

CHAPTER 139.

BRITISH CARIBBEAN SHIPPING (AGREEMENT)

3/1955

(7th June, 1955

WHEREAS the Governments of Barbados, British Guiana, Jamaica, Antigua, Montserrat, St. Kitts-Nevis-Anguilla, Trinidad and Tobago, Dominica, Grenada, St. Lucia and St. Vincent (hereinafter called "the Governments") have agreed with the West Indian Navigation Company Limited, a company incorporated in Trinidad under the provisions of the Companies Ordinance, Chapter 31 No. 1 of the Laws of the Colony of Trinidad and Tobago that the Company shall provide a regular inter-island shipping service to serve the territories of the Governments in accordance with the terms and conditions of the Agreement set out in the Schedule :

AND WHEREAS the Governor and Commander-in-Chief of the Colony of Trinidad and Tobago was by a Power of Attorney dated the 22nd day of September, 1954, nominated and constituted and appointed the lawful attorney of the Government of Montserrat for it and on its behalf to execute the said Agreement :

AND WHEREAS the said Governor and Commander-in-Chief of the Colony of Trinidad and Tobago has by virtue of the powers conferred on and vested in him by the said Power of Attorney executed the said Agreement for and on behalf of the Government of Montserrat on the 1st day of November, 1954.

AND WHEREAS the Government of Montserrat having agreed and undertaken to ratify and confirm the said Agreement as executed for it and on its behalf it is expedient to make provision in the Colony to ratify and give effect to the said Agreement.

1. This Ordinance may be cited as the British Caribbean Shipping (Agreement) Ordinance. Short title.

Interpretation.

2. In this Ordinance—

“the Agreement” means the Agreement set out in the Schedule;

“the Company” means the West Indies Navigation Company Limited referred to in the Agreement.

Fulfilment of Agreement.

3. With a view to the fulfilment of the Agreement in and by the Colony the terms and conditions of the Agreement are hereby ratified and the provisions thereof insofar as they relate to the Colony shall have the force of law as if enacted in this Ordinance.

Contribution to subsidy.

4. The Treasurer shall, on the warrant of the Administrator, pay out of the revenue and other funds of the Colony, in accordance with the terms and conditions of the Agreement, the proportion of the annual sum specified in the Third Schedule to the Agreement as being payable by the Government of the Colony to the Company.

Duration of Agreement for purposes of Ordinance.

5. (1) For the purposes of this Ordinance the Agreement shall be deemed to be in force unless and until the Administrator with the advice of the Executive Council by order declares that the Agreement has ceased or is for the purposes of this Ordinance to be deemed to have ceased, to be in force.

(2) An Order may be made under this section declaring that the Agreement has ceased to be in force if the Administrator with the advice of the Executive Council is satisfied that the Agreement has been determined in accordance with the terms thereof.

SCHEDULE.

Approved on behalf of the Governments.

(Sgd.) C. DE. L. INNISS
Attorney-General.

Approved on behalf of the Company.

(Sgd.) STANLEY S. STONE
Conveyancer.

AGREEMENT.

AN AGREEMENT made the First day of November 1954 between His Excellency Major-General Sir HUBERT ELVIN RANCE, G.C.M.G., G.B.E., C.B., Governor and Commander-

in-Chief of the Colony of Trinidad and Tobago acting herein for and on behalf of the Governments of Barbados, British Guiana, Jamaica, Antigua, Montserrat, St. Kitts-Nevis-Anguilla, Trinidad and Tobago, Dominica, Grenada, St. Lucia and St. Vincent (hereinafter called "the Governments") having been duly authorized for the purpose by the Governments of the one part and WEST INDIES NAVIGATION COMPANY LIMITED a company incorporated in Trinidad under the provisions of the Companies Ordinance Chapter 31 No. 1, of the Laws of the Colony of Trinidad and Tobago and having its registered office at 72/74, South Quay, in the City of Port-of-Spain in the Island of Trinidad (hereinafter called "the Company") of the other part.

