

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH ON MERCHANT SHIPPING

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The Government of the Republic of the Philippines and the Government of the People's Republic of Bangladesh hereinafter referred to as the "Contracting Parties";

Desiring to support and to develop further the friendly relations between the Contracting Parties on the basis of equal rights and mutual benefit;

Recognizing the advantages to be derived by their respective peoples from further cooperation in the field of maritime relations under the principle of freedom of merchant shipping.

Have agreed as follows:

ARTICLE I

The Contracting Parties shall promote and develop merchant shipping to the greatest extent possible in accordance with the laws, rules and regulations in force in their respective countries.

ARTICLE 2

For the purpose of this agreement:

- (a) The term "vessel" shall mean any merchant vessel registered in the territory and flying the national flag of either Contracting Party in accordance with its legislation. This definition excludes warships, auxiliary warships, fishing vessels and other vessels destined or used for noncommercial purposes;
- (b) The term "crew" shall mean all persons, including the Master, actually employed under contract for duties on board a vessel during a voyage and included in the crew list;
- (c) The term "ports" of the Contracting Parties shall mean seaports, including roadsteads, in the territory of either Contracting Party which are approved and open to international shipping.

ARTICLE 3

1. This agreement applies to the territorial sea of the Republic of the side, and the territory including of the People's Republic of Bangladesh on the other side.
2. However, the provisions of this Agreement shall not apply to transportation and activities reserved by the laws of the Contracting Parties, in particular, in provisions of port services, towing, pilotage, salvage and maritime assistance, fishing operations carried on in the territorial waters of each Contracting Party and inland navigation.

ARTICLE 4

1. The Contracting Parties shall:

- (a) promote participation of their vessels in the transportation of goods between the Republic of the Philippines and the People's Republic of Bangladesh.
- (b) cooperate in eliminating hindrances which may complicate merchant shipping between the ports of their respective territories;
- (c) for the purpose of effectively utilizing mutually their vessels, support measures, as far as possible for the transportation of goods to and from third countries;
- (d) cooperate for the employment, improvement of conditions of work and for the welfare of their seamen employed on each other's vessels.

2. The provisions of this Article shall not affect the right of vessels under the flag of a third State to participate in the transportation of goods between the territories of the Contracting Parties.

3. Shipping enterprises registered and operating under and regulations and having their registered office territory of either Contracting Party, may operate joint services as well as conclude mutual agreements on technical organizational and commercial matters, subject to existing laws and regulations of the Contracting Parties.

ARTICLE 5

1. The vessels of a Contracting Party, and the crews and cargoes, while calling at the ports of the other Contracting Party, shall enjoy treatment no less favorable than that accorded by their respective laws, rules and regulations to vessels under the flag of any third country.

2. The provisions of paragraph CD shall apply in particular with respect to:

- (a) fees, dues, and charges of any kind levied in the name or for account of public institutions or their organizations, as well as the mode of their levy;
- (b) mooring and unmooring, loading and unloading of vessels in the ports;
- (c) services of pilots and towage and the use of canals, locks, bridges, signals and fairway lightings;
- (d) the use of cranes, weighbridges, warehouses, dockyards, docks and repair shops;
- (e) supply of fuel, lubricating oils, water and food;
- (f) medical and sanitary care.

ARTICLE 6

The Contracting Parties shall adopt, within the limits of their respective national laws and regulations, all appropriate measures to reduce, as far as possible, the carrying out of administrative customs and sanitary formalities applicable in ports.

ARTICLE 7

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

2. Ships' documents on board vessels, including documents in relation to their crews, issued or recognized by the competent authorities of one Contracting Party shall be accepted by the other Contracting Party.

3. Vessels of one Contracting Party in possession of duly issued tonnage certificates shall be exempt from measurement in the ports of the other Contracting Party.

ARTICLE 8

Vessels, crews, passengers and cargoes of one Contracting Party, while in the territorial waters of the other Contracting Party, shall be subject to the respective national laws and regulations in force, especially to the rules concerning traffic and safety, public order, frontier crossing, customs, foreign exchange, health, veterinary and phytosanitary controls.

ARTICLE 9

1. Each of the Contracting Parties shall recognize the seamen's identity documents issued by the competent authority of the other Contracting Party. These seamen's identity documents are:

- (a) for nationals of the Republic of the Philippines, the "Seaman's Record Book" or the "Philippine Passports".
- (b) for nationals of the People's Republic of Bangladesh, "Seaman's Continuous Discharge Certificate".

2. A seaman holding the appropriate seaman's identity documents specified in paragraph (1), shall, subject to the provisions of paragraph (1) of the Article 10, be permitted as the case may be,

- (a) to enter, without visa, the territory of either Contracting Party for temporary shore leave when the vessel, which is engaged as a member of the crew, is in a port of that Contracting Party;
- (b) to leave the territory of either Contracting Party upon the termination of his engagement on a vessel a member of the crew, which has to be certified by a written declaration of the master, when takes place in a port of either Contracting Party;
- (c) to enter, without visa, the territory of either Contracting Party for the purpose of joining a vessel as a member of the crew, provided that he is in possession of a written declaration signed and stamped by an authorized persons of the shipping enterprise, or its agent that he is to join a specified vessel at a specified port.

ARTICLE 10

1. Where no other provision is made in this Agreement, the national laws and regulations in force in the territory of each Contracting Party shall apply with regard to the entry, stay and departure of crews and vessels of the Contracting Parties.

2. The Contracting Parties reserve the right to deny entry into their respective territories to any holder of a seaman's identity documents, as defined in Article 9 paragraph (1), whom they consider undesirable.

