

No. 23010

**SPAIN
and
MEXICO**

**Maritime Transport Agreement. Signed at Mexico City on
9 December 1980**

Authentic text: Spanish.

Registered by Spain on 23 July 1984.

**ESPAGNE
et
MEXIQUE**

**Accord relatif aux transports maritimes. Signé à Mexico
le 9 décembre 1980**

Texte authentique : espagnol.

Enregistré par l'Espagne le 23 juillet 1984.

[TRANSLATION — TRADUCTION]

MARITIME TRANSPORT AGREEMENT¹ BETWEEN THE GOVERNMENT
OF SPAIN AND THE GOVERNMENT OF THE UNITED MEXICAN
STATES

The Government of Spain and the Government of the United Mexican States,

Having regard to their common interest in the development of maritime transport between the two countries,

Desiring to further the development of international merchant shipping in accordance with the law of the sea,

Recognizing the importance of ensuring effective and regular maritime transport between the two countries and the desirability of broadening and diversifying the economic relations between them,

Have agreed as follows:

Article I. For the purposes of this Agreement:

1. The term “competent maritime authorities” means, in Spain, the General Directorate of the Merchant Marine of the Ministry of Transport and Communications, and in the United Mexican States, the General Directorate of the Merchant Marine of the Ports and Merchant Marine Department of the Secretariat of Communications and Transport. Should the legislation of either Party change the name or the field of competence of the maritime authorities, the other Party shall be notified through the diplomatic channel.

2. The term “ship of a Contracting Party” means any merchant ship designed for maritime commerce, registered in the shipping register of one of the Parties and flying its flag. The term excludes warships, and all vessels not engaged in the aforementioned activity.

3. The term “crew member” means the captain and any person included in the crew list who is actually employed for duties on board during a voyage in the operation or service of a ship and who is in possession of a document identifying him as such.

Article II. 1. The Parties shall promote the freedom of merchant shipping in every way possible and shall refrain from any action which might be prejudicial to the normal development of international shipping.

2. The Parties shall take the necessary steps to ensure that their ships avoid any action which might jeopardize peace, order or State security, and any other activity not directly related to their mission or transit.

Article III. The Parties shall make every effort, within the limits of their respective legislation, to support and develop co-operation between the competent maritime authorities.

Article IV. 1. In order to facilitate Spanish-Mexican trade, the Parties shall promote the establishment of regular shipping lines between Spanish ports and Mexican ports with the equal participation of Spanish and Mexican tonnage in respect of the quantity of cargo transported and freight costs.

¹ Came into force on 6 June 1984, i.e., 30 days after the date on which the Parties had notified each other (on 7 May 1984) of the completion of the required constitutional procedures, in accordance with article XX (I).

2. The competent maritime authorities of the Parties shall designate the national shipping enterprises authorized to provide these regular line services.

The aforementioned enterprises shall conclude between themselves an agreement on tariffs and other commercial and organizational conditions for providing shipping service between Spanish and Mexican ports; they shall submit them for approval to the competent maritime authorities, in accordance with article VI of this Agreement.

3. The provisions of paragraphs 1 and 2 of this article must not cause needless delays in the handling of cargo in the ports of the Parties. When the designated national shipping enterprises are unable to provide the requisite services, the competent maritime authorities shall authorize the loading of cargoes on board vessels belonging to other shipping enterprises.

4. The provisions of this article shall not affect the legislation of either Party regarding the transport of petroleum and petroleum derivatives and bulk shipments loaded unmarked or unlabelled, which are not entitled to a bill of lading on a regular line.

