

No. 25642

BELGO-LUXEMBOURG ECONOMIC UNION
and
TOGO

Maritime Agreement. Signed at Brussels on 19 October 1984

Authentic texts: French and Dutch.

Registered by Belgium on 2 February 1988.

UNION ÉCONOMIQUE
BELGO-LUXEMBOURGEOISE
et
TOGO

Accord maritime. Signé à Bruxelles le 19 octobre 1984

Textes authentiques : français et néerlandais.

Enregistré par la Belgique le 2 février 1988.

[TRANSLATION — TRADUCTION]

MARITIME AGREEMENT¹ BETWEEN THE TOGOLESE REPUBLIC
AND THE BELGO-LUXEMBOURG ECONOMIC UNION

The Government of the Togolese Republic, on the one hand, and

The Government of the Kingdom of Belgium, on its own behalf and on behalf of the Government of the Grand Duchy of Luxembourg, pursuant to existing agreements, on the other hand,

With a view to developing the bilateral relations between the two countries and harmoniously strengthening their co-operation in the field of maritime transport,

Desiring to contribute to the development of trade between the two Contracting Parties,

In accordance with the principles of equality and mutual advantage,

Have agreed as follows:

Article 1. This Agreement shall apply to the territory of the Togolese Republic, on the one hand, and to the territories of the Kingdom of Belgium and of the Grand Duchy of Luxembourg, on the other.

Article 2. For the purposes of this Agreement:

(a) The term “competent maritime authority” means the minister responsible for the merchant marine and the civil servants to whom all or a part of his responsibilities are delegated;

(b) The term “ship of a Contracting Party” means any merchant vessel registered in the territory of that Party and flying its flag, in accordance with its laws.

This term shall not include:

1. Ships exclusively in the service of the Armed Forces;
2. Hydrographic, oceanographic and scientific research ships;
3. Fishing vessels;
4. Ships intended for coastal traffic between the ports of each Contracting Party and ships exclusively reserved for inland navigation;
5. Ships intended for maritime services at ports, roadsteads and beaches, including pilotage, towage, rescue and assistance at sea;

(c) The term “ship operated by the national shipping companies of one of the Contracting Parties” means, other than the vessels listed in sub-paragraph (b) above, any ship chartered by the national shipping companies of one of the Contracting Parties;

(d) The term “national shipping line” means any maritime navigation company recognized as such by the competent authority of each Contracting Party;

(e) The term “crew member” means the master and any person employed in the service of the ship, included in the crew list and in possession of a document giving him the title of mariner.

¹ Came into force on 19 October 1987, the date of the last of the notifications (effected on 7 August 1986 and 19 October 1987) by which the Contracting Parties informed each other of the completion of the required constitutional procedures, in accordance with article 21.

Article 3. The Contracting Parties shall co-operate in such a way as to remove all obstacles which might hinder the development of navigation between the ports of the two countries and shall refrain from any measure likely to limit the activities of their ships.

Article 4. 1. The Contracting Parties reaffirm their desire to co-operate in the field of maritime transport in the spirit of the Code of Conduct for Liner Conferences.

2. For the transport of goods traded between the two Parties by sea (regular lines), whatever the port of loading or unloading, the Contracting Parties agree to apply the principle of distribution of cargo on the basis of strict equality of rights and in accordance with criteria of tonnage, freight revenue and freight value, the last-mentioned criterion being the preponderant one.

The share of traffic reserved for ships operated by the respective shipping companies shall equal at least 40 per cent of the total traffic, and the share available to national shipping lines of third countries shall not exceed 20 per cent.

Article 5. Without prejudice to its international commitments, each Contracting Party shall enjoy the sovereign traffic rights to which it is entitled under this Agreement.

Article 6. Each Contracting Party shall accord to the ships operated by the national shipping companies of the other Party in its ports the same treatment as it accords to its own ships in respect of access to ports, freedom of entry, stay and departure and the use of the ports and all the facilities it provides for navigation and commercial operations, to ships and their crews, passengers and cargoes. This provision refers in particular to the allocation of berths and loading and unloading facilities.

Article 7. The Contracting Parties shall, as part of their laws and port regulations, take the necessary measures to reduce, as far as possible, the length of stay of ships operated by their respective national shipping companies in ports and to simplify the completion of administrative, customs and health formalities applicable in such ports.

As regards those formalities, the treatment accorded in a national port of either Contracting Party to any ship operated by the national shipping company of the other Party shall be the same as that reserved for ships used by the national shipping company of the first Party.

Article 8. Nuclear powered ships or ships carrying nuclear substances or other dangerous and noxious substances or materials and flying the flag of either of the Contracting Parties, shall take appropriate measures to prevent, reduce or control pollution of the territorial waters and the exclusive economic zone of the Parties and shall, to this end, observe the rules, norms, practices and procedures established by international conventions.

Article 9. 1. The ships of each Contracting Party shall refrain from any action which might adversely affect the peace, order or security of the State, and any other activity not directly related to their commercial purpose.

2. Where, for reasons of national security, shipping is temporarily suspended in specified areas of the territorial sea of one of the Contracting Parties, the ships of their respective fleets shall not be the subject of any discrimination.

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

Those identity documents shall be:

- (a) In the case of Togolese Republic, the *livret professionnel maritime* (maritime professions book); and

(b) In the case of the Kingdom of Belgium and the Grand Duchy of Luxembourg, the *Zeemansboek* (seafarer's book).

