

No. 23009

**SPAIN
and
MOROCCO**

**Agreement concerning maritime transport. Signed at Madrid
on 29 December 1979**

*Authentic texts: Spanish, Arabic and French.
Registered by Spain on 23 July 1984.*

**ESPAGNE
et
MAROC**

**Accord relatif aux transports maritimes. Signé à Madrid
le 29 décembre 1979**

*Textes authentiques : espagnol, arabe et français.
Enregistré par l'Espagne le 23 juillet 1984.*

[TRANSLATION — TRADUCTION]

AGREEMENT¹ CONCERNING MARITIME TRANSPORT BETWEEN SPAIN
AND THE KINGDOM OF MOROCCO

The Government of Spain and the Government of the Kingdom of Morocco,

Convinced that the development of maritime transport between Spain and the Kingdom of Morocco will contribute to strengthening co-operation between the two countries,

Desiring to seek such co-operation in the field of maritime transport on the basis of mutual respect and reciprocity of interests,

Aware of the need to co-ordinate maritime transport activities between the two countries,

Have agreed as follows:

Article 1. For the purposes of this Agreement,

a) The term “competent maritime authority” means:

—For Spain: the Ministry responsible for the Merchant Marine;

—For Morocco: the Ministry responsible for the Merchant Marine.

b) The term “ship of a Contracting Party” means any commercial ship registered in the territory of that Party and flying its flag, as well as any ship operated by shipowners of the two countries.

This term shall not include:

1. Ships in the exclusive service of the Armed Forces,
2. Ships used for hydrographic, oceanographic and scientific research,
3. Fishing vessels,
4. Any ship engaging in any form of non-commercial operations.

c) The term “crew member” means any person employed for duties on board the ship, registered on the crew list and in possession of a document establishing his status as a seaman.

Article 2. The purpose of this Agreement is to organize traffic between Moroccan and Spanish ports and to define the conditions in which ships of the Contracting Parties shall have access to the traffic of the two countries.

Article 3. Each Contracting Party undertakes to co-operate in removing all obstacles which may hinder the development of navigation between the ports of the two countries and to take all necessary measures to ensure the co-ordination of such traffic and the organization of an adequate service to protect the foreign trade interests of each of the two countries; they may also exercise control over changes in freight rates.

Article 4. As regards the maritime transport of goods exchanged between the two countries, as well as the transport of passengers, the system to be followed by the Contracting Parties for ships operated by their shipowners shall be based on the 40/40/20 formula, each Party having the right to carry at least 40 per cent of such traffic.

¹ Came into force provisionally on 29 December 1979 by signature, and definitively on 1 June 1984, i.e., the first day of the second month following the date of the last of the notifications (effected on 18 February 1983 and 27 April 1984) by which the Contracting Parties had informed each other of the completion of the required constitutional procedures, in accordance with article 23 (1) and (2).

Article 5. 1. The modalities for the implementation of the provisions of article 4 of this Agreement shall be established by common agreement between the shipowners of the two Contracting Parties. Any agreement between such shipowners shall be submitted in advance for the approval of the competent maritime authorities of the two countries.

2. Shipowners shall be responsible for taking the measures necessary to ensure the organization of such traffic in accordance with such directives as the two Governments may issue in order to achieve the most advantageous operation of such traffic in the mutual interest of the shipowners and users of the two countries.

Article 6. The Contracting Parties shall abstain from performing any port services in the territory of the other Party, in particular pilotage and towage in ports, territorial waters and internal waterways, and operations related to domestic coastal trade, refloating, salvage and assistance.

Article 7. Each Contracting Party shall grant ships of the other Party the most favourable possible treatment regarding: entry, stay in and departure from its ports, the use of port installations for the loading and unloading of goods, the embarkation and disembarkation of passengers, the performance of all necessary commercial or maritime services and operations, as well as the collection of port duties and taxes.

