

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1993 Nr. 61

A. TITEL

*Overeenkomst tussen het Koninkrijk der Nederlanden en de Republiek
Estland inzake scheepvaart;
Tallinn, 24 maart 1993*

B. TEKST

**Agreement on maritime transport between the Kingdom of the
Netherlands and the Republic of Estonia**

The Government of the Kingdom of the Netherlands and the Government of the Republic of Estonia, hereinafter referred to as the Contracting Parties, for the purpose of further developing friendly relations between the two countries and of strengthening co-operation in the field of maritime transport, in accordance with the principles of equality and mutual benefit, have agreed as follows:

Article 1

For the purpose of the present Agreement:

1. The "Competent Maritime Authority" in the Republic of Estonia is the Ministry of Transport and Communications and in the Kingdom of the Netherlands the Directorate-General Shipping and Maritime Affairs of the Ministry of Transport, Public Works and Water Management.

2. The term "vessel of a Contracting Party" means any seagoing vessel used in commercial service, with the exception of fishing vessels and factory ships, which is registered in the territory and flies the flag of a Contracting Party in compliance with its national laws and regulations.

3. The term “crew member” means the ship’s master and any person actually employed on board a vessel with regard to the working or service of the vessel, who is included in the crew list and who is a holder of a seaman’s identity document.

Article 2

The Contracting Parties shall in their mutual relations contribute in every respect to the freedom of merchant shipping and shall refrain from any action which might harm the development of international shipping.

Article 3

1. Each Contracting Party shall apply this Agreement in accordance with its international obligations; in particular the Kingdom of the Netherlands shall apply this Agreement in accordance with the obligations existing under the Treaties establishing the European Communities.

2. Each Contracting Party shall abstain from any discriminatory measures with respect to the vessels of the other Contracting Party in relation to liner trade between the two countries and shall accord to the vessels of the other Contracting Party treatment no less favourable than that accorded to the vessels of third countries in relation to liner and tramp trade between the two countries and between either country and third countries.

Article 4

The Contracting Parties agree

a) to promote the development of maritime transport in a spirit of consideration of their mutual interests and to remove any difficulties in this field;

b) to facilitate the transfer of technology and know how as well as the establishment of joint ventures in the field of shipping;

c) to guarantee free access on the landside to multimodal transportation.

Article 5

1. Each Contracting Party shall grant to the vessels of the other Contracting Party the same treatment as to its own vessels used in international sea transport, with regard to official formalities, free access to ports, utilisation of such ports for loading and discharging of cargo and embarkment of passengers, payment of tonnage dues and other taxes or charges, utilisation of services and facilities applied for

navigation, shipping and normal commercial transactions. This applies also to vessels operated by shipping companies of the other Contracting Party flying the flag of a third country, unless the Competent Maritime Authorities of that Contracting Party object.

2. The provisions of paragraph 1 shall apply to custom formalities, the levying of charges and port dues, freedom of access to and the use of the ports, as well as to all facilities afforded to shipping and commercial operations in respect of vessels, crew members, passengers and cargoes. In particular this refers to the allocation of berths at piers, loading and unloading facilities and port services, including bunker facilities.

Article 6

The Contracting Parties shall adopt, within the limits of their domestic legal order, all appropriate measures to facilitate and expedite maritime traffic, to prevent unnecessary delays to vessels and to expedite and simplify as much as possible the carrying out of customs and other formalities applicable in ports.

Article 7

1. Income and profits from the operation in international traffic of owned or chartered vessels shall be taxable only in the territory of the Contracting Party where the place of effective management of the enterprise which operates the vessel is situated.

2. The provisions of paragraph 1 of this Article shall also apply to income and profits obtained by chartering out vessels fully equipped, manned and supplied, irrespective of the nationality of the charterer.

3. The provisions of paragraph 1 and 2 shall also apply to income and profits from the participation in a pool, a joint business or an international operating agency.

4. Gains from the alienation of vessels operated in international traffic or of movable property pertaining to the operation of such vessels shall be taxable only in the territory of the Contracting Party where the place of effective management of the enterprise which operates the vessel is situated.

Article 8

Each Contracting Party shall grant to the shipping company which has its place of effective management in the territory of the other Contracting Party the right of free transfer in convertible currency to the country designated by the shipping company of their investments and the returns from it as well as the excess of receipts over

expenditure earned by that shipping company in the territory of the first Contracting Party.

Such transfers shall be granted regularly and currently and shall be based on official exchange rates or 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 9

The Contracting Parties shall recognize the seaman's identity documents, issued by the competent authorities of the other Contracting Party.

These identity documents are:

- a) for crew members on Estonian vessels:
the Seaman's discharge book (for members having Estonian citizenship); the Certificate of record of service on Estonian ships, together with a valid passport recognized by the Kingdom of the Netherlands (for members not having Estonian citizenship);
- b) for crew members on Netherlands vessels:
the Netherlands "Monsterboekje" (Seaman's book).

Article 10

1. During the time a vessel of either Contracting Party is berthed in a port of the other Contracting Party, each crew member of that vessel shall be permitted shore leave on the territory of the municipality to which the port belongs, as well as on the territories of adjacent municipalities, without visas being required, provided he can show the relevant identity documents mentioned in Article 9.

However, such leave shall only be permitted if the ship's master has submitted to the competent authorities, in accordance with the regulations in force in that port, a crew list on which the crew member occurs.

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

Article 11

1. Crew members 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 rejoin 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 competent authorities of that other Contracting Party.

