

MARITIME SHIPPING AGREEMENT  
BETWEEN  
THE GOVERNMENT OF  
THE REPUBLIC OF INDIA  
AND  
THE GOVERNMENT OF  
THE SOCIALIST REPUBLIC OF VIET NAM

## PREAMBLE

The Government of the Republic of India and the Government of the Socialist Republic of Viet Nam (hereinafter jointly referred to as the Parties, and in singular as a Party),

CONSCIOUS of the friendly relations existing between the Parties;

DESIROUS of establishing effective co-operation between the two countries on the basis of their shared commitment to the principle of national sovereignty and respect for principles of international law; and

CONVINCED that strengthening and development of relations in merchant shipping and other maritime transport matters will contribute to the growth of bilateral economic and commercial relations between the two countries.

HAVE AGREED as follows:

## ARTICLE 1 DEFINITIONS

In this Agreement unless the context otherwise indicates-

- (a) "competent authority" means:
- (i) In the case of the Republic of India, the Ministry of Shipping.
  - (ii) In the case of the Socialist Republic of Viet Nam, the Ministry of Transport.
- (b) "International maritime transport" means any transport by a vessel, except when the vessel is operated solely between the ports of either Party, and excludes cabotage.
- (c) "Cabotage" means transportation of passengers or goods between any port located in the territory of a Party to any other port also located in that territory; feeder service within the same port in that territory; and further includes transportation of passengers or goods between a port located in that territory and any

installations/structures situated in the exclusive economic zone/continental shelf of that Party. In this context, transportation/feederling refers to the activity where passengers are both embarked and disembarked or goods that are both loaded and discharged in the territory of a Party."

- (d) "domestic law" means the national law of the country of a Party and includes statutes, rules, executive instructions, regulations and bye-laws.
- (e) "member of crew of a vessel" means the Master and any person employed for duties aboard the vessel and whose name is shown on the crew list of that vessel and holds the identity documents as referred to in Article 7 of this Agreement.
- (f) "shipping company" means a legal entity which meets the following conditions:
  - (i) Constituted in accordance with the laws of either Party;
  - (ii) Having its registered office or principal place of business in the territory of either Party;
  - (iii) Engaged in international shipping service with its owned vessels.
- (g) The term "vessel" and "vessel of a Contracting Party" means any merchant vessel registered in the Shipping Register of either Contracting Party and flying its flag in accordance with its domestic law.  
This, however, shall not include:
  - (i) Warships and auxiliary ships of the armed forces;
  - (ii) Vessels for hydrographic, oceanographic and scientific research and survey;
  - (iii) Vessels destined for providing port and beach services, including pilotage, towing, assistance and rescue at sea;

- (iv) Fishing vessels, fishery research and inspection vessels, and fishery factory vessels;
- (v) Vessels which are performing exclusively administrative or state functions;
- (vi) Vessels used for non-commercial purposes; and
- (vii) Nuclear propelled vessels.

## ARTICLE 2

### SCOPE

1. The provisions of this Agreement shall apply to international maritime transport of all types of cargoes (i.e goods and passengers), except those for which cargo preference to domestic flag vessels is applicable and it shall be accomplished on the basis of the principles of free and non-discriminatory access to cargoes subject to the domestic laws and prevailing practices of the respective Party. The provisions of this Agreement do not apply to national cabotage and inland waterway navigation.
2. The provisions of this Agreement shall not impede third-flag vessels to participate in the international transport of goods and passengers between the ports of the Parties.

## ARTICLE 3

### DEVELOPMENT AND CO-OPERATION

1. The Parties shall co-operate with each other to develop a mutually beneficial relationship in the field of Merchant Shipping and related maritime activities.
2. The Parties shall:
  - (a) encourage and facilitate the development of maritime relationship between their shipping organizations and enterprises and also co-operate very closely in the task of enhancing and stimulating steady growth of maritime traffic between their countries;

- (b) encourage and facilitate exchange and training of staff and students from various maritime establishments such as Maritime Educational Institutions;
- (c) encourage and facilitate exchange of information necessary for accelerating and facilitating the flow of commercial goods at sea and at ports and encourage strengthening of co-operation between merchant fleets;
- (d) encourage and facilitate establishment of joint ventures in the fields of maritime transportation, shipbuilding and ship repairs, maritime training, maritime information technology including development of simulators, port facilities and related maritime activities.