Article 11. The crew members of the ship of a Contracting Party may disembark and stay in the area of the port of call and in the neighbouring districts on condition that the crew list is submitted to the competent authorities in accordance with the regulations in force at that port.

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

Article 12. 1. Persons holding the identity documents mentioned in article 10 shall, regardless of the means of transport used, be entitled:

- (a) After being laid off, to go directly to a country where admission is guaranteed, as long as travel costs are met;
- (b) To enter the territory of a Contracting Party with a view to signing on a specific ship in a specific port of that country;
- (c) To pass through the territory of a Contracting Party either with a view to signing on a specific ship in a specific port, or with a view to transferring from a ship putting into port to another ship in a port of a Contracting Party or in a foreign port.

2. In all the cases referred to in paragraph 1, the identity documents must bear the visa of the other Contracting Party. The visa shall be issued as quickly as possible.

3. If a crew member holding the identity documents referred to in paragraph 1 is put ashore in a port of the other Contracting Party for health or service reasons or for other reasons recognized as valid by the competent authorities, the said authorities shall provide the person concerned with the necessary permits to remain in their territory (in case of hospitalization) or to return to his country of origin or to proceed to another port of embarkation by any means of transport.

4. For the same purposes as those listed in paragraph 1 above, persons holding the identity documents referred to in article 10 who are not nationals of one of the Contracting Parties shall be granted the entry or transit visas required for the territory of the other Contracting Party, on condition that readmission to the territory of the Contracting Party which issued the identity documents is guaranteed.

Article 13. 1. Without prejudice to the provisions of articles 10 and 12, the provisions in force in the territory of the Contracting Parties concerning the entry, residence and departure of aliens shall remain applicable.

2. The Contracting Parties reserve the right to refuse admission to their respective territories to persons holding the aforesaid seafarer's identity documents, whom they regard as undesirable.

Article 14. When, because of illness or accident, a crew member of a ship of one of the Contracting Parties which is in the territorial or inland waters of the other Party needs medical, pharmaceutical or hospital assistance dispensed by the other Party in its territory, such assistance shall be provided, at the expense of his shipping line, under the same conditions as apply to national crew members.

Article 15. 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.

Article 16. Tonnage certificates and other ship's documents issued or recognized by one of the Contracting Parties shall also be recognized by the other Party.

The ships of each Contracting Party provided with legally issued tonnage certificates shall be exempt from remeasurement in the ports of the other Party.

Article 17. 1. The judicial authorities of one Contracting Party may entertain civil proceedings against a contract of maritime service of a crew member of a ship of the other Contracting Party only with the consent of the competent diplomatic or consular official of the ship's flag State.

2. If a crew member of a ship of a Contracting Party commits an offence on board the ship while it is in the territorial waters of the other Contracting Party, the authorities of the State where the ship is situated shall not institute legal proceedings against him without the consent of a competent diplomatic or consular official of the ship's flag State, unless:

- (a) The consequences of the offence affect the territory of the State where the ship is situated; or
- (b) The offence is such as to disturb public order or safety; or
- (c) The offence constitutes a serious crime under the law of the State where the ship is situated; or
- (d) The offence was committed against a person who is not a crew member; or
- (e) The institution of proceedings is necessary for suppressing traffic in narcotic drugs.

3. The provisions of paragraph 2 of this article shall not affect the rights of the competent authorities in all matters relating to the application of laws and regulations concerning the admission of aliens, customs, public health or other measures of control relating to the safety of ships and ports, the protection of human life and the security of cargoes.

Article 18. 1. If a ship of one Contracting Party is wrecked, runs aground or sustains any other damage near the coast of the other Party, the competent authorities of that Party shall:

- Inform the diplomatic or consular official of the flag State so that he can assume his responsibilities;
- Extend to the crew members, passengers, ship and cargo the same protection and assistance as to a ship flying its own flag.

2. The cargo and provisions on board a ship which has been damaged shall be exempt from customs duties unless they are delivered for consumption or used on the spot.

Article 19. Each Contracting Party shall accord the maritime shipping companies of the other Contracting Party the right either to use the revenue and other receipts realized in the territory of the First Contracting Party and resulting from maritime transport to make payments there or freely to transfer such revenues and receipts abroad.

Article 20. A Joint Commission, composed of representatives appointed by the Governments concerned, shall meet at the request of either of the Contracting Parties, to consider any questions which may arise from the implementation or interpretation of this Agreement.

This Joint Commission shall be empowered to submit to the Contracting Parties any recommendations it considers useful.

Article 21. This Agreement shall enter into force as soon as each Contracting Party has notified the other Party through diplomatic channels of the completion of the required constitutional procedures.

This Agreement is concluded for a period of five years. It shall be renewable automatically for periods of one year, unless denounced through diplomatic channels by one of the Contracting Parties, on six months' notice.

IN WITNESS WHEREOF the undersigned, being duly authorized for this purpose, have signed this Agreement.

DONE at Brussels on 19 October 1984, in duplicate in the French and Dutch languages, both texts being equally authentic.

For the Belgo-Luxembourg
Economic Union:

[*Signed*]

L. TINDEMANS

For the Togolese Republic:

[*Signed*]

Y. ADODO