Article 8. The two Contracting Parties shall, within the limits of their legislation and port regulations, take the necessary measures to facilitate and accelerate maritime traffic and to simplify the completion of administrative, customs and health formalities applicable in ports. Most-favored-nation treatment shall be granted concerning such formalities.

Article 9. 1. Each Contracting Party shall recognize the nationality of ships of the other Contracting Party on the basis of the documents on board those ships issued by the competent authorities of the other Contracting Party in accordance with its laws and regulations.

2. Each Contracting Party shall likewise recognize the documents on board ships of the other Contracting Party relating to their equipment, crew and tonnage and other certificates and documents issued by the competent authorities in accordance with the laws and regulations of that other Contracting Party. Calculations of the tonnage of the ships of the two Contracting Parties shall be made in accordance with the laws and regulations in force in the two countries.

Article 10. Each Contracting Party shall recognize the seamen's identity documents issued by the competent authorities of the other Contracting Party.

Such identity papers shall be:

(a) In the case of Spain:

—The “*Tarjeta de Identidad profesional marítima*”, and

—The “*Libreta de Inscripción marítima*”.

(b) In the case of the Kingdom of Morocco: the “*Livret maritime*”.

Article 11. 1. Seamen in possession of the identity documents referred to in article 10 of this Agreement may, without a visa, disembark and stay in the town in which the port of call is situated while the ship is lying in that port, provided that their names are included in the crew list and in the list submitted to the port authorities.

2. When they disembark and re-embark, such persons must satisfy the statutory controls.

Article 12. 1. Nationals of one of the Contracting Parties who are in possession of the identity documents referred to in article 10 of this Agreement shall be entitled to pass

through the territory of the other Contracting Party without a visa in order to return to their port of embarkation or their country of origin, provided that they are in possession of an embarkation or disembarkation order issued by the competent maritime authorities of their country.

2. The length of stay in the territory of one of the Contracting Parties by seamen who are nationals of the other Contracting Party and who are travelling under the authority of the identity document referred to in article 10 and of an embarkation or disembarkation order, shall be limited to a period of 15 consecutive days, which may, in exceptional cases, be extended for reasons found acceptable by the competent authorities.

Article 13. If a crew member in possession of the identity document referred to in article 10 is sent ashore in a port of the other Contracting Party for health or service reasons, or for any other reason recognized as valid by the local authorities, the latter shall give the necessary authorization for the person concerned to remain in that party's territory if hospitalization is needed and either to return to his country of origin or to join his ship in another port.

Article 14. The Contracting Parties reserve the right to prevent the entry or stay in their territory of persons in possession of the identity document specified in article 10 whose presence is regarded as undesirable.

Article 15. Ships of the Contracting Parties which are nuclear-propelled or are transporting nuclear substances or other dangerous and harmful substances or materials, shall take the necessary measures to prevent, reduce or control pollution of the territorial sea and the exclusive economic zone of the Parties and to this end shall observe the rules, norms, practices and procedures established by international agreements.

Article 16. 1. Ships of each Contracting Party shall avoid any action which might jeopardize peace, order or security, and any other activity which is not directly related to their mission and transit.

2. In the event that, for reasons of national security, navigation is temporarily suspended in specified areas of the territorial sea of one of the Contracting Parties, the ships of the other Contracting Party shall not be subject to any discrimination.

Article 17. 1. The authorities of the State in which the ship is situated shall not intervene in any matter concerning the internal management of the ship except at the request or with the consent of the consular or diplomatic authorities or, if the latter are unavailable, at the request or with the consent of the captain.

2. In the event that a crew member of a ship of one of the Contracting Parties commits an offence on board the ship while it is in the internal or territorial waters of the other party, the authorities of that other Party shall not institute proceedings without the authorization of the consular or diplomatic authority of the country to which the ship belongs.

