

No. 22321

BRAZIL
and
PERU

Agreement concerning river transport. Signed on board the Peruvian vessel *Ucayali* moored on the Amazon River at the Brazilian-Peruvian frontier, on 5 November 1976

*Authentic texts: Portuguese and Spanish.
Registered by Brazil on 30 August 1983.*

BRÉSIL
et
PÉROU

Accord relatif aux transports fluviaux. Signé à bord du navire péruvien *Ucayali* à l'ancre sur l'Amazone à la frontière entre le Brésil et le Pérou, le 5 novembre 1976

*Textes authentiques : portugais et espagnol.
Enregistré par le Brésil le 30 août 1983.*

[TRANSLATION — TRADUCTION]

AGREEMENT¹ CONCERNING RIVER TRANSPORT BETWEEN THE
FEDERATIVE REPUBLIC OF BRAZIL AND THE REPUBLIC OF
PERU

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, and of making more rational use of the shipping capacity of both countries;

Recognizing the need to ensure the efficiency and regularity of river transport and to adopt appropriate freight rates;

Bearing in mind the fact that the owners of vessels flying the Brazilian flag and those of vessels flying the Peruvian flag are the carriers directly concerned with the river-borne trade between the two countries; and

Considering that the principle of freight-sharing between river vessels flying the Brazilian flag and those flying the Peruvian flag was laid down by the two Governments in article IV, paragraph 3, of the final act of the first meeting of the Brazilian-Peruvian Joint Commission on Economic and Technical Co-operation, signed in Lima on 25 August 1971,

Have agreed as follows:

Article I. The river 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 Peruvian flag.

For the purposes of this Agreement, the competent authorities of the two Contracting Parties shall in due course issue a list of their respective river ports which are open to international shipping.

Article II. Bulk shipments of petroleum and petroleum derivatives shall be excluded from the scope of the Agreement on Rates and Services provided for in article XII of this Agreement; they shall be dealt with in the contracts concluded by the petroleum companies of the Contracting Parties, in accordance with the principle of reciprocity and having regard to the provisions of articles III and IV of this Agreement.

Article III. The Contracting Parties shall take such steps as are necessary to ensure that the shipment by river of the goods referred to in article I effected equally by Brazilian and Peruvian vessels in both directions. Cargo shall be shared on the basis of the amount of actual freight value, taking account also of tonnage or volume, in such a way that the goods transported are divided fairly.

¹ Came into force on 15 April 1979, i.e., 90 days after the date of the exchange of diplomatic notes (effected on 15 January 1979), in accordance with article XVIII.

Article IV. When no hold space is available, a Contracting Party may, upon giving advance notification to the competent authority of the other Contracting Party, authorize owners of vessels flying its flag to transfer their 50 per cent share to owners of vessels flying the other flag, provided that reciprocity is observed. Such a transfer shall not affect the responsibilities of the Contracting Parties as regards compliance with all the provisions of this Agreement, but shall be independent of the division into equal parts prescribed in article III.

Article V. When it is necessary to charter vessels, the shipowners of each of the Contracting Parties shall 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. For this purpose, a vessel chartered by a Brazilian or a Peruvian shipping company, sailing between the two countries, shall be regarded as flying the flag of the country to which the company belongs, provided that that company is registered with the competent authority and, hence, authorized to engage in traffic between the two countries.

Article VI. The competent authorities of the Contracting Parties shall notify each other when authorization is granted for the chartering of vessels flying the flag of a third country to be used in river traffic between the two countries.

Article VII. Shipment in vessels flying the flag of a third country may be authorized when no space is available in vessels flying the Brazilian or the Peruvian flag within the time-limits laid down in article IX. Such authorization shall be granted by the competent authority of the country of shipment upon the request of the shipper.

Article VIII. Vessels shall be considered to be vessels flying the Brazilian or the Peruvian flag, as the case may be, if they are registered as such in accordance with the legislation in force in each of the Contracting Parties.