3. The Parties shall take, according to their port legislation and regulations, all measures needed to facilitate and encourage maritime transport, in order to avoid unnecessary ship delays and accelerate and simplify as much as possible the compliance with customs formalities etc. in force in their respective ports.

#### ARTICLE 4 SUPPLY OF SERVICES

1. Each Party shall grant, subject to the domestic laws in force in its country, inter-alia, a treatment no less favorable than that accorded to its own vessels, for vessels flying the flag of the Party with regard to access to ports, use of infrastructure and auxiliary maritime services of those ports, as well as related fees and charges, customs formalities and assignment of berths and facilities for loading and unloading.

2. The Parties undertake to apply effectively the principle of unrestricted access to the international maritime market and traffic subject to the preference of cargo owners/cargo (controlling) interests as also to the national legislations, rules and regulations etc. of the Parties. This agreement shall not restrict the freedom of the Parties to continue the application of the existing measures, procedures and practices such as cargo preference to the vessels flying their respective national flags and to introduce such measures as may be required in the interest of their respective national shipping fleets.

**ARTICLE 5**  
**COMMERCIAL PRESENCE**

In respect of activities for the provision of international maritime cargo transport, each Party shall, if allowed by its domestic law, permit the shipping companies of the other Party, to establish joint-venture companies or wholly owned entities to provide the following services in accordance with its laws and regulations:

- (i) cargo soliciting and booking of space;
- (ii) making, confirming, handling and issuing of the bill of lading, including the commonly accepted through bill of lading in the international maritime transport; preparation of documentation concerning transport documents and customs documents;
- (iii) fixing, collecting and remitting freight and other charges incurred on the basis of service contracts or tariff rates;
- (iv) negotiating and signing service contracts;
- (v) quoting and publishing tariff rates;
- (vi) engaging in marketing activities related to their service;
- (vii) provision of business information by any means, including computerized information systems and electronic data interchange (subject to any non-discriminatory restrictions concerning telecommunications);
- (viii) setting up of any business arrangement, including participation in the company's stock and the appointment of personnel recruited locally, with any locally established company;
- (ix) other activities allowed by the domestic law of the Party in whose territory the company is established.

**ARTICLE 6**  
**ENVIRONMENTAL PROTECTION**

1. Vessels from the countries of the Parties are subject to the domestic law in force in the countries of the Parties as regards environmental protection.

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2. The vessels from the country of each Party shall take preventive measures against polluting the territorial waters and designated areas in the exclusive economic zone of the other Party.

3. In the event of any pollution resulting from a breach of paragraph 2 above, the defaulting vessel shall be liable under the domestic law concerned and international conventions acceded to by the Party with respect to that pollution.

#### ARTICLE 7

#### RECOGNITION OF DOCUMENTS

1. Each Party shall recognize the nationality of vessels of the other Party as indicated in the vessels' documents on board issued by the Competent Authority of the other Party in accordance with its domestic law.

2. The other documents on board issued or recognized by a Party shall be recognized by the other Party with respect to the vessels of the former Party.

3. Vessels of either Party possessing Tonnage Measurement Certificates issued in accordance with the International Convention on Tonnage Measurement of Ships, shall be recognized in the harbours of the other Party and shall not be re-measured in the ports of the other Party. Provided that, should the latter Party have reasonable grounds to question the correctness of the said Certificate, the following procedure shall be adopted.