3. The provisions of paragraph 2 of this article shall not apply to offences committed on board a ship of the Contracting Party if:

- (a) The offence is such as to threaten peace and public order in the territory of the other Party,
- (b) The offence was committed against a person who is not a crew member of the ship,
- (c) The offence is punishable by a prison sentence of at least five years under Moroccan legislation or six years under Spanish legislation,
- (d) The offence is a violation of the laws and regulations of either Party concerning public health, the protection of human life at sea, customs and other measures of control,
- (e) Prosecution is essential for the repression of drug traffic.

4. If, in accordance with the provisions of paragraph 3 of this article, the authorities of the State where the ship is situated intend to arrest or interrogate a person on board, or to seize goods or undertake an official inquiry on board, such authorities shall inform the consular or diplomatic authorities in due time so that the latter may be present during such visits, investigations or arrests. Notice to such effect shall specify a precise hour and, if the consular or diplomatic authorities of the other Party are neither present nor represented, the authorities concerned shall proceed in their absence. A similar procedure shall be followed if the captain or crew members are required to make statements before the local judicial or administrative authorities. Nevertheless, in the case of *flagrante delicto*, the authorities of the State where the ship is situated shall inform in writing the consular or diplomatic authorities of the other Party of any urgent measures which they have taken.

5. The provisions of this article shall not affect the rights of the local authorities in all matters relating to the application of their laws and regulations.

Article 18. 1. If a ship of one Contracting Party is wrecked, runs aground or sustains damage in the territorial waters of the other Party, the competent authorities of the latter Party:

- (a) Shall afford to the passengers, ship and cargo the same protection and assistance as they afford to their own ships,
- (b) Shall inform the consular or diplomatic authorities of the State to which such a ship belongs, so that the latter may perform the functions incumbent upon them.

2. Any fees, taxes, duties and expenses arising from such operations shall be applied in accordance with the laws, regulations and scales in force in each of the two countries.

3. The equipment fittings, cargo, spare parts and on-board supplies of a ship which has been damaged shall not be liable to customs duties and other import taxes unless they are consumed or used locally.

Article 19. In order to encourage the development of the maritime external trade of the two countries and to ensure co-operation between their fleets, the Contracting Parties shall encourage the conclusion of appropriate agreements between interested enterprises of the two countries.

Article 20. 1. The Contracting Parties shall establish a Joint Commission for the purpose of supervising the implementation of this Agreement, facilitating consultations on the main problems of mutual interest and helping to settle disputes which may arise in such implementation.

2. The Joint Commission shall hold regular meetings once a year, alternatively in one or the other country at a date to be mutually agreed. It may also hold an extraordinary meeting at the request of either Party.

3. The membership and terms of reference of the Joint Commission shall be determined by the competent maritime authorities of the Contracting Parties.

Article 21. The Contracting Parties shall mutually grant to their professional staff access to vocational training institutions and to maritime transport enterprises and institutions for educational purposes: Special care will be given to the training of officers and technicians in all specialized areas of maritime transport.

Article 22. The Parties shall in the first instance endeavour to settle any dispute arising from the application or interpretation of this Agreement through an exchange of views in the Joint Commission or by direct negotiations. If they fail to reach an agreement the dispute shall be referred, by common consent, to a mutually acceptable arbitrator.

Article 23. 1. Each Contracting Party shall notify the other Party of the completion of the procedures required under its Constitution for the entry into force of this Agreement which shall enter into force on the first day of the second month following the date of the last notification.

2. This Agreement shall nevertheless be implemented on a provisional basis from the time of its signature.

3. This Agreement shall be valid for a period of five years. It may be amended at any time by mutual agreement. It shall be extended automatically for an additional similar period unless either Contracting Party denounces it at any time after one year's notice.

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

DONE at Madrid, on 29 December 1979, in duplicate in the Arabic, Spanish and French languages, the three texts being equally authentic. In case of differences of interpretation, the French text shall prevail.

For the Government
of Spain:

[Signed]

SALVADOR SANCHEZ-TERÁN
Minister of Transport
and Communications

For the Government
of the Kingdom of Morocco:

[Signed]

AZZADINE GUESSOUS
Minister of Trade, Industry,
the Merchant Marine and Sea Fisheries