ARTICLE 11

1. Whenever a crew member of a vessel of a Contracting Party commits an offense aboard the vessel, when the vessel is in the territorial waters of the other Contracting Party, the authorities of the State where the vessel is located shall not institute proceedings against him without the consent of the competent diplomatic or consular offices of the State whose flag the vessel flies.

2. However, the following situations are exempted from the preceding paragraph:

- (a) The consequences of the offense affect the security of the State; or
- (b) The offense is liable to prejudice public order and safety; or

- c) The offense is a serious and objectionable one under the law of the State where the vessel is located; or
- (d) The offense has been committed against a person who is not a crew member; or
- (e) The offense is in respect of the prohibited trade of narcotic drug; or
- (f) The assistance of the local authorities has been requested by the Master of the vessel, or by the competent diplomatic or consular official of the State where the vessel is registered.

3. The provisions of this Article shall not prejudice the rights of the competent authorities in all matters concerning the enforcement of laws and regulations relating to immigration, customs, public health, other measures concerning the safety of life, prevention of pollution and the security of cargo.

ARTICLE 12

1. Freight sharing shall be guided by the UN Liner Code of 1973 with provisions for further negotiations for any modification that may be considered necessary by either of the Contracting Parties.
2. Either Contracting Party shall grant to the shipping enterprises of the other Contracting Party the right to transfer profit derived from maritime transport in its territory in freely convertible currency or any other currency to be mutually agreed upon by the Contracting Parties in accordance with exchange controls and taxation regulation in force in its territory.
3. Earnings of seamen or seafarers who are citizens of either Contracting Party shall be taxed in accordance with the national laws of the Contracting Parties.

ARTICLE 13

1. Any foreign exchange remittance involved under this Agreement shall be subject to the foreign exchange rules and regulations of the Contracting Parties.
2. Nationals of the Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy protection and security in the territory of the other Contracting Party.
3. Each Contracting Party shall permit nationals who are members of the crew of a vessel of the other Contracting Party, the free transfer of their earnings, subject to the right of the former Contracting Party to impose equitably and in good faith such measures, as may be necessary, to safeguard the integrity and independence of its currency, its external financial position and balance of payments, consistent with its rights and obligations as a member of the International Monetary Fund.

ARTICLE 14

Shipping organizations and enterprises registered, operating and having their registered office in their territory of one Contracting Party, shall be entitled to establish permanent representation in the territory of the other Contracting Party, in accordance with the latter's laws and regulations.

ARTICLE 15

Each Contracting Party, in accordance with its laws and regulations, shall allow representatives of diplomatic and consular missions of the other Contracting Party, as well as representatives of shipping enterprises registered in the other Contracting Party, to enter its ports and board vessels, sailing under the flag or chartered by enterprises of the other Contracting Party, in order to perform duties related to the activities of these vessels and their crew.

ARTICLE 16

1. If a vessel of one Contracting Party suffers shipwrecks, runs aground, is cast ashore, or suffers any other accident off the coast of the territory of the other Contracting Party, the vessel and the cargo shall enjoy in the territory of the latter Party the same benefits and privileges and accept the same liabilities as are accorded to a vessel of that Party and its cargo. The master, the crew and passengers as well as the vessel itself and its cargo, shall be granted, at any time, help and assistance to the same extent as in the case of a national vessel.
2. The cargo, equipment, fittings, stores or other articles from a vessel which has suffered as accident referred to in paragraph (1) of this Article, shall not be liable to customs duties or other taxes of any kind imposed upon or by reason of importation, provided that they are not delivered for use or consumption in the territory of the other Contracting Party.
3. Nothing in the provisions of paragraph (2) of this Article shall be construed so as to preclude the application of the laws and regulations of the Contracting Parties with regard to the temporary storage of goods.
4. Nothing in this Article shall prejudice any claim for salvage in respect of any help or assistance given to a vessel, and its cargo.
5. Salvage operations shall be in accordance with the laws of the Contracting Party organizing the salvage operations.

ARTICLE 17

The provisions of this Agreement shall not affect the rights and obligations of the Contracting Parties arising out of international conventions on maritime law and shipping.

ARTICLE 18

For the purpose of reviewing the implementation of this Agreement and for consideration of any other shipping matters of mutual interest, a Joint Commission, composed of representatives of the Contracting Parties, may be set up. The Commission may be convened at the request of either Contracting Party.

ARTICLE 19

Any difference in the interpretation and/or application of this Agreement, will be settled through diplomatic channels. If deemed necessary by the Contracting Parties, the Joint Commission may be convened, as appropriate, to consider the matter and supplement the diplomatic procedure.

ARTICLE 20

For the purpose of implementing this Agreement, unless otherwise subsequently indicated by and duly communicated to either Contracting Party, the competent authorities of the two Contracting Parties are:

- In the case of the Republic of the Philippines, the Department of Transportation and Communication through the Maritime Industry Authority.
- In the case of the People's Republic of Bangladesh, the Ministry of Shipping.

ARTICLE 21

This Agreement shall enter into force thirty days after the receipt of the notification signifying the ratification of the Agreement in accordance with the Constitutional procedures and/or national laws and regulations of each Contracting Party.

The Agreement shall remain valid and in force unless terminated by either Contracting Party by giving notice in writing of termination at least six months before the end of any calendar year. In each case, this Agreement shall cease to have effect from the end of the calendar year in which the notice of termination is given.

ARTICLE 22

Any alteration of, or amendment to this Agreement shall be agreed upon in writing between the Contracting Parties and shall enter into force following the same procedure as described in Article 21.

Done in Manila this 10[th] day of October 1989 in two originals in the English language both texts being equally authentic.

FOR THE GOVERNMENT OF THE
REPUBLIC OF THE PHILIPPINES

FOR THE GOVERNMENT OF THE
PEOPLE'S REPUBLIC OF BANGLADESH

(Sgd.) R. O. REYES

(Sgd.)

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