Article IX. Implementation of this Agreement shall not entail any discrimination with regard to cargo or cause any shipping delays of more than four days in the case of perishable or easily spoiled goods, or 18 days in the case of other cargoes.

Article X. The preferential arrangement provided for in this Agreement with regard to transport shall be applied in such a way that it does not result in higher freight rates and does not affect trade between the two countries.

Article XI. The competent authorities of each Contracting Party shall designate the shipowners authorized to engage in the traffic referred to in this Agreement and to transport cargo between the two countries.

Article XII. The shipowners designated by the competent authorities of the Contracting Parties to engage in the aforementioned traffic shall draw up an Agreement on Rates and Services together with regulations, designed to be in the best interests of both countries, adopting the most appropriate and advantageous measures consistent with trade requirements in the interests of maximum efficiency and economy, and taking account of the various aspects of such transport.

The Agreement on Rates and Services, together with the regulations, shall be submitted to the competent authorities of the Contracting Parties for their approval.

Article XIII. If no agreement on freight rates and conditions of carriage is reached in the Agreement on Rates and Services, such rates and conditions shall be determined by agreement between the competent authorities of the two Contracting Parties.

Article XIV. Vessels flying the Brazilian or the Peruvian flag engaged in the carriage of goods between the two countries shall be entitled in each country to the same treatment as vessels flying the national flag and engaged in the same river traffic, in respect of fiscal and police regulations and the sovereign rights of each country to restrict certain areas for reasons of national security.

It shall be clearly understood that this Agreement does not cover navigation between ports of the same country or the coasting trade, which shall continue to be governed in each of the two countries by their respective laws.

Article XV. For the purposes of this Agreement, “competent authority” means, in the Federative Republic of Brazil, the National Department of the Merchant Marine (SUNAMAM) of the Ministry of Transport and, in the Republic of Peru, the Department of Shipping of the Ministry of Transport and Communications.

If a change in the legislation of either Contracting Party results in a change in the powers and functions of the competent authority, the other Contracting Party shall be informed of the name of the new authority by means of a diplomatic note.

Article XVI. Either Contracting Party may request meetings for consultation between the competent authorities with regard to the provisions and implementation of this Agreement; such meetings shall begin within ninety (90) days of the date of notification of the request and, unless otherwise agreed, shall be held in the territory of the country to which the request was made.

Article XVII. Requests for consultation pursuant to the preceding article shall be made through the normal diplomatic channels. The competent authorities may also communicate with each other directly, either by correspondence or through representatives, for the purpose of dealing with matters which are not of such importance as to require formal consultation and considering the conditions and results of the operation of this Agreement and seeking to improve them.

Article XVIII. This Agreement shall enter into force ninety (90) days from the final date of notification, through the diplomatic channel, of its ratification by either of the Contracting Parties and shall remain in force for a period of five (5) years; it shall be renewed automatically for the same period, unless one of the Contracting Parties informs the other at any time, with at least ninety (90) days’ notice, of its desire to denounce it.

Article XIX. Within ninety (90) days from the date of the final notification of ratification, referred to in article XVIII, the shipowners of the Contracting Parties authorized to engage in the river traffic covered by this Agreement shall meet to discuss and work out the terms of the Agreement on Rates and Services and of its regulations, which shall be submitted for approval in accordance with article XII.

Following approval of the regulations of the Agreement on Rates and Services, the competent authorities of the two countries shall meet, if they consider it advisable, to expedite implementation of this Agreement.

DONE in duplicate in the Portuguese and Spanish languages, both texts being equally authentic and signed aboard the Peruvian naval vessel *Ucayali*, moored on the Amazon River (Solimões) on the Brazilian-Peruvian frontier, on 5 November 1976.

For the Government
of the Federative Republic of Brazil:

[Signed]

ANTONIO F. AZEREDO DA SILVEIRA

For the Government
of the Republic of Peru:

[Signed]

JOSÉ DE LA PUENTE RADBIL
