

No. 19261

**BRAZIL
and
CHINA**

**Agreement on maritime transport. Signed at Brasília on
22 May 1979**

Authentic texts: Portuguese and Chinese.

Registered by Brazil on 11 November 1980.

**BRÉSIL
et
CHINE**

**Accord relatif au transport maritime. Signé à Brasília le
22 mai 1979**

Textes authentiques: portugais et chinois.

Enregistré par le Brésil le 11 novembre 1980.

[TRANSLATION—TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA ON MARITIME TRANSPORT

The Government of the Federative Republic of Brazil and the Government of the People's Republic of China,

Desiring to develop the friendly relations existing between the two countries, and

For the purpose of promoting closer economic relations and greater co-operation in maritime transport, in accordance with the principles of equality and mutual benefit,

Have agreed as follows:

Article I. 1. Merchant vessels flying the flag of the Federative Republic of Brazil or the flag of the People's Republic of China may ply between the ports of the Contracting Parties open to foreign trade and engage in transport services for cargo and passengers between the two countries, in conformity with the provisions of this Agreement.

2. With the consent of the competent authorities of both Contracting Parties, merchant vessels flying the flag of third countries and operated by shipping enterprises of either of the Contracting Parties may, during the term of the charter, participate in the transport specified in this Agreement.

Article II. For the purposes of this Agreement, the merchant vessels referred to in article I shall not include:

- (a) Warships;
- (b) Other vessels for the exclusive use of the armed forces;
- (c) Vessels used for research (hydrographic, oceanographic and scientific); and
- (d) Fishing boats.

Article III. 1. In the maritime transport of freight carried in trade between the Contracting Parties, preferential treatment shall be accorded to merchant vessels operated by shipping enterprises of the Contracting Parties.

2. Such preferential treatment shall be applied in such a way that it does not result in higher freight rates or cause delay in the transport of goods and therefore does not affect trade between the two countries.

Article IV. 1. Each Contracting Party shall accord to vessels of the other Contracting Party, in its ports and territorial waters, most-favoured-nation treatment in respect of access to ports, use of ports for loading and unloading, embarkation and disembarkation of passengers, payment of charges, port and

¹ Came into force on 30 October 1980, i.e., 30 days after the date of the last of the notifications (effected on 16 July and 30 September 1980) by which the Parties informed each other of the completion of the domestic legal formalities, in accordance with article XV (1).

other dues, the use of services connected with navigation and the normal commercial operations deriving therefrom, without prejudice to the sovereign rights of each country to delimit certain zones for reasons of national security.

2. The provisions of paragraph 1 of this article shall not apply to:

- (a) Ports not open to foreign vessels;
- (b) Activities which, under the legislation of each country, are reserved for its own enterprises, companies and citizens, including in particular coastal shipping, salvaging, towing and other port services. Voyages of merchant vessels flying the flag of either Contracting Party and plying between ports of the other Contracting Party for the purpose of unloading cargo or disembarking passengers coming from abroad, or of taking on passengers or cargo destined for any other State, shall not be deemed to be cabotage;
- (c) Regulations governing mandatory pilotage for foreign vessels; and
- (d) Regulations concerning the entry into and stay of foreign nationals in the territory of the Contracting Parties.

Article V. 1. The nationality of merchant vessels flying the flag of either Contracting Party shall be acknowledged by the other Contracting Party on the basis of the papers on board the vessel which have been duly issued by the competent authorities of the country whose flag the vessel is flying.

2. Each Contracting Party shall likewise acknowledge all the other documents of the vessel which have been duly issued by the competent authorities of the other Contracting Party in conformity with its relevant laws and regulations.

3. Vessels of either Contracting Party, in possession of duly issued tonnage certificates, shall not be subject to remeasurement in the ports of the other Party.

Article VI. 1. Each Contracting Party shall acknowledge the documents of crew members of the merchant vessels flying the flag of the other Contracting Party which have been issued by the competent authorities of the latter Contracting Party.

2. The document issued by the Federative Republic of Brazil shall be the "*Caderneta de Inscriçao e Registro*", and the document issued by the People's Republic of China shall be the seaman's book.

3. Should either of the Contracting Parties issue new documents to replace those referred to in the preceding paragraph, it shall so inform the other Contracting Party through the relevant authorities.

Article VII. 1. Crew members holding the seaman's identity document specified in article VI shall have the right to disembark in ports of the other Contracting Party and to stay in the town where the port is situated while their vessel is in that port. The disembarkation and stay of crew members in the urban area of the port of the other Contracting Party and their rejoining the vessel shall be governed by the regulations in force in the respective country.

