AGREEMENT
ON
MARITIME TRANSPORT
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

The Government of the United States of America and the Government of the People's Republic of China (hereinafter referred to as the Parties);

Recognizing the importance of maritime relations for both countries and the importance of equal rights and open opportunities for the Parties under this Agreement;

Reaffirming their commitment to market principles in shipping and intermodal services;

Desiring to foster efficient, competitive shipping services in the bilateral trade and the growth of economic ties between the two countries; and

Adhering to the principles of equality and mutual benefit;

Have agreed as follows:

ARTICLE 1
Definitions

For the purpose of this Agreement:

1. The term "vessel" shall mean any merchant ship engaged in commercial maritime shipping. The term "vessel" shall not include warships, commercial fishing vessels, or any vessel carrying out government or other non-commercial functions.

2. The term "vessel of one Party" shall mean any vessel, as defined in paragraph 1, above, under the national flag of one Party, registered in the territory of that Party, or any vessel, as defined in paragraph 1, above, under the flag of a third country that is owned or operated by a shipping company of one Party. "Operated" means owned, operated, bareboat chartered, time chartered, or space chartered.

3. The term "members of the crew" shall mean the master and other persons serving on board a vessel who actually perform duties or services connected with the operation or maintenance of the vessel, holding appropriate documents issued by the authorities of a Party as provided in Article 9, and whose names are included on the crew list of the vessel.

4. The term "shipping companies" shall mean any economic entity organized under the applicable law of one Party that engages in international maritime transport.

5. The term "ports of one Party" shall mean the ports of that Party that are open to foreign vessels.

6. The term "Agreement" shall mean this Agreement, its Annex, and any amendments thereto.

ARTICLE 2
Carriage of Cargo and Passengers

1. Each Party grants to the vessels of the other Party the right to transport cargo and passengers between the ports of the two Parties (bilateral trade) and between its ports and ports in third countries (cross trade), subject to Article 3, including the right to pick up or discharge passengers and cargo at more than one port of the other Party if such passengers and cargo are destined for or are proceeding from countries other than that Party on the same vessel. However, this Agreement shall not apply to the vessels of one Party in the transportation of passengers and cargo between the ports of the other Party.

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 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.

ARTICLE 3
Port Access

Vessels of each Party shall have the right to call at ports of the other Party, subject to the advance notice requirements of such entry to the appropriate authorities of that Party. Nothing in this Article or Agreement with respect to port access shall be construed to prevent either Party from taking action necessary for the protection of its national security, safety or environmental interests.

ARTICLE 4
Maritime Transport Offices and Activities

Companies of each Party engaged in maritime transport may exercise the rights with respect to business activities as detailed in the Annex.

ARTICLE 5
Vessel Documents

1. Each Party shall recognize the nationality of the vessels that fly the national flag of the other Party and hold certificates of their nationality issued according to the laws and regulations of the other Party.

2. Each Party shall recognize the tonnage certificates issued under the authority of the other Party in accordance with the International Convention on Tonnage Measurement of Ships, 1969. Any related port dues and charges shall be calculated and collected on the basis of such tonnage certificates.

3. To the extent permitted by applicable laws and regulations, each Party shall recognize other ship's documents issued by the authority of the other Party. Each Party shall inform the other Party in advance of any changes in its system of tonnage measurements.

ARTICLE 6
Treatment in Port

1. When vessels of a Party, for the purpose of transportation of passengers and cargo, enter into or depart from the ports, mooring places and waters of the other Party, the other Party shall provide favorable treatment to such vessels with regard to servicing of vessels, port operations, and the simplification and expedition of administrative, customs and all required formalities.

2. Each Party shall ensure that duties upon vessels of the other Party shall be as favorable as the charges imposed in like situations with respect to vessels of any other country.

ARTICLE 7
Assistance to Vessels in Distress

1. Should a vessel of either Party suffer shipwreck or be in any other distress in the ports or territorial sea of the other Party, the latter shall give all possible assistance to the passengers, crew members, vessel and cargo.