WHEREAS it is desirable to improve the communications between the territories of the British West Indies within the jurisdiction of the Governments for the benefit of the citizens thereof and their mutual trade and in particular to establish a regular shipping service in addition to the sea communications already in existence :

AND WHEREAS the Governments have agreed between themselves to contribute with the assistance for the time being of Her Majesty's Government in the United Kingdom in the proportions specified in the Third Schedule hereto towards the annual sum payable as hereinafter provided by the Governments to the Company :

NOW IT IS HEREBY AGREED as follows—

1. This Agreement may be terminated by either party giving to the other six months' notice in writing expiring on or at any time after the third anniversary of a date fifteen days prior to the first sailing from Port-of-Spain in accordance with the First Schedule to this Agreement (hereinafter called "the commencement date").
2. This Agreement shall not be assigned or sub-let to any person or company without the previous consent in writing of the Governments which consent shall not be unreasonably withheld.
3. (1) The Company shall introduce provide and maintain a regular service between the scheduled ports for passengers and cargo (hereinafter called "the said services") and shall

prosecute the voyages with despatch and shall use its best endeavours to complete fifteen and one half round voyages per annum between the scheduled ports in accordance with the time schedule prescribed by the First Schedule hereto: Provided that—

- (i) The Company may at its discretion but subject to the said services being substantially maintained route the ship or ships engaged thereon (hereinafter called "the said ships") to call at any unscheduled ports en route to embark or disembark passengers and/or to take on or unload cargo;
- (ii) for the purpose of dry docking or other necessary measures to maintain the efficiency of the said ships they may be diverted to any unscheduled port;
- (iii) the Company shall in an emergency or if the best interests of the service as a whole so require have full power as a temporary measure to vary the route of the said ships and to order or forbid them to enter any port.

In the event of any such variation of the said services the Company shall inform the Governments forthwith and shall so far as is reasonably practicable operate feeder services so as to mitigate any inconvenience to users of the service caused by such variation and shall use its best endeavours to restore the normal service with the minimum delay;

- (iv) in the event of the facilities of any port of call not enabling the said ships to be turned round in accordance with the normal custom of the port having regard to the nature of the service, the Company while those circumstances continue may omit, interrupt or modify the service to that port and the Company shall forthwith inform the Governments of the circumstances.

(2) The Company shall be entitled, subject to the provisions of Clause 9, to charge such passenger fares, freight rates and other charges as may from time to time be prescribed by the Company. In fixing such fares, rates and charges the Company shall pay due regard to any representations from time to time made by the Governments with respect thereto: Provided that the Company shall be under no obligation to grant any special or concessionary rates for the transport of passengers or cargo.

4. (1) The Company shall provide for the said services s.s. "Wingsang" the specification of which is set out in the Second Schedule hereto and shall take all practicable measures to ensure that she and any ship or ships provided by the Company in substitution for her for the purpose of the said services are kept in the condition necessary for the efficient performance thereof: Provided that subject to the provisions of this Agreement if for any reason other than marine casualty (howsoever caused) or the consequences of any hostilities or warlike operations s.s. "Wingsang" shall not be available for the said services the Company shall substitute therefor to the satisfaction of the Governments another ship or ships to provide as nearly as possible similar services and facilities.

(2) In the event of any suspension of the said services arising from the failure to provide or delay in providing for the said services s.s. "Wingsang" or another ship or ships as provided by subclause (1) of this clause, the liability of the Governments for payment of the annual sum payable under the provisions of Clause 6 hereof shall be suspended during the period of such suspension and the amount of such annual sum shall abate *pro rata*. Suspension or abatement of the annual payment in such circumstances shall not prejudice the question whether the suspension of the said services constitutes a contravention of this Agreement but the amount by which the said annual payment shall have been abated in pursuance of the foregoing provision of this subclause shall be set off against any damages accruing to the Governments by reason of such suspension.

(3) In the event of any of the said ships suffering a marine casualty (howsoever caused) or being damaged in consequence of any hostilities or warlike operations the Company shall use its best endeavours to procure her restoration to such condition as aforesaid with the minimum delay.

(4) If in consequence of any such marine casualty or of hostilities, warlike operations, revolution or civil commotion the said services are interrupted or suspended the liability of the Governments for payment of the annual sum payable under the provisions of Clause 6 hereof shall be suspended during the period of such interruption or suspension and the amount of such annual sum shall abate *pro rata* and the Company shall not in respect of any such interruption or suspension be subject to any liability to the Governments or to any penalty save such abatement as aforesaid.

(5) If the period of any one interruption or suspension of the said services in consequence of a marine casualty or of hostilities, warlike operations, revolution or civil commotion shall continue for six months either party may thereupon give to the other notice in writing determining this Agreement forthwith and upon service of such notice the Company and the Governments shall cease to be under any obligation hereunder but without prejudice to the rights and liabilities of the respective parties at the date of such determination.

