

No. 30117

**SPAIN
and
TUNISIA**

**Maritime Transport Agreement (with exchange of notes
dated at Tunis on 19 February and 21 April 1987). Signed
at Madrid on 4 March 1985**

Authentic texts of the Agreement: Spanish, Arabic and French.

Authentic text of the exchange of notes: French.

Registered by Spain on 22 July 1993.

**ESPAGNE
et
TUNISIE**

**Accord relatif au transport maritime (avec échange de notes
en date à Tunis des 19 février et 21 avril 1987). Signé à
Madrid le 4 mars 1985**

Textes authentiques de l'Accord : espagnol, arabe et français.

Texte authentique de l'échange de notes : français.

Enregistré par l'Espagne le 22 juillet 1993.

[TRANSLATION — TRADUCTION]

MARITIME TRANSPORT AGREEMENT¹ BETWEEN THE REPUBLIC OF TUNISIA AND SPAIN

The Republic of Tunisia and Spain,

Desiring to promote the development of maritime transport between the two countries, and to strengthen cooperation in this area to the greatest extent possible,

Have agreed as follows:

Article 1

PURPOSE

The purpose of this Agreement is:

To contribute to the general development of economic and trade relations between the two countries;

To promote the organization of maritime relations between Tunisia and Spain;

To ensure better coordination of traffic;

To prohibit any measure which may jeopardize the development of maritime transport.

Article 2

DEFINITIONS

For the purpose of this Agreement and its annexes:

1. The term “competent maritime authorities” means the Ministry responsible for the Merchant Marine and any officials to whom it may delegate all or some of its functions.

2. The term “authorized enterprise” means any maritime company which meets the following conditions:

(a) It is actually owned by public and/or private interests of one of the Parties;

(b) It has its head office in national territory;

(c) It is recognized as such by the competent maritime authority;

3. The term “ship of a Contracting Party” means any merchant ship registered in the territory of that Party and flying its flag, in accordance with its legislation.

4. The term “ship operated by the authorized enterprises of a Contracting Party” means any ship of the Contracting Party and any ship chartered by its authorized enterprises.

¹ Came into force provisionally on 4 March 1985, the date of signature, and definitively on 9 May 1992, the date on which the Contracting Parties had notified each other (on 20 April and 9 May 1992) of the completion of the procedures required by their respective legislations, in accordance with article 23.

5. The term “crew member” means the captain and any person included in the crew list who carries out duties on board relating to the operation, navigation or maintenance of a ship.

Article 3

SCOPE OF THE AGREEMENT

This Agreement shall not apply to:

Ships in the exclusive service of the Armed Forces;

Ships used for hydrographic, oceanographic and scientific research;

Fishing vessels.

This Agreement shall likewise not apply to:

Coastal shipping, inland water transport, pilotage, towing, salvage and assistance at sea, and any marine service operating in the ports, roads or beaches, as well as any other activity reserved for the national flag in accordance with the national legislation of each of the Contracting Parties.

Article 4

NATIONALITY OF SHIPS AND DOCUMENTS ON BOARD

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

2. Other documents on board which have been issued or recognized by one of the Contracting Parties shall likewise be recognized by the other Party.

3. Harbour taxes and dues to be levied on ships shall be calculated on the basis of the information given in the documents on board.

Article 5

TREATMENT OF SHIPS IN PORTS

1. Each Contracting Party shall grant ships of the other Party in its ports the same treatment as its own ships regarding access to ports, freedom of entry, stay and departure, and the authorization of whatever facilities may be accorded for navigation and the commercial operation of ships and their crews, passengers and goods.

This provision shall apply particularly to the granting of berths at the docks and to loading and unloading facilities.

2. The provisions of the preceding paragraph shall not apply to navigation, activities and transport which each Contracting Party reserves by law for itself.

Article 6

ACCIDENTS AT SEA

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

Party shall afford the crew and passengers, as well as the ship and its cargo, the same protection and assistance as to a ship which flies its own flag.

Each Contracting Party shall likewise inform a diplomatic or consular official of the other Party so that they may perform the functions incumbent upon them.

2. If a ship of one Contracting Party sustains damage, its cargo and on-board supplies shall be exempt from customs duties unless they are to be consumed or used locally.

3. If an accident at sea which occurred in the territorial waters of one Party becomes the subject of an inquiry, the competent maritime authority shall keep the competent authority of the other Party informed and shall apprise it of its conclusions.

Article 7

SEAMEN'S IDENTITY DOCUMENTS

1. Each Contracting Party shall recognize the seamen's identity documents issued by the competent authorities of the other Party and shall accord the holders of such documents the rights provided in article 8, on the conditions laid down in that article.

