

**AGREEMENT
ON
MARITIME TRANSPORT
BETWEEN
THE GOVERNMENT OF
THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF
THE SOCIALIST REPUBLIC OF VIETNAM**

The Government of the United States of America and the Government of the Socialist Republic of Vietnam, hereinafter referred to as the "Parties",

Desiring to strengthen and to extend cooperation in the field of maritime transport on the basis of the principles of equal access and mutual benefit,

Noting the economic importance to shippers, manufacturers, and consumers of an integrated transportation system with efficient logistical and intermodal features,

Have agreed as follows:

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Article 1
Definitions

For the purposes of this Agreement:

1. The term "Vessel of a Party" means:
 - (a) Any merchant vessel registered in the territory of either Party in accordance with its laws and regulations and used for either commercial shipping or a merchant marine training vessel, or
 - (b) Any merchant vessel registered in the territory of a third country that is operated or chartered by a shipping company of either Party, including vessels owned, operated, or chartered, including space-chartered in container shipping.

The term "Vessel of a Party" shall not include the following vessels:

- (i) Warships (as defined in the 1982 United Nations Convention on the Law of the Sea);
 - (ii) Vessels engaged in meteorological, hydrographic, or oceanographic field research;
 - (iii) Fishing vessels;
 - (iv) Recreational vessels; or
 - (v) Public vessels and any vessels used for non-commercial purposes other than merchant marine training vessels.
2. The term "crew member" means the master, officers, seamen, or any persons employed for duties on board a vessel of either Party and whose name is included on the crew list of such vessel.
3. The term "passenger" means a person carried by a vessel of either Party under a contract of carriage and whose name is included in the passenger list of such vessel.
4. The term "port of a Party" means any seaport in the territory of a Party that is declared open to international shipping by that Party.
5. The term "shipping company" means any enterprise that is established and operated under the laws of a Party, and that engages in international maritime transport.

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6. The term "merchant marine training vessel" means any vessel owned and operated by Government authorities for the sole purpose of training and education of seafarers.
7. The term "competent authorities" means:
 - (a) For the Government of the Socialist Republic of Vietnam: the Vietnam Maritime Administration, the Ministry of Transport or such other body as the Government of Vietnam may designate.
 - (b) For the Government of the United States of America: the Maritime Administration, Department of Transportation, or such other body as the United States Government may designate.
8. The term "cargo agency services" means the solicitation and booking of cargo; assessment, collection, and remittance of freight and other charges arising out of service contracts or tariffs; negotiation and entering into service contracts, multimodal transportation agreements and contracts of affreightment; quoting and publishing tariffs; arranging transport services using commercial bills of lading or combined transport documents; direct marketing and sales of maritime transport and related services with customers.
9. The term "cargo management" means the scheduling, coordination and tracking of goods in international trade for their transport, storage and delivery from different sources to different destinations on behalf of customers and processing of data, information and documentation related to these goods.
10. The term "cargo documentation" means the preparation of transport documents, including cargo manifests, customs documents, or other documents related to the origin, destination and character of the goods transported; signing and issuing cargo receipts; preparing, authenticating, processing and issuing bills of lading, including through bills of lading, that are generally accepted in international maritime transport.
11. The term "ocean freight forwarding" means the assembling, collecting, consolidation and dispatch of shipments via an ocean carrier and booking or otherwise arranging space for those shipments on behalf of shippers and processing the documentation for performing related activities incident to those shipments.
12. The term "container station and depot services" means the storage of containers, whether in port areas or inland, and their stuffing, stripping, repairing and making containers available for shipment.