(6) If in consequence of any such marine casualty or hostilities or warlike operations any of the said ships is lost or is so extensively damaged as to be likely to be out of service for a period upwards of six months the Company shall as soon as such loss or the extent of such damage has been established take all reasonable steps to provide in substitution therefor a ship or ships capable of affording substantially the same service: Provided that if notwithstanding all reasonable efforts on the part of the Company it shall prove impracticable within six months of such loss or damage to procure such substitute ship or ships on reasonable terms the provisions of subclause (5) of this Clause relating to determination of this Agreement shall apply.

(7) Where the Governments have already made in advance a payment in respect of the quarter during which an interruption or suspension of the said services of the nature contemplated by subclause (2) or subclause (4) of this Clause occurs, then except in cases where a refund of such payment or part thereof is made in pursuance of Clause 6 of this Agreement, the sum paid in respect of the unexpired period of the quarter after the date of the interruption or suspension of the said services shall be carried forward and applied towards the payment due by the Governments for the next following quarter in respect of which the Governments are liable in pursuance of this Agreement to pay an instalment of the annual sum payable under the provisions of Clause 6 hereof.

(8) The routine dry docking and routine maintenance of any of the said ships in the course of its regular run or the partial interruption of the said services occasioned by the exercise of the Company's powers of temporary interruption under Clause 3 (1) (iii) and 3 (1) (iv) hereof shall not be regarded as constituting an interruption or suspension of the said services for the purposes of subclause (2), (4) or (7) of this clause.

5. The Company shall supply to the Governments for their information—

(a) The Company's trading account together with its audited Balance Sheet and Profit and Loss account as soon as possible after the end of its financial year;

(b) a copy of any charter or charters under which the said ships or any of them have been chartered by the Company and which is or are for the time being in force;

(c) at the request of the Governments at any time any particulars which the Governments may reasonably require relative to the said services including details of revenue and expenditure: Provided that the Company shall not be called upon to furnish information which cannot readily be ascertained by reference to records maintained by the Company in the ordinary course of its business.

6. In consideration of the maintenance of the said services and of compliance with the terms and conditions of this Agreement by the Company the Governments shall make to the Company a payment at the rate of £50,000 per annum payable through the Crown Agents in London in equal quarterly instalments in advance on the first days of January, April, July and October, the first payment to be made on the date of the first sailing from Port-of-Spain after the commencement date on a proportionate basis in respect of the period from the commencement date to the end of that quarter.

In the event of the determination of this Agreement the Company shall refund to the Governments any sum paid in respect of any unexpired period of any quarter after the date of determination or the date of interruption or suspension of the said services under Clause 4 (4) hereof as the case may be.

7. The Governments shall in the interests of a punctual service take all steps that lie within their power—

(a) to avoid hindrance or delay to or interruption of the regular and punctual operation of the facilities at the scheduled ports;

(b) to procure that the reasonable requirements of the Company as to facilities for passenger, cargo and ship clearance inwards and outwards, cargo assembly, lighterage, navigational aids and other matters incidental to the

arrival, turn-round and departure of the said ships at the scheduled ports are met so as to permit of the maintenance of a punctual service.

8. Subject to the provisions of Clause 3 hereof the Company shall have sole control of the cargo and passenger schedules of the said ships and of all bookings and arrangements relating thereto and shall at all times have full power to route and re-route the said ships and to order or forbid them to enter any port and shall in all such cases inform the Governments forthwith: Provided that the Company shall at all times pay due regard to the cargo and passenger needs of the scheduled ports and in particular to those of them situate in the Windward Islands and Leeward Islands.

9. The Company shall receive for conveyance as priority cargo on the ship or ships operating the said services all such letter and parcel mails as shall be tendered to them by an accredited Officer or Agent of the Postal Department of any of the Governments, and shall deliver all such mails at their destination to an accredited Officer or Agent of any such Department. The Company shall make reasonable provision to the satisfaction of the Governments for the safety and protection of any mails whilst in the Company's custody. The Governments shall remunerate the Company for the conveyance of mails as aforesaid at such rates as prevail from time to time for the carriage of mails by sea in the Caribbean area.

