

**No. 27435**

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**BRAZIL  
and  
ARGENTINA**

**Agreement on maritime transport. Signed at Buenos Aires on  
15 August 1985**

*Authentic texts: Portuguese and Spanish.*

*Registered by Brazil on 24 July 1990.*

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**BRÉSIL  
et  
ARGENTINE**

**Accord sur les transports maritimes. Signé à Buenos Aires le  
15 août 1985**

*Textes authentiques : portugais et espagnol.*

*Enregistré par le Brésil le 24 juillet 1990.*

[TRANSLATION — TRADUCTION]

AGREEMENT<sup>1</sup> ON MARITIME TRANSPORT BETWEEN THE FEDERATIVE REPUBLIC OF BRAZIL AND THE REPUBLIC OF ARGENTINA

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

Considering the desirability of developing maritime trade between Brazil and Argentina and of promoting a better and more rational use of the shipping capacity of the two countries,

Recognizing the need to ensure effective and regular maritime transport services and the adoption of adequate and stable freight rates,

Bearing in mind that Brazilian and Argentine shipowners are the carriers directly concerned with maritime freight in the trade between the two countries,

Have agreed as follows:

*Article I*

For the purposes of this Agreement, national shipowner means the individuals or legal entities that, in accordance with the legislation in force in each of the two countries, have decision-making power over management, control and capital.

*Article II*

1. The Contracting Parties shall endeavour to establish efficient maritime transport services between Brazilian and Argentine ports. The services shall be performed by duly authorized shipowners of the two countries, as frequently and as regularly as trade may require.

2. The shipping capacity to be provided by the authorized shipowners of the two Contracting Parties shall, in the aggregate, be adapted to the requirements of the trade between the two countries, always bearing in mind the balance between the tonnage made available by the authorized shipowners of the two Contracting Parties.

3. For the purposes of this Agreement, the competent authorities shall be, in the Federative Republic of Brazil, the National Department of the Merchant Marine (SUNAMAM) of the Ministry of Transport and, in the Republic of Argentina, the Subsecretariat of River and Maritime Transport of the Ministry of Works and Public Services.

If there is any change in the competent authority as a result of a change in the legislation of either Contracting Party, the other Contracting Party shall be notified by means of a diplomatic note.

<sup>1</sup> Came into force on 6 February 1990, the date of the last of the notifications by which the Parties informed each other of the completion of the required constitutional procedures, in accordance with article XIV (1).

4. The term “authorized shipowners” means all national shipowners of the Contracting Parties who have obtained the required authorization from their respective authorities mentioned in paragraph 1 of this article.

### *Article III*

1. Goods consigned from Brazilian ports to Argentine ports, and vice versa, shall be transported in vessels flying the national flag of the Contracting Parties, each Party to receive an equal share of the total freight carried.

2. For the purpose of ensuring an equal division of the total freight carried, the Freight Conference mentioned in article V, paragraph 1, shall set up operational machinery to ensure, in respect of traffic moving in either direction, an equitable apportionment among the group of authorized shipowners of the Contracting Parties.

3. The transport mentioned in paragraph 1 of this article covers cargoes receiving any government incentive in either of the Contracting Parties.

3.1. For the purposes of this Agreement, Government incentives mean fiscal, exchange, financial and credit benefits, including financing, to the extent permitted by the legislation in force, granted by governmental bodies of the Contracting Parties.

3.2. When, for the transport of their goods, the exporters of one Contracting Party use vessels of navigation companies authorized by the competent authorities of the other Contracting Party, they shall receive the same treatment in respect of government incentives (including fiscal incentives for export) as is granted when they use vessels flying the national flag.

3.3. Vessels of the other Contracting Party, whether or not they belong to the authorized maritime transport companies, shall be accorded the same rights and benefits as vessels flying the national flag.

4. Implementation of the provisions of paragraph 1 of this article shall be subject to the following order of priorities:

4.1. Transport, in either direction, in vessels flying the national flag of either of the Contracting Parties;

4.2. Transport, in vessels flying one of the national flags, of that portion of the other's quota which the country concerned is unable to carry.