2. When a vessel of one Party suffers shipwreck or is in any other distress and its cargo and other property is removed therefrom and landed in the territory of the other Party, such cargo and other property shall not be subject to any customs duties by that Party, unless they enter into its domestic use or consumption. Storage charges incurred shall be just, reasonable and non-discriminatory.

3. The Party providing assistance under this Article shall promptly notify the consular officials, or in their absence the diplomatic representatives, of the other Party when a vessel of that other Party is in distress, and inform them of measures taken for the rescue and protection of the passengers, crew members, vessel and cargo.

ARTICLE 8
Conversion and Remittance of Funds

Shipping companies and container transport service companies of the Parties and their subsidiaries, affiliates and joint ventures established under the laws of the other Party, or operating in the territory of the other Party, may bill and collect revenue in local currency, and may freely and without restriction convert and remit, on demand, revenues in excess of their requirements for local disbursement, at the rate of exchange in effect on the date the transaction is made.

ARTICLE 9
Crew Member Documents

Each Party shall recognize the identity documents of crew members issued by the other Party. The identity document issued by the United States of America shall be the "U.S. Merchant Mariner's Document," the "Continuous Discharge Book," the "Merchant Mariner's Temporary Certificate of Identification/Service," or a valid passport issued by the United States of America, while the identity document issued by the People's Republic of China shall be the "Seafarer's Passport of the People's Republic of China" or a valid passport issued by the People's Republic of China. Each Party shall provide the other Party with advance written notice of any change in the format of its identity documents.

ARTICLE 10
Entry and Transit of Crews

1. Members of the crew of vessels of each Party, bearing identity documents as stipulated in Article 9, shall be permitted to go ashore during the stay of their vessels in the ports of the other Party, in accordance with the applicable laws and regulations of that Party.

2. Each Party may deny entry into its territory of a member of the crew of a vessel of the other Party in accordance with the applicable laws and regulations of that Party.

3. Members of the crew of vessels of either Party requiring hospitalization shall be permitted to enter into and remain in the territory of the other Party for the period of time necessary for medical treatment, in accordance with the applicable laws and regulations of that Party.

4. Members of the crew of vessels of either Party holding documents as stipulated in Article 9 of this Agreement may enter the territory or travel through the territory of the other Party for the purpose of joining vessels, for repatriation or for any other reason acceptable to the competent authorities of the other Party, after complying with the applicable laws and regulations of that Party.

ARTICLE 11
Competent Authorities

For the implementation of this Agreement the competent authority of the United States of America shall be the Maritime Administration, Department of Transportation, or such other body as the United States Government may designate, and that of the People's Republic of China shall be the Department of Water Transport, Ministry of Communications, or such other body as the Government of the People's Republic of China may designate.

ARTICLE 12
Consultations

Either Party may, at any time, request consultations on the interpretation, application or amendment of this Agreement, or any other related shipping issues. Such consultations shall begin within thirty days from the date of receipt of the request for consultations, unless otherwise agreed by the Parties.

ARTICLE 13
Entry into Force and Duration

1. This Agreement shall enter into force upon the date of 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 from entry into force, and shall be extended automatically for successive one-year periods. This Agreement may be terminated by either Party upon 90 days' written notice to the other Party.

3. This Agreement may be amended by agreement of the Parties. Such amendment shall enter into force in accordance with the procedures as stated in the first paragraph of this Article.