Article V. The Parties agree:

- (a) To co-operate in eliminating any obstacles which might hamper the development of maritime transport in the ports of the two countries;
- (b) That the shipowners of both Parties shall use the 40-40-20 formula so that, subject to prior notification of the competent maritime authorities, the latter may authorize their shipowners to cede up to 10 per cent of the cargoes carried to shipowners of third countries; the amount of cargo thus ceded shall be counted as part of each Party's quota and each Party shall recognize the right of the other to dispose of its share in accordance with its interests;
- (c) To ensure that service is uninterrupted when the designated enterprise of one of the Parties is unable to provide transport in accordance with this Agreement; the transport in question shall, where possible, be provided by ships of the other Party, and shall be counted as part of the 40 per cent quota of the ceding Party;
- (d) To authorize loading into vessels flying the flag of a third country, subject to application by the shipper to the competent maritime authorities of the country of loading, when it is not possible to load a ship of one of the Parties within six days for perishable goods or easily spoiled goods and fifteen days for other cargoes.

Article VI. The Agreement on tariffs and shipping conditions, mentioned in article IV, paragraph 2, shall take account of the interests of users and shall be subject to approval by the competent maritime authorities of the two Parties.

If no understanding is reached concerning an agreement on tariffs and shipping conditions, the designated enterprises shall bring the problem before the competent maritime authorities for its definitive solution.

The tariffs and any modifications or amendments thereto shall enter into force after approval by the competent maritime authorities of the two Parties.

The freight rate structure shall be based on a comprehensive system of classification of the cargoes involved in trade between the two countries, in accordance with the rules laid down in the customs nomenclature adopted by both Parties.

Article VII. The competent maritime authorities of the Parties shall establish the time-limits for informing each other whether they accept the tariffs and shipping conditions, and the time-limits for notifying users of any change in tariffs or shipping conditions.

Article VIII. If the application of tariffs, freight costs or shipping conditions is prejudicial to the commercial interests of users or carriers, the Parties shall encourage in their respective countries consultations between the Parties concerned.

Article IX. The Parties to the agreement on tariffs and shipping conditions shall make available to the competent maritime authorities of their respective countries, information regarding their activities within the framework of the said agreement.

Article X. 1. In respect of free access to ports, the use of ports for loading and unloading cargoes, the taking on and discharging of passengers, the payment of all kinds of dues and port taxes, and the provision of necessary maritime services, each Party shall afford the same treatment to the ships of the other Party as it affords to its own ships engaged in international transport.

2. The provisions of paragraph 1 of this article:

- (a) Shall not affect the right of the Parties to take measures to ensure national security;
- (b) Shall not apply to activities which each Contracting Party reserves for its organizations or enterprises, with respect to Port servicing, domestic coastal trade and maritime fishing, in accordance with its legislation;
- (c) Shall not oblige either Party to extend to ships of the other Party such exemptions from the rules governing compulsory pilotage as it extends to its own ships;
- (d) Shall not affect the application of regulations concerning the admission and departure of aliens.

Article XI. Each Party shall take the necessary measures to enable the ships flying its flag and operating a service between the ports of both Parties, especially those transporting any dangerous or harmful substances or materials, to prevent and control environmental pollution within the limits of the sovereignty or jurisdiction of the other Party and shall comply, for this purpose, with the pertinent provisions of the international legal instruments accepted by both Parties.

Article XII. The Parties shall, within the limits of their national legislation, take all necessary measures to facilitate maritime transport to prevent unnecessary delays of ships and, where possible, to expedite and simplify the completion of customs and other port formalities.

Article XIII. 1. The documents certifying the nationality of ships, tonnage certificates and other ship's documents issued or recognized by either Party shall be recognized by the other Party.

2. Ships of one Party carrying a lawfully issued tonnage certificate shall be exempt from remeasurement in the ports of the other Party. The calculation and collection of tariffs and port duties shall be based on the data indicated in the documents mentioned in paragraph 1 of this article.

Article XIV. As Parties to the International Labour Organisation Convention No. 108 concerning Seafarers' National Identity Documents, 1958, (Convention 108/ILO),¹ the Parties shall grant to the holders of identity documents issued by the competent maritime authorities of the two Parties, the facilities provided for in the said Convention.

The relevant identity documents are: for seamen of Spanish ships the "*Libreta de Inscrición Marítima*" and the "*Tarjeta de Identidad Profesional*" issued by the Spanish maritime authority; for seamen of Mexican ships, "*Libreta de Mar*" and "*Carta de Identidad de la Gente de Mar*" of the United Mexican States, issued by the Mexican maritime authority.