5. For the purposes of paragraph 1 of this article, domestic or foreign vessels hired or chartered by the shipowners authorized by the competent authorities of one or other of the Contracting Parties to provide the maritime transport services envisaged in this Agreement shall be regarded as “vessels flying the national flag”.

6. The competent authorities shall, in each case, inform each other of the authorizations granted for the hiring or chartering of vessels.

### *Article IV*

1. The preference accorded on the basis of the flag flown shall not imply any discrimination as to cargoes, or give rise to delays in shipment beyond those envisaged in the legislation of the exporting country.

2. In the event that the authorized shipowners of the Contracting Parties are unable to transport cargoes in their own vessels or in chartered vessels in accordance with the provisions of this Agreement, such cargoes may be released for shipment on the basis of the following order of priorities:

- (a) In vessels belonging to non-authorized national shipowners of the exporting country;
- (b) In vessels belonging to non-authorized national shipowners of the importing country;
- (c) In vessels belonging to other non-authorized Brazilian or Argentine shipowners, following the order in subparagraphs (a) and (b);
- (d) In vessels flying the flag of third countries, with a preference for member countries of LAIA;
- (e) In vessels flying the flags of third countries, other than countries with open registration or "free registration";
- (f) In vessels flying the flags of third countries with open registration or "free registration".

3. The release shall be granted, in each case, by the competent authority of the exporting country, at the request of the shipper, and the competent authority of the other Contracting Party shall be notified. Each competent authority shall notify the customs authorities of its country of the shipment releases it grants, and of those granted by the competent authority of the other Contracting Party.

#### *Article V*

1. The statutes of the Brazilian-Argentine Freight Conference, drawn up in accordance with the provisions of article III of the Agreement on Maritime Transport of 1968,<sup>1</sup> may be modified, while respecting the following basic principles incorporated in them:

- (a) Constitution and organization of the Freight Conference;
- (b) Commercial cooperation between the authorized shipowners in order to ensure proper implementation of the provisions regarding traffic and services to users, in accordance with the provisions of this Agreement;
- (c) Establishment of services providing for an equitable division of loading and unloading ports, while respecting the legislation of each Contracting Party;
- (d) Operation of the committees of the Freight Conference, with procedural rules and decision-making systems;
- (e) Fixing and maintenance of freight rates and conditions for the transport of goods;
- (f) Establishment of rules for agreements on prorating cargoes, on the basis of the freight carried.

2. Shipowners who do not comply with the provisions of the statutes of the Brazilian-Argentine Freight Conference shall be liable to the penalties prescribed therein, which shall range from a written warning and fine to loss of the offending shipowner's membership.

#### *Article VI*

1. The shipowners authorized by the competent authorities of the Contracting Parties shall lay down, by common consent and through the Freight Conference, the

<sup>1</sup> United Nations, *Treaty Series*, vol. 657, p. 277.

transport conditions and the freight rates to be applied for the maritime transport services to be provided under this Agreement. The transport conditions and agreed freight rates shall not go into effect until they have been approved by the competent authorities of the Contracting Parties.

2. Where an agreement on transport conditions and freight rates is not reached in the Freight Conference, the transport conditions and freight rates shall be fixed by agreement between the competent authorities of the two Contracting Parties.

3. In the event of the competent authorities of one Contracting Party stating their intention not to approve the freight rates referred to in paragraph 1 of this article, the rates shall be reviewed by the Freight Conference in the light of the objections raised.

4. In the event of an agreement not being reached with the Freight Conference, the competent authority of the Contracting Party which raised the objection shall consult the other competent authority, in the manner it deems most appropriate.

5. Transport in “roll on/roll off” vessels shall be effected on the basis of specific rules and rates appropriate to this type of transport, which shall enter into force after being approved by the competent authorities.