10. The ship or ships providing the said services and any feeder services mentioned in Clause 3 (1) (iii) shall be manned so far as is practicable by West Indian crews with the exception of deck and engineer officers who are members of the permanent staff of the owners of the said ships.

11. (1) The Company shall procure the payment of rates of wages and observance of hours and conditions of labour not less favourable than those commonly recognized in respect of persons employed in a similar capacity and in similar circumstances in the area where employment takes place.

(2) Where practicable the rates of wages and the general conditions of employment shall be fixed by collective agreement between the employers' and workers' organizations representative of the workers concerned.

12. The Governments may request the Company to suspend the said services and to employ the said ships or any of them for some other purpose and the Company shall forthwith comply with such request unless compliance involves a contravention of the provisions of the charter under which the ship in question has been chartered in which event the Company shall have absolute discretion to comply with or refuse to comply with such request: Provided that if the Company shall comply with such request and whether or not compliance involves such a contravention as aforesaid the Governments shall indemnify the Company in the amount of any liability, loss, damage or penalty howsoever accruing suffered or incurred in consequence of such compliance and shall pay to the Company reasonable remuneration for the services performed in compliance therewith.

13. Representatives of the Governments and of the Company shall meet from time to time at intervals of not more than twelve months to review the said services with a view to making such adjustments and modifications thereto as in the light of experience of traffic requirements may appear desirable in the best interest of the service as a whole. Such meetings shall be convened by the Executive Secretary for the time being of the Regional Economic Committee of the British West Indies, British Guiana and British Honduras (hereinafter called "the Executive Secretary") at the instance either of the Governments or the Company. Nothing in this Clause shall restrict the right of the parties to amend the First Schedule hereto from time to time by mutual agreement.

14. (1) The said ships shall have the liberty to comply with any orders or directions as to departure, arrival, routes, ports of call, stoppages, destinations, delivery or otherwise howsoever given by the Government of the United Kingdom or any department thereof or by any other Government or any department thereof or any person acting or purporting to act with the authority of such Government or of any department thereof or by any Committee or person having under the terms of the War Risks Insurance on the said ships the right to give such orders or directions and if by reason of and in compliance with any such orders or directions anything is done or omitted the same shall not be deemed a breach of any covenant or condition of this Agreement.

(2) In the event of hostilities in which Her Majesty is engaged in consequence of which the said services are interrupted

or suspended this Agreement may be determined by not less than six months previous notice in writing given either by the Governments to the Company or by the Company to the Governments.

15. The Company shall procure that at all times all the relevant provisions of the Merchant Shipping Act 1894 or any statutory modification or re-enactment thereof are complied with and shall procure the maintenance of a valid passenger licence in accordance with the current legislation in force in the British West Indies.

16. (1) The Executive Secretary shall be the representative of the Governments and each of them for all the purposes of this Agreement except the signing thereof, and the Company shall be entitled to regard him as fully empowered to act for the Governments and each of them for all such purposes and to regard all things done or acts performed by him in pursuance of such purposes in the name of or on behalf of the Governments or any one or more of them as duly and effectively done or performed by the Governments or such one or more of them as the case may be and any notices under this Agreement may be served on him by the Company or by him on the Company and if so served shall be deemed to be duly served on the Governments or the Company as the case may be.

(2) A notice under this Agreement shall be deemed to have been duly served—

(a) on the Executive Secretary, if the Company shall deliver the same, addressed to the Executive Secretary at his office, Hastings House, St. Michael 18, Barbados;

(b) on the Company, if the Executive Secretary shall deliver the same, addressed to the Secretary of the Company, at the registered office of the Company, Port-of-Spain, Trinidad.

17. Any dispute arising out of this Agreement shall be settled by Arbitration under the provisions of the Arbitration Act, 1950, of the United Kingdom. Any such arbitration shall be held at any place in the West Indies or in the United Kingdom which may be mutually agreed between the parties or in default of agreement at any place in the West Indies or in the United Kingdom which may be decided by the arbitrators.

18. In this Agreement—

“scheduled port” means a port mentioned in the First Schedule hereto, as amended from time to time by mutual agreement of the parties hereto and operative for the time being;

“unscheduled port” means a port other than a scheduled port.

19. This Agreement shall be governed in all respects by the law of England.

FIRST SCHEDULE.

