

MARITIME TRANSPORT AGREEMENT

BETWEEN THE GOVERNMENT OF

THE REPUBLIC OF CHINA (TAIWAN) AND

THE GOVERNMENT OF THE REPUBLIC OF GUATEMALA

The Government of the Republic of China (Taiwan) and the Government of the Republic of Guatemala, (hereinafter referred to as “the Contracting Parties”);

RECOGNIZING the importance of maritime relations between their countries;

DESIRING to develop further these relations harmoniously, taking into account the freedom of maritime transport and to strengthen, as much as possible, international cooperation in this field;

REAFFIRMING their adherence to the principle of freedom of navigation and their commitment to refrain from any action which might hamper the operation and development of maritime transport;

In accordance with the principles of equality and mutual benefit;

Have agreed as follows:

Article 1 Definitions

For the purpose of this Agreement, the following terms shall be understood as:

- a) **crew members:** all persons, including the master, actually employed under contract for duties on board a vessel during a voyage and included in the crew list;
- b) **ports of the Contracting Parties:** sea ports, including roadsteads, in the territory of either Contracting Party which are approved and open to international shipping;
- c) **vessel of a Contracting Party:** any merchant vessel registered in the territory and flying the flag of either Contracting Party or operated/bareboat chartered by a shipping company operating under the laws and regulations of either Contracting Party.

However this term does not include:

- i) vessels exclusively used by the armed forces;
- ii) vessels for hydrographic, oceanographic and scientific research;
- iii) fishing vessels, fishery research and inspection vessels and fish factory

- vessels;
- iv) vessels destined for providing port, roadstead and beach services, including pilotage, towage, assistance and rescue at sea.

Article 2 Competent Authority

1. For the purpose of this Agreement, the competent authority shall be:
 - a) in the case of the Republic of Guatemala, The Ministerio de Comunicaciones, Infraestructura y Vivienda or its successor;
 - b) in the case of the Republic of China (Taiwan), The Ministry of Transportation and Communications or its successor.
2. In case any of the competent authority is changed, the name of the new authority shall be notified to the other Contracting Party through diplomatic channels.

Article 3 Participation in Transport

1. The Contracting Parties agree to:
 - a) encourage the participation of their vessels in maritime transport between their ports and not to prevent vessels, flying other flags, to participate in maritime transport between their ports and ports of third countries under their respective rules;
 - b) cooperate with a view to eliminate any obstacle which might impede the development of maritime trade between their ports and which might interfere with the various activities connected with such trade.
2. Shipping companies from third countries, as well as vessels flying the flag of a third country, may participate in the transport of goods in the framework of the bilateral trade of the Contracting Parties.
3. The Contracting Parties endeavour to implement the relevant international instruments concerning the safety of vessels, the protection of the marine environment as well as the conditions of living and work of seamen.

Article 4 Free Transfer

1. A Contracting Party shall grant to shipping companies of the other Contracting Party the right of free transfer in convertible currency of all revenues earned by those companies from activities covered by this Agreement in the territory of the First Contracting Party.

2. Such transfers shall be possible to be effected regularly and without delay and shall be based on official exchange rates for current payments or, where there are no official exchange rates, at the prevailing foreign exchange market rates for current payments. No charges other than normal bank charges shall be applicable to such transfers.

Article 5 National Treatment

1. A Contracting Party shall grant in its ports to the vessels of the other Contracting Party the same treatment as rendered to its own vessels with respect to the collection of port dues and taxes, access to ports, freedom to enter, remain in and leave ports, the use of port facilities and to all facilities granted by it in connection with navigation and commercial operations for the vessels and their crew members, passengers and cargo. This provision shall also apply to the allocation of berths and to facilities for loading and unloading.

2. The provisions of paragraph 1 shall not apply to shipping activities legally reserved by a Contracting Party to its own vessels, such as towage and pilotage.

3. A Contracting Party shall grant the same national treatment to the establishment and the operation of shipping companies, shipping agents, and freight forwarders in the other Contracting Party.

Article 6 Agents and Representatives

Shipping companies operating in the territory of one Contracting Party, shall be entitled to establish functioning representations in the territory of the other Contracting Party, in accordance with the latter's laws and regulations.

Article 7 Facilitation

1. The Contracting Parties shall, within the framework of their respective laws and regulations, take all necessary measures to facilitate and expedite maritime traffic, prevent unnecessary delays to their vessels, expedite and simplify the carrying out of customs, health, and other administrative formalities applicable in ports and to facilitate the use of the available port reception facilities.

2. As far as such formalities prescribed in paragraph 1 are concerned, the treatment granted in a port of one Contracting Party to any vessels of the other Contracting Party, shall be the same as that granted to the vessels of the first Contracting Party.

Article 8 Recognition of the Vessels' Documents

1. A Contracting Party shall recognize the nationality of the vessels of the other Contracting Party, as proved by the documents on board that have been issued by the

competent authority of the other Contracting Party in accordance with its laws and regulations.

2. Vessels' documents, including documents listing the crew members, issued or recognized by one Contracting Party shall be recognized by the other Contracting Party.

Article 9 Recognition of the Crew Members' Documents

1. A Contracting Party shall recognize the crew members' identity documents issued by the respective authorities of the other Contracting Party and grant to the holders of such documents the right stipulated in articles 9, 10 and 11 of this Agreement, under the conditions stipulated therein.

2. The Contracting Parties shall recognize as identity document the Seaman Service Book.

Article 10 Disembarkment of Crew Members

1. During the time a vessel of one Contracting Party is in a port of the other Contracting Party, each crew member of that vessel shall be permitted shore leave in the municipal district to which the port belongs, where he can show the relevant identity document mentioned in Article 9 of this Agreement. Such leave shall only be permitted if the master has submitted to the appropriate authorities at the port, a crew member list in accordance with the regulations in force in that port.