#### *Article VII*

1. For the purpose of controlling the services and the degree of participation provided for in this Agreement, each month the authorized shipowners of the two Contracting Parties shall submit to the competent authorities, through the Freight Conference, copies of their bills of lading and of the itineraries covered by their vessels. Calculations to ascertain whether the share of each flag corresponds to what was agreed in the *pro rata* freight agreements shall be made periodically.

2. The itineraries of the vessels mentioned in the preceding paragraph may include ports of other countries, providing that the Freight Conference zones recognized by one or other of the Contracting Parties are respected.

#### *Article VIII*

The Contracting Parties undertake to facilitate, on the basis of reciprocity, the smooth and prompt liquidation and transfer of the sums accruing from the payment of freight charges to shipowners of the Brazilian and Argentine flags authorized to participate in the traffic covered by this Agreement, in accordance with the provisions regulating reciprocal payments between the Contracting Parties.

#### *Article IX*

The Contracting Parties undertake to adopt, within their respective jurisdictions, the necessary measures to expedite the operation of vessels.

#### *Article X*

1. Vessels flying the Brazilian or the Argentine flag which carry cargo between the two countries shall be entitled in each country to the same treatment as that received by vessels flying the national flag which are engaged in the same traffic.

2. The provisions of paragraph 1 of this article shall not affect the requirement that foreign merchant ships must use pilotage services within the national waters of

each country, in accordance with the domestic laws and regulations of each Contracting Party, and other activities which are legally reserved for the nationals of each country.

#### *Article XI*

1. Nothing in this Agreement shall be interpreted as restricting the right of each country to regulate domestic coastal shipping or shipping to and from third countries.

2. Similarly, nothing herein shall be interpreted as restricting the right of each country to facilitate in any manner the domestic coastal shipping services provided by its vessels.

#### *Article XII*

This Agreement shall not apply to bulk shipments of petroleum and its liquid derivatives by primary distillation and liquid petroleum gas, or to bulk shipments of ore. The shipment of wheat shall also be excluded from this Agreement, in accordance with the transitional provisions laid down in article XVI.

#### *Article XIII*

1. The competent authorities, at the request of one of them, shall hold consultation meetings in order to review the implementation of this Agreement and make improvements.

2. Either Contracting Party may request a meeting, through the diplomatic channel, for the purpose of proposing amendments to this Agreement. It must take place within 60 days of the date of receipt of the request and must be held in the territory of the Contracting Party to which the request was made.

3. The Contracting Parties may at any time and by joint agreement make amendments to this Agreement, which shall enter into force in the manner indicated in article XIV, paragraph 1.

#### *Article XIV*

1. Each of the Contracting Parties shall notify the other of the completion of the required constitutional procedures for the approval of this Agreement, which shall enter into force on the date of the second such notification.

2. This Agreement shall have an initial duration of two (2) years, automatically renewable for equal successive periods.

3. Each Contracting Party may, at any time, denounce this Agreement. The denunciation shall take effect ninety (90) days after the date of receipt of notification by diplomatic note.

#### *Article XV*

After the entry into force of this Agreement, the agreement to encourage the development of the merchant marines of Brazil and Argentina, concluded at Rio de Janeiro by an exchange of notes on 22 December 1958,<sup>1</sup> shall cease to have effect.

<sup>1</sup> United Nations, *Treaty Series*, vol. 671, p. 73.

*Article XVI.* TRANSITIONAL PROVISIONS

1. The exclusion of the shipment of wheat laid down in article XII shall take effect gradually over the period 1985-1987.

2. Within a period of ninety (90) days from the entry into force of this Agreement, the authorized shipowners of the two flags, through their respective committees, must submit to the competent authorities of their countries, for approval, such amendments as become necessary to the statutes and agreements on prorating cargoes in order to bring them into line with this Agreement.

DONE at Buenos Aires, capital of the Republic of Argentina, on 15 August 1985, in duplicate in the Portuguese and Spanish languages, both texts being equally authentic.

For the Government  
of the Federative Republic  
of Brazil:

[Signed]

JOÃO HERMES PEREIRA DE ARAGUJO

For the Government  
of the Republic of Argentina:

[Signed]

DANIEL E. BATALHA