2. Such identity documents shall be, in the case of the Republic of Tunisia, the "Livret Professionnel des Gens de Mer"; and, in the case of Spain, the "Tarjeta de Identidad Profesional Marítima", the "Libreta de Inscripción Marítima", or any other identity document which conforms with International Labour Organization Convention No. 108.¹

Article 8

RIGHTS ACCORDED TO SEAMEN HOLDING IDENTITY DOCUMENTS

1. Holders of the identity documents issued by one of the Contracting Parties referred to in article 7 shall be permitted to enter or pass through the territory of the other Party, using any means of transport, in order to joint their ship, embark on another ship, return to their own country or travel for any other reason, provided prior authorization has been given by the authorities of the other Contracting Party.

2. In the cases referred to in the preceding paragraph, the identity documents shall bear the visa of the other Contracting Party.

This visa shall be issued with the least possible delay.

3. If a crew member in possession of any of the identity documents referred to in paragraph 1 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 competent authorities, the latter shall give the necessary authorization for the person concerned to remain in that Party's territory and to return to his country of origin or to reach another port for embarkation by any means of transport.

4. Holders of the identity documents referred to in article 7 who are not nationals of one of the Contracting Parties shall be provided with the requisite entry

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

or transit visas for the territory of the other Party on condition that their return to the territory of the Contracting Party issuing the identity document is guaranteed.

5. The Contracting Parties reserve the right to deny entry into their respective territories to persons in possession of the identity documents referred to above whom they consider undesirable.

Article 9

LEGAL PROCEEDINGS AGAINST CREW MEMBERS

1. As parties to the Vienna Convention on Consular Relations,¹ both Contracting Parties agree to refer to that Convention and to any other bilateral convention if a member of the crew of a ship of one Contracting Party commits an offence aboard the ship while it is in the territorial waters of the other Party.

2. However, the provisions of the preceding paragraph shall not apply in the following cases:

(a) The offence disturbs the security and public order of the State in which the ship is situated;

(b) The offence has been committed against a person who is not a crew member or who is a national of the State in which the ship is situated;

(c) The consequences of the offence extend to the territory of the State in which the ship is situated; and

(d) Legal proceedings are necessary for the repression of illicit traffic in narcotic drugs or arms.

Article 10

SHIPPING LINE TRAFFIC

1. With regard to the transport of passengers and goods by regular shipping lines between the two countries, irrespective of the port of embarkation and disembarkation, the Contracting Parties agree to apply the principle that this traffic shall be shared between them on the basis of a strict equality of rights:

The portion of the aforementioned traffic reserved for the authorized enterprises of each of the Contracting Parties shall be equal, in volume and value of freight, to at least 40 per cent;

Ship owners of third countries shall be permitted to participate only up to a maximum of 20 per cent.

2. In order to guarantee equitable participation in this traffic, each Contracting party shall adopt — within the framework of its national legislation and without prejudice to its international undertakings — the necessary measures to ensure the effective implementation of the provisions of this Convention.

3. The two Governments may intervene officially if the market is disrupted or in cases of dumping by individual ship owners.

¹United Nations, *Treaty Series*, vol. 500, p. 95.

Article 11

FREIGHT CHARGES

Transport tariffs and conditions shall be approved by the competent maritime authorities of the two Contracting Parties.

Article 12

OTHER TRAFFIC

For all traffic other than regular line traffic, the two Contracting Parties shall promote the significant and equitable participation of their maritime enterprises recognized as such by the competent authorities, without prejudice to their international undertakings.

Article 13

RULES AND PROCEDURES

The rules and procedures for application of the provisions of articles 10, 11 and 12 shall be established by agreement by the Joint Maritime Committee described in article 16.

Article 14

FLAG DISCRIMINATION

This Agreement shall respect the existing legislation of each of the countries with regard to flag discrimination.

The two Contracting Parties shall draw up a list of goods excluded from the scope of this Agreement.

Article 15

REPRESENTATION OF AUTHORIZED ENTERPRISES

1. The authorized enterprises of each Contracting Party shall be allowed to maintain in the territory of the other Party the services necessary for their activities, provided that they comply with the regulations in force in the latter State.

2. If the authorized enterprises of one Contracting Party waive the right referred to in the preceding paragraph, they may entrust the work to any enterprise designated and/or authorized by the other Contracting Party in accordance with the regulations in force in the latter State.

Article 16

JOINT MARITIME COMMITTEE

For the application of this Agreement a Joint Maritime Committee shall be established, comprising representatives of both Contracting Parties. This Commit-

tee shall be competent to deal with any question arising from the application of the Agreement. It shall hold regular meetings once a year, alternately in each of the two countries, and shall hold special meetings in the country which requested the meeting, within 30 days after the date of receipt of the request.