(i) the concerned Party shall inform the country whose flag the vessel is flying;

(ii) the competent authority of the country in which the harbour is situated may direct a surveyor to give a ruling in accordance with its domestic law or, if necessary, in accordance with Article 12 of the IMO International Convention on Tonnage Measurement of Ships 1969.

4. Each Party shall recognize the identity documents issued by the competent authorities of the other Party to its crew members. The crew list of the vessel will be recognized for the purposes of this Agreement only if it is submitted by the Master of the vessel to the concerned Port Authority when the vessels arrives at/visits any port of the other Party. The identity documents so issued are hereinafter referred to as "IDs".

#### ARTICLE 8 DOMESTIC LAW

All vessels of a Party, as well as all goods, passengers and crew of such vessels shall, when in the territorial and internal waters of the other Party, be subject to the relevant domestic law in force in the country of that other Party and in particular, to traffic safety, maritime security, border, immigration, customs, foreign currency, health, veterinary and phytosanitary measures.

#### ARTICLE 9 RIGHTS OF TRANSIT AND STAY OF SEAFARERS

1. Any person holding the identity documents referred to in Article 7, having adequate travel funds and a service directive to join a vessel in a port of a Party shall be entitled to the right of transit whenever he or she is joining that vessel.
2. In all cases referred to in paragraph 1, the person must obtain the appropriate visa from the other country. The Parties shall endeavor to facilitate speedy issuance of the visas.
3. When a crew member on board the vessel of the Party holding the identity documents referred to in Article 7 above, disembarks at a port of the other Party for health reasons, purposes of service or for other reasons recognized as valid by the competent authorities, the latter shall give the necessary authorization for the person concerned to remain in its territory in the event of his or her hospitalization and to return to his or her country of origin or proceed to another port of embarkation by any means of transport.

4. For the same purposes as those enumerated in paragraph 1, any person holding the identity documents referred to in Article 7 who does not possess the nationality of one of the Parties shall be granted entry and transit visa required for the territory of the other Party provided re-admission to the territory of the Party which issued the identity documents is guaranteed.

5. The domestic law in force in the countries of the Parties relating to the entry, abode and removal of aliens shall remain applicable.

6. The Parties reserve the right to prohibit access to their respective countries to any person possessing the identity documents that they consider undesirable.

7. A crew member of a vessel of a Party in a port of the other Party, who is in possession of a valid identity document referred to in Article 7, may disembark from his or her vessel and shall, subject to the relevant domestic law in force in the respective countries of the Parties, have access to the town where the port is situated provided that the crew list is handed over to the competent authorities, in compliance with the rules that are applicable to that port. Such persons shall comply with regulatory control both ongoing ashore and returning aboard the vessels.

8. All changes in the crew of a vessel shall be recorded in ships' documents with due reference to the date of and reason for such a change and shall be communicated to the concerned port authorities of the Party in whose territory the vessel is staying.

#### ARTICLE 10

##### COOPERATION FOR SAFETY OF SEAFARERS

If a crime is allegedly committed against or by a national or a crew member of the Contracting Party aboard a vessel (either in the territorial waters of the other Contracting Party or at high seas) then the Contracting Party having jurisdiction (either as a coastal state if the crime has been committed in its territorial waters or as a port state when the crime is committed on high seas but the vessel calls on its port, or as flag state if the crime is

committed on its ship), shall investigate and take prompt action as per its national laws and international conventions, ensuring timely delivery of justice. While striving to achieve the aforesaid objective, the following shall be adhered to:

- (i) The Contracting Party will fully cooperate with the substantially interested Party and also provide the investigation report and other relevant documents for the benefit of the Party against whose national or crew member the crime has been committed.
- (ii) The Party shall facilitate for participation of investigator(s) from the substantially interested Party in the investigation, including the casualty investigation involving safety related accidents, as observer(s) in accordance with the laws and regulations of the Party which has jurisdiction as per aforesaid paragraph.
- (iii) The Contracting Parties agree to cooperate for strengthening the international rules, laws and conventions in ensuring safety of seafarers at IMO/ILO and other international forums.