DONE at Washington, this eighth day of December 2003 in duplicate, in the English and Chinese languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA:

Annex

I. Shipping companies of each Party, as well as their subsidiaries, affiliates and joint ventures, have the right to establish and maintain any number of branch offices in the territory of the other Party, and directly or through such offices, engage in such business activities for vessels that they own, charter, or operate, without geographic limitation, as the following:

(1) Solicit and book cargo;

(2) Prepare, authenticate, process and issue bills of lading, including through bills of lading that are generally accepted in international maritime transport;

(3) Assess, collect and remit freight and other charges arising out of their service contracts or tariffs;

(4) Negotiate and enter into service contracts;

(5) Contract for truck and rail transport, cargo handling and other ancillary services;

(6) Quote and publish tariffs;

(7) Conduct sales and market activities;

(8) Establish office facilities;

(9) Import and own vehicles and other equipment necessary to their operation;

(10) Employ local and foreign employees;

(11) Perform vessel agency services, including customs clearance and inspection, for vessels owned, chartered, or operated by shipping companies; and

(12) Conduct multimodal or combined transport activities using commercially customary bills of lading or combined transport documents.

II. Shipping companies and container transport service companies of each Party, as well as their subsidiaries, affiliates and joint ventures, have the right to establish and maintain any number of branch offices in the territory of the other Party, and directly or through such offices, engage in such business activities for vessels that they own, charter, or operate and vessels of third parties, without geographic limitation, as the following:

(1) Solicit and book cargo and book space;

(2) Strip and stuff containers;

(3) Perform warehousing and storage;

(4) Sign and issue cargo receipts;

(5) Collect freight and other charges for approved services;

(6) Repair and maintain containers and other equipment; and

(7) Contract for truck and rail transport.

III. Chinese shipping companies operating in trades with the United States shall receive non-discriminatory treatment with respect to the application of all laws, rules and regulations relating to freight rate pricing practices. Chinese shipping companies shall also be accorded non-discriminatory treatment with respect to their ability to change freight rates as may be necessary to meet competitive market conditions.

美利坚合众国政府和中华人民共和国政府

海运协定

美利坚合众国政府和中华人民共和国政府（以下简称双方），

认识到海运关系对两国的重要性和双方在本协定中的权利平等和机会公开的重要性，

确认其对航运和多式联运服务市场原则的承诺，

为促进双边贸易中有效和具有竞争性的航运服务和两国间经济关系的发展，

按照平等互利原则，

达成协议如下：

Memorandum of Consultation

Maritime delegations representing the Governments of the People's Republic of China and the United States of America met in Washington, April 7-9, 2003, to discuss their maritime transport relations and a new maritime transport agreement. Delegation lists are attached.

Discussions proceeded in a friendly and constructive atmosphere, and focused on fundamental issues of concern to the two governments. These included Non-Vessel Operating Common Carrier (NVOCC) bonding; filing of confidential freight rates; branch offices; logistics services; vessel agency; and controlled carriers.

With regard to the first two issues, the Chinese delegation offered constructive suggestions addressing concerns raised by the U.S. side. The U.S. side understood concerns of the Chinese side about how the shippers' interests will be protected under the mechanism of non-cash bonding of NVOCCs, and both sides will have further consultations on the matter of implementing it. The Chinese delegation also offered assurances regarding the confidentiality of freight rates. Both delegations noted the progress made on these two issues.

The delegations also held a useful discussion of U.S. concerns regarding the ability of its carriers to open usual service branch offices throughout China, to offer logistics services, and to engage in vessel agency activities for owned, chartered, or operated vessels, and of the Chinese concern regarding the controlled carriers' exemption. Both delegations noted their governments' readiness to resolve these concerns positively in a new agreement. The delegations noted that the resolution of all these issues in the context of a package of commitments is the foundation of concluding a new maritime agreement, and noted their intention to continue work in these areas to achieve that goal. Moreover, the delegations undertook to continue work on the bracketed text of a new maritime transport agreement.

The delegations noted their governments' expectation to continue discussions in an expeditious timeframe reflecting their mutual interest in achieving a new agreement.

Signed in Washington D.C. on April 9, 2003, in the Chinese and English languages, each text being equally authoritative.

For the maritime delegation of the United States of America

For the maritime delegation of the People's Republic of China