Article 17

COOPERATION BETWEEN MARITIME ADMINISTRATIONS

The Contracting Parties shall establish the necessary conditions with a view to facilitating the mutual provision of information courses, training or further training in their respective administrative services. They also agree to offer exchanges of information, documents and statistics, periodical or otherwise.

Article 18

TECHNICAL AND COMMERCIAL COOPERATION

The two Contracting Parties shall promote the development of close cooperation in the following fields:

Ship building and repair;

Port construction and operation;

Operation of ships and development of merchant fleets;

Leasing of ships, with preference for the ships of the other Contracting Party.

Article 19

TRAINING

The two Contracting Parties shall facilitate access by their nationals to companies and institutions involved in maritime transport and port operation in order to obtain professional training.

Article 20

REVIEW

This Agreement may be reviewed by mutual consent at the request of one of the Contracting Parties. Any amendments shall be approved in accordance with the constitutional provisions of each Contracting Party. The amendments shall enter into force through an exchange of diplomatic notes.

Article 21

SETTLEMENT OF DISPUTES

Any dispute relating to the interpretation or application of this Agreement shall be resolved through direct agreement between the competent maritime authorities of the two Contracting Parties.

If the competent maritime authorities cannot reach agreement, the dispute shall be resolved through diplomatic negotiations.

During the negotiations, the provisions of this Agreement shall apply without alteration.

Article 22

DENUNCIATION OF THE AGREEMENT

Either Contracting Party may at any time notify the other Party that it wishes to denounce this Agreement. The denunciation shall take effect twelve (12) months after the date of receipt of the notification by the other Party, unless that notification is withdrawn by mutual consent before the end of that period.

Article 23

ENTRY INTO FORCE

The provisions of this Agreement shall apply provisionally from the date of its signature and shall enter into force on the date on which the two Contracting Parties notify each other of the completion of the formalities required according to their respective legislations.

IN WITNESS WHEREOF the plenipotentiaries of the two Parties have signed this Agreement. Done at Madrid on 4 March 1985 in duplicate in the Arabic, French and Spanish languages, each text being equally authentic. In case of differences of interpretation, the French text shall prevail.

For the Republic of Tunisia:

[Signed]

[BRAHIM KHOUAJA]

Minister of Transport and Communications

For Spain:

[Signed]

ENRIQUE BARÓN

Minister of Transport, Tourism and Communications

EXCHANGE OF NOTES

I

Note Verbale No. 34

The Embassy of Spain in Tunis presents its compliments to the Ministry of Foreign Affairs and, with reference to its Note Verbale No. 504328 of 27 October 1986, concerning the Maritime Transport Agreement between the Republic of Tunisia and the Government of Spain, and in accordance with the provisions of articles 20 and 23 of the Agreement, has the honour to suggest the following:

That article 9 of the Maritime Transport Agreement between Tunisia and Spain, signed on 4 March 1985, should be amended as follows:

“Article 9

LEGAL PROCEEDINGS AGAINST CREW MEMBERS

1. If a member of the crew of a ship of one Contracting Party commits an offence on board the ship while it is in the territorial waters of the other Party, the authorities of the State in which the ship is situated shall not institute legal proceedings against him without the consent of the competent diplomatic or consular authority of the flag State of the ship, unless they consider that:

(a) The consequences of the offence affect the territory of the State in which the ship is situated;

(b) The offence threatens the security and public order of the territory of the other Party;

(c) The offence has been committed against a person who is not a crew member;

(d) Legal proceedings are necessary for the repression of narcotic drugs or arms.”

Should the Ministry of Foreign Affairs agree to this proposed amendment, this note and the reply thereto shall constitute an agreement to amend the said article which shall apply provisionally from the date of the second note and shall enter into force at the same time as the text of which it is a part, once the two Contracting Parties have notified each other of the completion of their respective legal formalities.

The Embassy of Spain in Tunis takes this opportunity, etc.

Tunis, 19 February 1987

Ministry of Foreign Affairs
Tunis

II

REPUBLIC OF TUNISIA
MINISTRY OF FOREIGN AFFAIRS

Tunis, 21 April 1987

No. S.E.C.I.
MCO/CZ/82/2

The Ministry of Foreign Affairs presents its compliments to the Embassy of Spain and, with reference to its Note Verbale No. 34 of 19 February 1987, has the honour to state that the Government of Tunisia agrees to the proposed amendment of article 9 of the Maritime Transport Agreement between Tunisia and Spain, signed at Madrid on 4 March 1985 which reads as follows:

[*See note I*]

The Ministry of Foreign Affairs would be grateful if the Embassy of Spain would inform its competent authorities of the foregoing and consider its note and this reply as constituting an agreement between the Government of Tunisia and the Government of Spain.

The Ministry of Foreign Affairs takes this opportunity, etc.

Embassy of Spain
Tunis