Article XV. The Parties shall provide the necessary facilities when, owing to sickness or accident, any crew member of a Mexican ship which is situated in a Spanish port or of a Spanish ship which is situated in a Mexican port requires medical, pharmaceutical or hospital services, the only stipulation being that he produce documentation proving that

¹ United Nations, *Treaty Series*, vol. 389, p. 277.

he is a crew member. This provision is without prejudice to the subsequent direct payment of the cost of the assistance to the Party that provided it by the appropriate authority in the crew member's own country.

Should this assistance require the subsequent transfer of the ill or injured seaman to the country of his nationality, it will be necessary to obtain the consent of the captain of the vessel if he is still in the port where the assistance was given or failing that, the consent of the diplomatic or consular official of the affected Party, so that the transfer may be charged to the appropriate authority.

Article XVI. 1. If a ship of either Party is wrecked, runs aground or sustains any other damage on the coast of the other Party, the ship and its cargo shall enjoy the same advantages in the territory of the latter Party as are afforded to national ships and cargoes in the same circumstances.

2. Where a ship of one of the Parties is involved in any of the accidents listed in paragraph 1 of this article, the competent maritime authorities shall inform the diplomatic or consular official of the affected Party, so that he can perform the functions incumbent upon him.

3. The same treatment as is afforded to national vessels shall be afforded to the crew members and passengers and to the ship and its cargo.

4. Cargo and articles unloaded or salvaged from a ship under circumstances described in paragraph 1 of this article shall be exempt from customs duties unless they are delivered for use or consumption in the territory of the other Party.

Article XVII. 1. When a crew member of a ship of either Party commits an offence on board the ship while it is in the internal waters or territorial sea of the other Party, the authorities of the latter Party shall not institute legal proceedings against him without the consent of a competent diplomatic or consular official of the flag State of the ship unless, in the opinion of the said authorities:

- (a) The consequences of the offence extend to the territory of the State in which the ship is situated; or
- (b) The offence disturbs the public order or the security of the said State; or
- (c) The offence has been committed against a person who is not a crew member of the ship; or
- (d) Such proceedings are necessary for the repression of illicit traffic in narcotics or psychotropic substances.

2. The provisions of paragraph 1 shall not affect the right of control and inspection which the authorities of each Party enjoy in accordance with its legislation.

Article XVIII. The Parties agree to establish a maritime Technical Committee composed of representatives of both Parties for the purpose of evaluating the results of the implementation of this Agreement and promoting its efficient operation.

The Committee shall hold regular meetings at least once a year and extraordinary meetings at any time, at the request of either Party, within 45 days after the date on which the request is received by the other Party. Notification of the convening of such meetings and the composition of the delegations shall be communicated through the diplomatic channel.

The Committee shall hold its regular meetings alternately in Spain and in Mexico. In the case of extraordinary meetings, the venue shall be determined by agreement between the Parties.

During the period between the meetings of the Committee, the competent maritime authorities may communicate with each other through the normal working channels.

Article XIX. The Maritime Technical Committee mentioned in article XVIII shall draw up rules of procedure for the implementation of this Agreement.

Article XX. 1. This Agreement shall enter into force 30 days after the date on which the Parties notify each other, through the diplomatic channel, of the completion of the required constitutional procedures.

2. This Agreement may be amended with the mutual consent of the Parties. Such amendments shall enter into force in accordance with the procedure established in paragraph 1 of this article.

Article XXI. This Agreement shall be valid for five years after the date of its entry into force. It shall be automatically extended for additional periods of the same duration, unless either Party at any time notifies the other Party, through the diplomatic channel and giving 180 days' notice, of its intention to terminate it.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Mexico City on 9 December 1980, in duplicate, in the Spanish language.

For the Government
of Spain *ad referendum*:

[Signed]

JOSÉ LUIS ALVAREZ ALVAREZ
Minister for Transport
and Communications

For the Government
of the United Mexican States:

[Signed]

EMILIO MÚJICA MONTOYA
Secretary for Communications
and Transport