The Company shall provide an inter-island service at approximately three weekly intervals from Trinidad (Port-of-Spain) to Grenada (St. George's), St. Vincent (Kingstown), Barbados (Bridgetown), St. Lucia (Castries), Dominica (Roseau), Montserrat (Plymouth), Antigua (St. John's), St. Kitts (Basseterre), and Jamaica (Kingston), returning to Trinidad (Port-of-Spain) by the same route.

SECOND SCHEDULE.

S. S. "Wingsang".

Ship's Particulars :

Built	1938
Gross Tons	3,560
Net Reg. Tons	1,941
Signal Letters	VRBR
Official No.	159488
Fitted with Radar	

Dimensions :

328' 3" O.A.; 310' B.P. 48' B'th. Md. 27'.1 Depth Md.

Light Draft : 9' 5"

Speed : Approximately 14 knots on 22 tons of good quality furnace oil.

4 Hatches.

Derricks at

No. 1 Two @ 5 tons.

No. 2 Three @ 5 tons and one @ 20 tons.

No. 3 Two @ 5 tons.

No. 4 Two @ 5 tons.

Stowage Particulars :

BALE CAPACITY : Total about 169,020 cubic feet which includes refrigeration space for approximately 2,600 cubic feet

of cargo and the necessary machinery space and baggage room of 927 cubic feet.

Mail Room—1,440 cubic feet (Opens into No 2T/D).

Strong Room—700 cubic feet (and can be used for cargo).

Deadweight capacity for cargo about 2,007 tons (allowing for 345 tons bunkers, 358 tons Fresh Water, 120 tons stores and dunnage and 200 tons permanent ballast) on Max. Draft 18' 6".

Total summer deadweight capacity 3,030 tons.

Average immersion : 26 tons per inch.

Fuel Oil Bunker capacity : 345 tons.

Fresh Water tank capacity : 358 tons.

Passenger accommodation :

Accommodation for 20 first class passengers

Accommodation for 35 second class passengers

Berthed accommodation for 46 passengers in the poop
370 passengers may be carried in 'tween decks aft if un-berthed or 150 if berthed provided cargo is not carried in these spaces,

156 deck passengers on the weather deck aft according to seasons and cargo commitments.

The foregoing will be subject to such variation as may be determined by the West Indies Passenger Regulations, and to any amendments from time to time that may be determined at any renewal of the passenger licence.

THIRD SCHEDULE.

TERRITORY.	Proposed basis for apportioning shipping contributions.	
	£	%
United Kingdom Government	10,000	20.0
Barbados	4,400	8.8
British Guiana	1,000	2.0
Jamaica	15,350	30.7
Antigua	850	1.7
St. Kitts	1,250	2.5
Montserrat	150	.3
Trinidad	14,250	28.5
Grenada	1,000	2.0
St. Lucia	750	1.5
St. Vincent	500	1.0
Dominica	500	1.0
	£50,000	100%

IN WITNESS WHEREOF the said Sir HUBERT ELVIN RANCE, G.C.M.G., G.B.E., C.B., as agent aforesaid, on behalf of the several Governments of Barbados, British Guiana, Jamaica, Antigua, Montserrat, St. Kitts-Nevis-Anguilla, Trinidad and Tobago, Dominica, Grenada, St. Lucia and St. Vincent has hereunto set his hand, and the Company has caused the Common Seal of the Company to be hereunto affixed on the respective dates hereinafter appearing :

Signed by Sir HUBERT ELVIN RANCE, at Port-of-Spain, Trinidad, B.W.I., this First day of November, 1954, in the presence of

(Sgd.) SAMUEL A. HUGGINS
of Red House, Port-of-Spain,
Trinidad, Crown Solicitor.

(Sgd.) H. E. RANCE

The Common Seal of the West Indies Navigation Company Limited was hereunto affixed at Port-of-Spain, Trinidad, B.W.I., this First day of November, 1954 by FITZWILLIAM STONE & ALCAZAR the Secretaries of the Company in the presence of RAYMOND EDWARD SHEA a Director of the said Company in pursuance of a resolution of the Directors of the Company and in conformity with the Articles of Association of the Company in the presence of

(Seal)

(Sgd.) R. E. SHEA
Director

(Sgd.) P. S. E. STONE,
17 St. Vincent Street,
Port-of-Spain, Trinidad,
Solicitor.

(Sgd.) FITZWILLIAM
STONE & ALCAZAR
Secretaries