2. In all cases referred to in paragraph 1, seamen shall be obliged to be in possession of the visa required by the other Contracting Party. This document shall be issued as quickly as possible by the competent authorities.

3. If the holder of a seaman's identity document referred to in Article 9 of this Agreement does not possess the nationality of one of the Contracting Parties, the entry and transit visas referred to in this article shall be issued for the territory of the other Contracting Party provided the return of the holder to the territory of the Contracting Party which has issued the identity document is guaranteed.

Article 12

1. Without prejudice to the generality of the Articles 8 to 11, the laws and regulations of either Contracting Party concerning the entry, the stay and the termination of the stay of foreigners, are applicable.

2. The authorisations contained in Articles 10 and 11 do not imply a restriction to the right of either Contracting Party to refuse any crew member entry into its territory.

Article 13

1. Should vessels of either Contracting Party be involved in maritime casualties or encounter any other danger in the territorial sea, internal waters or ports of the other Contracting Party, the latter shall give all possible assistance and attention to the vessels, crew members, cargo and passengers in danger and notify the appropriate authorities of the Contracting Parties concerned without delay.

2. Where cargo on board of a vessel of either Contracting Party involved in a maritime casualty needs to be discharged and stored temporarily in the territory of the other Contracting Party before its return to the country of shipment or carriage to third countries, the other Contracting Party shall provide all facilities required, and such cargo shall be exempt from all customs duties, dues and taxes.

Article 14

1. The vessels and crew members of either Contracting Party shall observe the relevant laws and regulations of the other Contracting Party during their stay in the latter's territorial sea, internal waters and ports.

The authorities of either Contracting Party shall not exercise jurisdiction over or intervene in the internal affairs of the vessels of the other Contracting Party in its territorial sea, internal waters and ports,

except in the cases and to the extent expressly provided for in generally accepted international rules and regulations and in treaties in force between the Contracting Parties.

2. When a crew member of a vessel of either Contracting Party has committed a crime on board that vessel in the territorial sea of the other Contracting Party, the competent authorities of that Contracting Party shall not prosecute him without the consent of the master of the vessel or of a diplomatic or consular officer of the former Contracting Party, unless

- a) the consequences of the crime extend to their territory; or
- b) the crime is of a kind to disturb the peace of their country or the good order of the territorial sea; or
- c) according to the law of their country, the crime is a serious offence; or
- d) the crime has been committed against a foreigner on board the vessel; or
- e) such measures are necessary for the suppression of illicit traffic in narcotic drugs or psychotropic substances.

3. The provisions of paragraph 2 do not affect the right of either Contracting Party to take any steps authorized by its laws for the purpose of arrest or investigation on board a foreign ship passing through the territorial sea after leaving the internal waters.

Article 15

1. With a view to assuring full implementation of the present Agreement and facilitating maritime transport between the two States, the Contracting Parties shall establish a Joint Committee, which will be composed of representatives of the competent authorities of the two Contracting Parties.

2. The Joint Committee shall meet once a year, unless otherwise mutually agreed.

3. The Joint Committee shall:

- a) review the situation with regard to the maritime transport of each country;
- b) study the ways of enhancing cooperation in maritime sectors; and
- c) discuss matters which might arise from the application of the Agreement and all other matters relating to the improvement of maritime transport relations, and make appropriate recommendations.

4. The rules of procedure of the Joint Committee shall be established by common agreement between the authorities referred to in paragraph 1.

Article 16

1. As regards the Kingdom of the Netherlands the present Agreement shall apply to the Kingdom in Europe and as regards the Republic of Estonia to the territory of the Republic of Estonia.

2. The Agreement may be extended to any territory for whose international relations the Government of the Netherlands is responsible by an exchange of notes by the Contracting Parties.

Article 17

This Agreement shall be provisionally applied from the date of its signature and shall come into force on the first day of the second month following the date on which the Contracting Parties have informed each other in writing that the formalities constitutionally required in their respective countries have been complied with.

If either Contracting Party wishes to denounce the present Agreement, it shall notify the other Contracting Party in writing and the denunciation of the Agreement shall take effect twelve months after the date of receipt of such notification by the other Contracting Party.

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

DONE at Tallinn, on 24 March in the year 1993, in duplicate in the English language, which will be the authentic text.

For the Government of the Kingdom of the Netherlands

(sd.) J. R. H. MAIJ-WEGGEN

For the Government of the Republic of Estonia

(sd.) ANDI MEISTER

D. PARLEMENT

De Overeenkomst behoeft ingevolge artikel 91 van de Grondwet de goedkeuring van de Staten-Generaal, alvorens het Koninkrijk aan de Overeenkomst kan worden gebonden.

G. INWERKINGTREDING

De bepalingen van de Overeenkomst zullen ingevolge artikel 17 in werking treden op de eerste dag van de tweede maand volgend op de datum waarop de Overeenkomstsluitende Partijen elkaar schriftelijk ervan in kennis hebben gesteld dat aan de in hun onderscheiden landen constitutioneel vereiste formaliteiten is voldaan.

De Overeenkomst wordt ingevolge artikel 17 voorlopig toegepast vanaf 24 maart 1993.

Wat het Koninkrijk der Nederlanden betreft, wordt de Overeenkomst ingevolge artikel 16, eerste lid, voorshands alleen in Nederland toegepast.

Uitgegeven de *zevenentwintigste* april 1993.

De Minister van Buitenlandse Zaken,

P. H. KOOIJMANS