2. When going ashore and returning to the vessel, the crew member in question shall be subject to the control and customs formalities in force in that port.

Article 11 Migratory Permits

1. Crew members on duty of one Contracting Party holding the relevant identity documents mentioned in Article 9, have the right, regardless of the mode of transport, to enter the territory of the other Contracting Party or pass through that territory in order to join their vessel, to be transferred to another vessel, to return to their country, or to travel for any other purpose with the consent of the relevant authorities of that other Contracting Party.

2. In all cases referred to in paragraph 1 no visa is required.

3. When a crew member of one Contracting Party, holding a relevant identify document mentioned in Article 9, disembarks in a port of the other Contracting Party for reasons of health, purpose of service or other reasons recognized as valid by the relevant authorities of that other Contracting Party, these authorities shall give the necessary permission in order to enable the crew member to remain in their territory, to receive medical attention or to be hospitalized and to return to his country by any means

of transportation or to go another port of embarkment.

4. Any crew member on duty holding the identity document mentioned in Article 9, but not possessing the nationality of one Contracting Party, may be granted the entry or transit visa or permit required entering the territory of the other Contracting Party, provided readmission to the country of origin or residence, which issued his traveling document, is guaranteed.

Article 12 Special Permits

1. Without prejudice to the provisions of Articles 9, 10 and 11 of this Agreement, the applicable laws and regulations of either Contracting Party concerning entry, stay and termination of stay of foreigners remain in force.

2. The provisions of Articles 9, 10 and 11 do not restrict the right of either Contracting Party to refuse entry to its territory to any crew member and holder of any of the identity documents mentioned in Article 9 whom they consider undesirable, which will have to be informed properly to the master.

Article 13 Jurisdiction

1. For the safe manning of merchant vessels of one Contracting Party with qualified personnel, its shipowners may engage, in accordance with its relevant laws and regulations, qualified nationals of the other Contracting Party.

2. Any disputes arising out of the respective contract of employment between a ship owner of one Contracting Party and a seaman of the other Contracting Party shall be referred for settlement solely to the relevant judicial or administrative authorities of either Contracting Party.

Article 14 Assistance to Vessels in Distress

1. If a vessel of one Contracting Party is shipwrecked, runs aground, is cast ashore, or suffers any other accident off the coast in the territory of the other Contracting Party, the vessel and its cargo shall enjoy in the territory of the other Contracting Party the same benefits and privileges and accept the same liabilities as are accorded to a vessel of that Contracting Party and its cargo. The master, the crew members and passengers, as well as the vessel itself and its cargo, shall be granted, at any time, the help and assistance to the same extent as in the case of a national vessel.

2. The cargo, equipment, fittings, stores or other articles rescued from a vessel which has suffered an accident referred to in paragraph 1 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 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 limit a Party from making a claim for salvage in respect of any help or assistance given to a vessel and its cargo.

5. The competent authorities of one Contracting Party, in whose territory a vessel of the other Contracting Party has suffered a casualty as described in paragraph 1, shall immediately notify of the event the nearest consular representative of the other Contracting Party and conduct an investigation into the cause of the casualty or provide every possible assistance for carrying out such investigation.

Article 15 Committee of Maritime Transport

The Committee of Maritime Transport established in the Article 14.04 and Annex 14.04 of the Free Trade Agreement between the Republic of China (Taiwan) and the Republic of Guatemala, will be the manager of the effective implementation of the present Agreement and of the facilitation of maritime transport between the territories of the Contracting Parties.

Article 16 Entry into Force and Withdrawal

1. A Contracting Party shall notify the other Contracting Party of the completion of the legal procedure required for bringing this Agreement into force. This Agreement shall come into force on the first day of the second month from the date of receipt of the latter notification.

2. This Agreement shall remain in force for an indefinite period. It may be withdrawn at any time by either Contracting Party notifying the other in writing through diplomatic channels. In such case, the Agreement shall cease to have effect six months after such notification is received.

Article 17 Amendments

1. Any amendment to this Agreement shall be agreed in writing through the exchange of notes by the designated authorities of Article 2 of this Agreement.

2. The amendment agreed on shall enter into force once approved in accordance with the applicable legal procedures of each Contracting Party, in accordance with what established in paragraph 1 of Article 16.

Article 18 Authentic Texts

The English, Spanish and Chinese texts of this Agreement are equally authentic. In case

of differences in the interpretation of the text of this Agreement, the English version shall prevail.

IN WITNESS WHEREOF, the undersigned, being properly authorized by their respective Governments, have signed this Agreement.

Done in Guatemala City, the Republic of Guatemala, in duplicate in Chinese, Spanish and English languages, on the 22nd day of September, 2005.

**FOR THE GOVERNMENT OF THE
REPUBLIC OF CHINA (TAIWAN)**

**FOR THE GOVERNMENT OF THE
REPUBLIC OF GUATEMALA**

**CHEN SHUI – BIAN
PRESIDENT**

**OSCAR BERGER PERDOMO
PRESIDENT**

WITNESSES OF HONOR:

**HO MEI – YUEH
MINISTER OF ECONOMIC AFFAIRS**

**MARCIO CUEVAS QUEZADA
MINISTER OF ECONOMY**

**LIN LING – SAN
MINISTER OF TRANSPORTATION AND
COMMUNICATIONS**

**MANUEL EDUARDO CASTILLO
ARROYO
MINISTER OF COMMUNICATIONS,
INFRASTRUCTURE AND HOUSING**