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Article 2
Market Access

1. The vessels of each Party have the right to transport passengers and cargo between the territories of the two Parties and between the territory of each Party and the territory of third countries. Nothing in this Agreement, however, confers on vessels of one Party the right to take on board, in the territory of the other Party, passengers or cargo destined for another point in the territory of that other Party (cabotage).
2. The vessels of each Party shall have the right to transport between ports of the other Party empty cargo vans, empty lift vans, and empty shipping tanks; equipment for use with cargo vans, lift vans or shipping tanks; empty barges especially designed for carriage aboard vessels and equipment, excluding propulsion equipment for use with such barges; and empty instruments of international traffic, including containers; provided that all such articles are owned or leased by the owner or operator of the transporting vessel and are transported for his use in handling his cargo in foreign trade.
3. The vessels of each Party have the right to call at the ports of the other Party, subject to advance notice requirements of such entry to the appropriate authorities of that Party. However, nothing in this Agreement concerning port access shall be construed to prevent either Party from taking action necessary for the protection of its national security, safety, or environmental interests.
4. The vessels of each Party shall be treated at least as favorably as merchant vessels of the other Party and at least as favorably as such vessels of any other country with respect to access to port facilities in the territory of the other Party, including berths, quays, cargo- and vessel-handling equipment, warehouses, and the collection of port dues and charges.

Article 3
Commercial Opportunities

1. Shipping companies of each Party shall have the right to invest up to 51% of the legal capital of joint ventures established with entities of the other Party in the territory of the other Party to engage in the transportation of international ocean freight.

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2. The joint ventures described in paragraph 1 of this Article shall be permitted to contract for, or offer directly, services in connection with international ocean freight carried on board their vessels, including:
 - (a) Cargo agency services;
 - (b) Cargo documentation;
 - (c) Cargo management;
 - (d) Ocean freight forwarding;
 - (e) Storage and warehouse services; and
 - (f) Container station and depot services.
3. Five years from entry into force of this Agreement, shipping companies of each Party shall have the right to establish fully owned subsidiaries in the territory of the other Party to engage in the transportation of international ocean freight and to provide the services in paragraph 2 of this Article.
4. Entities organized under the laws of each Party shall have the right to fund the construction of ports, and to operate such ports, or their ancillary facilities under applicable laws and regulations of each Party.
5. The joint ventures described in paragraph 1 of this Article shall be permitted to employ, in connection with international transportation of ocean cargoes, any inland transportation for cargo to or from any points in the territories of the Parties, including transport to and from all ports, and including, where applicable, to transport cargo in bond under applicable laws and regulations of each Party. Five years from entry into force of this Agreement, fully owned subsidiaries established by the shipping companies of either Party in the territory of the other Party shall have the right to employ these services directly.
6. Notwithstanding the five-year limits in paragraphs 3 and 5 of this Article, upon the entry into force of this Agreement, one shipping company of the United States of America, to be identified by the Government of the United States of America, shall have the right to establish a fully owned subsidiary as provided in paragraph 3 of this Article. At that time, that fully owned subsidiary shall also have the right to employ directly the services described in paragraph 5 of this Article.
7. Nothing in this Article shall be construed to prevent either Party from taking action necessary for the protection of its national security interests.

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Article 4
Remittance of Funds

1. Shipping companies of each Party shall be free to provide services covered in Article 3 of this Agreement in the territory of the other Party, for compensation in the currency of the other Party or in freely convertible currencies, to the degree permitted by the other Party's laws and regulations, provided that they are applied on a non-discriminatory basis.
2. Shipping companies of each Party shall have the right to convert and remit to its country, on demand, local revenues in excess of sums locally disbursed. Conversion and remittance shall be permitted promptly without restrictions or taxation and at the rate of exchange applicable to current transactions and remittances on the date a company makes the initial application for remittance.

Article 5
Vessel Documentation

1. Each Party shall recognize, to the extent permitted by its laws and regulations, vessel certificates and documents issued or recognized by the other Party, provided, however, that each Party shall recognize certificates issued under the authority of the other Party, including the International Convention for the Safety of Life at Sea, 1974, as amended; the International Convention for the Prevention of Pollution from Ships, 1973/1978, as amended; and the International Convention on Tonnage Measurement of Ships, 1969, as amended.
2. Vessel tonnage taxes shall be calculated and collected on the basis of the tonnage of the vessel as stated in the International Tonnage Certificate. Vessels of either Party shall be exempted from re-measurement in ports of the other Party. However, in the case either Party has clear grounds to doubt the correctness of the International Tonnage Certificate, the Party shall inform the country whose flag the vessel is flying. Each Party shall ensure that the tonnage taxes upon vessels of the other Party will not exceed the charges imposed on its national vessels in like situations.

