

No. 19193

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**BRAZIL
and
PORTUGAL**

**Agreement on maritime transport and navigation. Signed at
Brasília on 23 May 1978**

Authentic text: Portuguese.

Registered by Brazil on 30 October 1980.

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**BRÉSIL
et
PORTUGAL**

**Accord relatif aux transports et à la navigation maritimes.
Signé à Brasília le 23 mai 1978**

Texte authentique : portugais.

Enregistré par le Brésil le 30 octobre 1980.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL AND THE GOVERNMENT OF THE PORTUGUESE REPUBLIC ON MARITIME TRANSPORT AND NAVIGATION

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

Considering the interest of both Governments in harmoniously promoting trade between the Federative Republic of Brazil and the Portuguese Republic,

Desiring to develop their respective merchant marines,

Recognizing the need to ensure efficient and regular maritime transport services and to enhance co-operation between the two countries in this connection,

Have agreed as follows:

Article I. 1. The Contracting Parties shall have the right to equal participation in the maritime transport of goods between the ports of the two countries, especially in transport deriving from their own trade.

2. This Agreement shall not apply to bulk shipments of ores and of petroleum and its combustible by-products.

3. Under this Agreement, any legislation in force in either of the two countries which prescribes, or otherwise encourages, transport in vessels of one of the Contracting Parties shall be applied, on the same terms, when the transport is effected by vessels of the other Contracting Party.

Article II. 1. The Contracting Parties undertake to establish equitable charges for freight and procedures which shall guarantee internationally competitive freight rates.

2. The Contracting Parties also undertake to refrain from discriminatory practices in respect of shipments and to avoid delay in loading goods beyond the time limit jointly established by the competent shipping authorities of the two countries.

Article III. The competent maritime authorities of the Contracting Parties shall designate the shipowners who are to participate in maritime transport between the two countries, and shall exchange the lists of such shipowners.

Article IV. 1. For the purposes of this Agreement, vessels shall be considered as flying the Brazilian or Portuguese flag if they are registered in the territory of either Contracting Party in accordance with that Party's legislation, with the exception of the following:

(a) Warships and other vessels for the exclusive use of the armed forces;

¹ Came into force on 23 September 1980, i.e., 90 days after the date of an exchange of diplomatic notes by which the Contracting Parties informed each other of the completion of the required constitutional procedures, in accordance with article XV (1).

- (b) Vessels used for research (hydrographic, oceanographic and scientific);
- (c) Fishing boats.

2. Vessels hired by shipowners of the Contracting Parties shall also be considered, to the extent that the respective charter provides, as merchant vessels flying the Brazilian or Portuguese flag.

3. The competent maritime authorities shall notify each other whenever vessels are chartered for use in maritime traffic between the two countries.

Article V. 1. Each Contracting Party shall afford to the vessels of the other Contracting Party and to the members of their crews, in its ports, the same treatment as it affords to its own vessels and crews in respect of free access to ports, embarking and disembarking passengers, loading and discharging goods, and the use of services connected with navigation and commercial operations.

2. The provisions in paragraph 1 of this article shall not oblige a Contracting Party to extend to the vessels of the other Contracting Party the exemptions from the regulations governing mandatory pilotage which it has granted to its own vessels, and shall also not apply to:

- (a) Ports not open to entry for foreign vessels;
- (b) Activities reserved by each Contracting Party for its own public authorities or enterprises, including commercial traffic between the ports of each country;
- (c) Situations governed by provisions concerning the entry and stay of foreign nationals.

Article VI. The Contracting Parties shall take the necessary measures to shorten the length of stay of vessels in ports and to simplify, so far as possible, the administrative, customs and health formalities in force.

Article VII. 1. Nationality, tonnage and other ship papers issued and recognized by one of the Contracting Parties shall also be recognized by the competent maritime authorities of the other Contracting Party.

2. Shipping charges and taxes shall be calculated on the basis of tonnage certificates without the need for remeasurement.

Article VIII. 1. Each of the Contracting Parties shall recognize the identity documents of the members of crews, provided that they are issued by the competent authorities of the other Contracting Party.