#### ARTICLE 11

##### SPECIAL OBLIGATION WITH RESPECT TO CALLING VESSELS

The vessels of the Parties must refrain from any act that could affect peace, order and security of the Parties as well as any activity that is not directly related to their mission.

#### ARTICLE 12

##### VESSELS IN DISTRESS

1. If a vessel of one Party is in distress in the Search and Rescue Region of the other Party, the latter shall render the same assistance and protection to such vessel as it will have rendered to its own vessels and in accordance with the applicable international law.
2. All goods unloaded or saved by one Party from a vessel in distress of the other Party, shall not be subject to Customs Duty in cases where such goods are not intended for consumption or use in the territory of the first Party.

## ARTICLE 13

### PAYMENTS AND CAPITAL MOVEMENTS

1. The Parties undertake to authorise in freely convertible currency, any current payments between nationals and companies of the Parties connected with international maritime transport, made in accordance with the provisions of the present Agreement in conformity with the relevant rules and regulations as may be applicable.
2. The movement of capital between nationals and companies of the Parties in the form of direct investment made in companies formed in accordance with the laws of the host country, investments made, and the transfer abroad of such investments shall be ensured.
3. The Parties shall consult each other with a view to facilitating the movement of capital between them in order to promote the objectives of this Agreement.

## ARTICLE 14

### MARITIME LIAISON COMMITTEE

1. The Parties hereby establish a Maritime Liaison Committee (hereinafter referred to as the "Committee") for the purpose of promoting sustained co-operation between the Parties in the field of merchant shipping and maritime transport related matters and to enhance the implementation of this Agreement by making recommendations to the Parties.
2. The Committee shall consist of representatives to be nominated by each Party as soon as possible after signing of this Agreement.
3. The Committee shall meet at such times and places as agreed upon by the Parties.
4. The Committee shall decide upon its own procedure and quorum.
5. To facilitate urgent consultations in matters relating to implementation of this agreement and any arrangements made there-under, visas shall be granted immediately, on

request, to four nationals of either country nominated by the respective governments, for travel to the other country. Names and full particulars of the nationals so nominated shall be exchanged between the two countries immediately after this Agreement is signed.

**ARTICLE 15**  
**SETTLEMENT OF DISPUTES**

1. The Committee must be consulted on any dispute arising from the interpretation or implementation of this Agreement.
2. If the dispute is not settled after consultations with the Committee, it must be submitted to the competent authorities for direct negotiations.
3. If the dispute cannot be resolved through direct negotiations between the competent authorities of both Parties, the latter then have recourse to diplomatic channels.

**ARTICLE 16**  
**AMENDMENTS**

This Agreement may be amended by agreement in writing between the Parties by mutual consent through an Exchange of Notes through the diplomatic channel.

**ARTICLE 17**  
**ENTRY INTO FORCE**

The Agreement shall enter into force on the date on which each Party has notified the other Party in writing through the diplomatic channels of its compliance with the internal procedures necessary for the implementation thereof. The date of entry into force shall be the date of last notification.

**ARTICLE 18**  
**DURATION AND TERMINATION**

This Agreement shall remain in force for an initial period of five (5) years whereafter it shall be renewed automatically for successive periods of one (1) year, unless terminated by

either Party by giving six months written notice in advance through the diplomatic channel of its intention to terminate this Agreement.

**IN WITNESS WHEREOF** the undersigned being duly authorized by their respective Governments, have signed this Agreement, in three originals in the Hindi, Vietnamese and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

**DONE** at Hanoi this 24<sup>th</sup> day of May in the year of two thousand and thirteen.

FOR THE GOVERNMENT  
OF THE  
REPUBLIC OF INDIA



G.K.Vasan  
Minister of Shipping

FOR THE GOVERNMENT  
OF THE  
SOCIALIST REPUBLIC OF VIET NAM



Đinh La Thăng  
Minister of Transport