Republic of Brazil,

the National Department of the Merchant Marine (SUNAMAM) of the Ministry of Transport, and, in the United Mexican States, the General Directorate of the Merchant Marine of the Ministry of Marine.

2. If, as a result of any change in the legislation of either Contracting Party, the competence of the 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 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 meetings must begin within 90 days of the date of notification of the request and shall be held in the territory of the country to which the request was made, unless otherwise agreed. Requests for consultation shall be made through the normal diplomatic channels.

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 consultation 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.* 1. The Brazilian and Mexican maritime authorities referred to in article XXVI shall be responsible for drawing up the regulations for the prompt application of the present Agreement, subject to the approval, where required, of other competent authorities of 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 implementation of the provisions of the Agreement and, in general, any matter relating to its proper implementation.

*Article XXIX.* 1. The present Agreement and the regulations pertaining thereto may be revised or amended, as necessary, by agreement between the Contracting Parties. Any amendments shall be approved through an exchange of diplomatic notes.

2. The commitments assumed by both Contracting Parties under the present Agreement may be revised or amended, should it become necessary to do so or should both Contracting Parties deem it more desirable to have a new arrangement or instrument governing water transport which is applicable multilaterally or regionally with other States members of LAFTA.

*Article XXX.* The present Agreement shall enter into force 90 days after the exchange of the instruments of ratification of the Contracting Parties and shall remain in force for a period of 5 years and be automatically renewable for the same period, unless one of the Contracting Parties informs the other at any time, on at least 120 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 the two countries shall make arrangements, subject to the approval of the competent maritime authorities, to ensure regularity of frequency and services sufficient to meet the requirements of trade.

2. Within 20 days of the date of entry into force of the present Agreement in accordance with the provisions of article XXX, the shipowners authorized to participate in the Agreement on rates and services shall meet for the purpose of drawing up its regulations, applicable to traffic in both directions, and the full money pool agreements.

3. Within 40 days of the date of entry into force of the present Agreement in accordance with the provisions of article XXX, 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 entry into force of the present Agreement in accordance with the provisions of article XXX, the competent maritime authorities of the Contracting Parties shall meet in order to give effect to the provisions of article XXVIII.

5. The Agreement on rates and services shall commence operations immediately following approval of its regulations by the competent maritime authorities of both Contracting Parties.

DONE in the city of Brasília on 24 July 1974, in two originals in the Portuguese and Spanish languages, both texts being equally authentic.

For the Government  
of the Federative Republic  
of Brazil:

ANTONIO F. AZEREDO DA SILVEIRA

For the Government  
of the United Mexican States:

EMILIO O. RABASA