2. The identity documents referred to in paragraph 1 of this article shall be:
- For the Federative Republic of Brazil, the “*Caderneta de Inscrição e Registro da Directoria dos Portos e Costas do Ministério da Marinha*”;
 - For the Portuguese Republic, the “*Cédula Marítima*”.

3. The term “crew member of a ship” means any person actually employed for duties on board during a voyage in the working or service of a ship and included in the crew list.

Article IX. 1. If a vessel belonging to one Contracting Party is wrecked, runs aground or is otherwise damaged or in distress along the coast of the other Party, the vessel and its cargo shall have the same rights and the same responsibilities as those attaching, in similar circumstances, to a vessel of the latter Party and its cargo.

2. Where any of the situations referred to in paragraph 1 of this article occurs, the Contracting Parties shall provide the master, crew and passengers and the vessel itself and its cargo with all necessary aid and assistance as if it were a vessel belonging to either Contracting Party.

3. No provision in this Agreement shall adversely affect any fees paid for salvage, aid or assistance rendered to a vessel, its master, crew, passengers and cargo.

4. The cargo or materials on board a vessel which is wrecked, runs aground or is otherwise damaged or in distress shall be exempt from customs and import duties and taxes, unless they are delivered for use or consumption or for a transaction in the territory of the other Contracting Party.

5. The provisions of this article shall not preclude application of the laws and regulations in force in each of the Contracting Parties concerning the temporary storage of goods.

Article X. 1. The shipowners to be designated in accordance with article III of this Agreement shall be responsible for organizing the traffic between the two countries, for which purpose they shall draw up agreements on rates and services in respect of the distribution of cargo and apportionment of freight.

2. The agreements referred to in the foregoing paragraph, general transport conditions and freight rates to be agreed upon by the shipowners of the two countries shall be submitted to the competent maritime authorities for their approval; the same procedure shall apply to checking any amendments or revisions thereof; and the said authorities shall take their decisions within not more than 60 (sixty) days, counted from the date on which the respective approval was requested.

Article XI. Any differences that may arise between shipowners of the Contracting Parties shall be submitted to the competent maritime authorities for consideration with a view to their settlement.

Article XII. The Contracting Parties shall take the necessary action to ensure the prompt liquidation and transfer of sums resulting from the payment of freight charges to the shipowners of the two countries who have been designated to participate in the traffic.

Article XIII. 1. For the purpose of implementing this Agreement, a Joint Commission shall be established, to meet once a year alternately in Brazil and Portugal on the agreed date or, in exceptional circumstances, at the request of one of the Contracting Parties.

2. The membership of the Commission referred to in paragraph 1 shall be determined by the competent maritime authorities of the two Contracting Parties.

Article XIV. For the purposes of this Agreement, the Contracting Parties designate as the competent maritime authorities:

—For the Federative Republic of Brazil, the Superintendência Nacional da Marinha Mercante (SUNAMAM) do Ministério dos Transportes;

—For the Portuguese Republic, the Direcção-Geral da Marinha de Comércio (DGMC) da Secretaria de Estado da Marinha Mercante.

Article XV. 1. This Agreement shall enter into force 90 (ninety) days after the exchange of diplomatic notes in which the Contracting Parties notify that the constitutional formalities concerning its adoption have been completed.

2. The authorized shipowners of both Contracting Parties, designated in accordance with article III, shall submit to the competent maritime authorities, within 30 days after exchange of the diplomatic notes referred to in the foregoing paragraph, the documentation necessary for compliance with article X of this Agreement.

3. This Agreement may be amended by mutual agreement of the Contracting Parties. Amendments shall be adopted by an exchange of diplomatic notes and shall enter into force 30 days after the said exchange of notes.

4. This Agreement shall remain in force for twelve months from the date on which either Contracting Party may notify the other of its desire to denounce it.

DONE at Brasília, on 23 May 1978, in duplicate, the two texts being equally authentic.

For the Government
of the Federative Republic of Brazil:

[Signed]

ANTONIO F. AZEREDO DA SILVEIRA

For the Government
of the Portuguese Republic:

[Signed]

VICTOR SÁ MACHADO