2. The holder of a seaman's identity document, as described in article VI of this Agreement, may, with the approval of the competent authorities of the other Contracting Party, move, as a passenger on any means of transport, from one place to another within the territory of the other Contracting Party or pass through such territory in order to join his vessel, change vessels or return to his country, or

for whatever other reason may be deemed justifiable by the competent authorities of the other Contracting Party. The said approval shall be granted by the competent authorities as quickly as possible and for such period of validity as they may determine.

3. Where crew members of vessels of either Contracting Party require medical assistance in the territory of the other Contracting Party, the competent authorities of the latter Contracting Party shall grant permission for such persons to remain in their territory for the necessary period.

4. The Contracting Parties shall grant the master and other crew members of the merchant vessel of the other Contracting Party the necessary facilities for conferring with the diplomatic and consular representatives of their country.

Article VIII. 1. Should a vessel of either Contracting Party be shipwrecked or stranded, run aground or suffer any other accident off the coast of the other Contracting Party, the vessel, its master, crew, passengers and cargo shall enjoy, in the territory of the latter Party, the same help, protection and assistance which that Contracting Party grants in similar situations to the merchant vessels of most-favoured nations. No provision of this article shall affect any claim for salvage in respect of any help or assistance given to the vessel, its passengers, crew or cargo.

2. The cargo, equipment, fittings, stores and other articles salvaged from a vessel which has suffered an accident, shall be exempt from customs duties, taxes and other import dues of any kind, provided that they are not intended for use or consumption in the territory of the other Contracting Party.

3. The other Contracting Party shall be informed as quickly as possible of the shipwreck, stranding or other distress specified in paragraph 1 of the present article.

Article IX. The Contracting Parties shall adopt, within the purview of their legislation and port regulations, all necessary measures for facilitating and increasing maritime transport, for sparing vessels unnecessary delay, and for expediting and simplifying as much as possible the execution of customs and other formalities required in ports.

Article X. The competent shipping authorities shall exchange the fullest possible information with a view to achieving maximum efficiency in maritime transport between the Contracting Parties.

Article XI. 1. In accordance with the principle of reciprocity, each Contracting Party undertakes to exempt the shipping enterprises of the other Contracting Party from payment of taxes of any kind on earnings derived from the transport of passengers and cargo by the merchant vessels operated by the said shipping enterprises, including vessels flying the flag of a third party, which have been chartered by them.

2. With regard to the exemption from payment of the taxes specified in the paragraph above, vessels flying the flag of third countries and chartered by the shipping enterprises of one of the Contracting Parties shall carry the appropriate documents issued by the competent shipping authorities.

Article XII. 1. For the purposes of this Agreement, the competent shipping authority shall be, in the Federative Republic of Brazil, the National

Department of the Merchant Marine (SUNAMAM) of the Ministry of Transport and, in the People's Republic of China, the Ministry of Transport.

2. If, as a result of amendments to the legislation of either Contracting Party, the shipping authority referred to in paragraph 1 of this article is changed, the other Contracting Party shall be notified by diplomatic note of the new authority.

Article XIII. The Contracting Parties undertake to facilitate, on the basis of reciprocity, the prompt settlement and transfer of monies deriving from the payment of freight charges to the shipping enterprises of the Contracting Parties, authorized to participate in the transport activities covered by this Agreement, in accordance with the provisions governing payment transfers between the Parties and in a mutually agreed convertible currency.

Article XIV. 1. At the end of the first year in which this Agreement is in force, the Contracting Parties shall meet to exchange opinions on its implementation.

2. In order to promote co-operation in maritime transport between the two Contracting Parties and to solve any problems that may arise from the implementation of this Agreement, the competent authorities of the two Contracting Parties shall designate representatives to meet at mutually agreed times and places.

Article XV. 1. This Agreement shall enter into force thirty (30) days after the date of the last notification by one of the Contracting Parties that its domestic legal procedures have been completed.

2. If either Contracting Party wishes to denounce this Agreement, it shall so notify the other Contracting Party in writing. The Agreement shall cease to have effect six (6) months after the date of such notification.

DONE at Brasília on 22 May 1979, in duplicate, in the Portuguese and Chinese languages, both texts being equally authentic.

For the Government
of the Federative Republic of Brazil:

[Signed]

RAMIRO SARAIVA GUERREIRO

For the Government
of the People's Republic of China:

[Signed]

KANG SHIEN