Article 6
Crew Member Documents

Each Party shall recognize certificates of competency of crew members issued by the other Party in accordance with the International Convention on

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Standards of Training, Certification and Watchkeeping for Seafarers (STCW 1978/1995), as amended.

Article 7
Immigration and Customs

1. The laws and regulations of a Party relating to entry, exit, clearance, vessel security, immigration, passports, customs, quarantine, and, in the case of mail, postal regulations shall apply to vessels of the other Party, and to passengers, crew, or cargo on board such vessels entering, within or leaving the territory of the first Party.
2. Members of the crew of vessels of either Party may enter and exit the territory or travel through the territory of the other Party to join vessels, repatriate or for any other reason acceptable to the appropriate authorities of the other Party, subject to the provisions of paragraph 1 and to compliance with the applicable laws and regulations of said other Party.
3. Members of the crew of vessels of either Party in need of immediate medical care may enter and remain in the territory of the other Party for the period of time acceptable to the proper authorities of the other Party for immediate medical treatment provided such entry and sojourn are otherwise in compliance with the applicable laws and regulations of that Party.
4. Each Party may deny entry into its territory to a crew member of a vessel of the other Party and to a passenger on board such vessels in accordance with the applicable laws and regulations of that Party.

Article 8
Assistance to Vessels in Distress

1. If a vessel of a Party is involved in an apparent or actual distress situation, accident, or act of violence against it in the internal waters or territorial sea of the other Party, such other Party shall, if practical, facilitate or provide assistance to the master, crew members, passengers, vessel, and cargo. Such other Party shall also promptly notify the diplomatic representative or consular representative of the state whose flag the vessel is flying.
2. The Party in whose territorial sea or internal waters the accident has taken place shall take the appropriate steps, including as specified in applicable International Maritime Organization instruments, to conduct an investigation of the accident. The Parties agree to cooperate in the

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conduct of the investigation and to allow representatives of each Party to participate in the investigation in accordance with its relevant national laws. That Party shall promptly inform the other Party of the results of an investigation.

3. All cargo and other property unloaded or saved from a vessel in distress shall be exempted from all customs duties and taxes, except port usage fees and charges as applicable, provided that such cargo and property are not released for consumption or use in the territory of the Party. The shipowner shall pay storage costs incurred in accordance with the applicable regulations of the Party, provided that all such charges shall be just, reasonable, and non-discriminatory.

Article 9 Consultations

1. To facilitate the implementation of this Agreement, a joint committee comprising representatives of the relevant authorities shall be established by the Parties.
2. The Joint Committee shall consider matters of common concern with respect to the interpretation and implementation of this Agreement and other maritime transportation issues, in particular those related to activities of shipping companies and vessels of the Parties involved in maritime transport between the two countries, and exchanges of information between the Competent Authorities.
3. At the request of either Party, the Joint Committee shall hold consultations on a date and at a venue agreed by the Parties.
4. A Party shall respond to a request for consultations from the other Party within 30 days from the date of receipt of the request.

Article 10 Cooperation

The Parties shall, subject to available funds, cooperate closely in the field of maritime transport, in particular, in the development of cargo and passenger trades, and in training seafarers and officers in the field of maritime transport.

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Article 11
Entry into Force and Amendment

1. This Agreement shall enter into force 30 days after an exchange of diplomatic notes confirming completion by the Parties of the internal procedures required for its entry into force.
2. This Agreement shall remain in force for five years and shall be renewed automatically for successive one year periods. This Agreement may be terminated at any time by either Party upon six months' written notice, through diplomatic channels, to the other Party.
3. This Agreement may be amended by agreement of the Parties.

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

DONE at Washington, D.C., on March 15, 2007, in duplicate in the English and Vietnamese languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE
SOCIALIST REPUBLIC OF VIETNAM:

