

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.