

Distr.
GENERAL
E/ESCWA/GRID/2005/11
17 November 2005
ENGLISH
ORIGINAL: ARABIC

ECONOMIC AND SOCIAL COMMISSION FOR WESTERN ASIA

**MEMORANDUM OF UNDERSTANDING ON MARITIME TRANSPORT
COOPERATION IN THE ARAB MASHREQ***

United Nations
New York, 2005

* This is the final text of the Memorandum as adopted by the Economic and Social Commission for Western Asia (ESCWA) in resolution 256 (XXIII) dated 12 May 2005.

Preamble

The parties to this Memorandum of Understanding,

Guided by Economic and Social Council resolution 1818 (LV) of 9 August 1973, pursuant to which the Economic Commission for Western Asia (ECWA) was established and its duties determined, and its subsequent amendment by resolution 1985/69 of 26 July 1985, whereby the name and duties of the Commission were expanded to include the social aspect; guided also by the goals of cooperation that were laid down in both resolutions;

In an endeavour to establish cooperation and integration between members of the Economic and Social Commission for Western Asia (ESCWA) in the Arab Mashreq region;

Recognizing that maritime transport plays an important role in strengthening intraregional and foreign trade and promotes the economic and social integration of the ESCWA region and the Arab region in general;

Believing in the need to ensure the systematic development of the national merchant fleets of the region and the balanced development of maritime transport and seaports;

Taking into consideration what is consonant with and does not contradict the agreements, resolutions and arrangements previously agreed upon by the parties to the Memorandum of Understanding in the framework of the League of Arab States concerning coordination, cooperation and integration between the Arab countries in the field of transport;

Ensuring that the Memorandum of Understanding does not conflict with the regional and international agreements or conventions to which the parties have acceded;

With the desire of strengthening cooperation and harmonizing and coordinating policies in high priority fields in the maritime transport and port sector, as part of the relationship between the parties to the Memorandum of Understanding and with other countries;

In accordance with the recommendation made by the Committee on Transport at its third session, which was held in Beirut from 5 to 7 March 2002, to the effect that greater support should be given to maritime transport, in order to ensure that it keeps abreast of the progress made in the land transport field, and for studies and projects to be prepared on the matter, including a draft agreement between the parties to the Memorandum of Understanding on maritime transport; and that the appropriate means should be made available for that purpose;

Pursuant to resolution 309 of 23 March 2005, which was passed by the Council of the League of Arab States at the Summit level, at its seventeenth ministerial session in Algeria and which aimed at establishing a legal framework for Arab cooperation in various areas of maritime transport and with a view to ensuring the integration and full exploitation of the potentials of the private Arab maritime transport sector,

Have agreed as follows:

Article 1 Definitions

The terms used in the Memorandum of Understanding shall have the meanings set forth below:

National merchant fleets

Vessels belonging to national public and private sector companies or jointly owned with other members, or companies or individuals from other members and flying the flag of a party to the Memorandum of Understanding.

Seaports and harbours

All the commercial seaports and harbours of the region, regardless of their capacity or size or the commercial purposes to which they are dedicated.

Coastal transportation

Maritime transport between the seaports and harbours of the region, giving due consideration to the systems and legislation of each party concerning coastal transportation.

International multimodal transport

The term shall have the meaning set forth in the United Nations Convention on the International Multimodal Transport of Goods, namely, “the carriage of goods by at least two different modes of transport on the basis of a multimodal transport contract from a place in one country at which the goods are taken in charge by the multimodal transport operator to a place designated for delivery situated in a different country”.*

Port State Control

The mechanism for the inspection and control of foreign vessels visiting ports of the region, which is known internationally as Port State Control (PSC).

Marine protection and indemnity club

The club which covers insurance risks for cargo, ships’ appurtenances, crew and the losses sustained by a third party which are not covered by insurance companies.

Ship classification

Control over technical and quality standards by means of the application of the international principles and rules governing the building of ships, alterations to their design and their maintenance, and the issuance of certificates and reports relating thereto.

Article 2

The principles and goals of the Memorandum of Understanding

1. The parties to this Memorandum of Understanding shall observe the following basic principles for cooperation in the field of maritime transport:

(a) Action to standardize and coordinate the policies of the parties to this Memorandum of Understanding in fields relating to regional and international maritime transport, seaports and harbours;

(b) With a view to strengthening economic and social development, increase the efficiency and effectiveness of maritime transport-related activities and services and of seaports and harbours. (See attached annex for a map of the network of seaports and harbours and shipping routes in the Arab Mashreq, which does not constitute part of this Memorandum of Understanding and is purely for reference).

2. The parties to this Memorandum of Understanding shall respect the following goals for cooperation in the field of maritime transport:

* United Nations, Economic and Social Commission for Western Asia, *Regional guidelines for transport agreements and conventions*, 28 February 1997, E/ESCWA/TRANS/1997/1, page 52.

(a) To determine and execute harmonized maritime policies that are capable of realizing the sustainable development of the merchant fleets, and to firmly establish cooperation between the parties to the Memorandum of Understanding at the regional and subregional levels and with all regions and areas;

(b) To hold regular consultations aimed at reaching unified positions at the regional and international levels with regard to maritime transport policies, decision-making and the finding of solutions to specific problems and obstacles in respect of maritime transport policies;

(c) To harmonize the aspirations and positions of the parties to the Memorandum of Understanding with regard to accession to and implementation of the regional and international agreements and conventions on maritime transport to which they are parties;

(d) To strengthen bilateral and multilateral cooperation between maritime transport or maritime departments;

(e) To prepare studies that will promote strengthened cooperation in the field of maritime transport and seaport and harbour operations and with all regions;

(f) To take action to strengthen and activate the role of national maritime transport institutions; encourage the activities of transport councils and unions and representative agencies, national shipping lines, national and Arab maritime cooperatives, unions and institutions, and training and scientific research institutes in the maritime field.

Article 3 **National merchant fleets**

The parties to this Memorandum of Understanding have agreed as follows:

(a) To carry out and exchange studies and periodic follow-up on the status of national shipping companies, with a view to their development;

(b) To encourage funding institutions within and beyond the region to support the parties to the Memorandum of Understanding in policies aimed at improving, employing and developing national fleets; to urge the establishment of a special fund to finance the purchase and building of modern vessels, thereby developing national fleets;

(c) To encourage the national shipping companies of the parties to the Memorandum of Understanding to enter into mutual agreements, covenants and mergers; and to promote the liberalization of comprehensive and effective transport services, including international multimodal transport;

(d) To promote the transportation of goods by national fleets whenever possible, including those involved in trade that is the result of Government assistance and of bilateral and multilateral trade agreements, while ensuring the high standard and competitiveness of services;

(e) To coordinate and integrate the national fleets of the parties to the Memorandum of Understanding with respect to the transport of commodities, the exchange of slots and partnerships to ensure the optimal use of fleets; to encourage the establishment of joint marketing networks for maritime transport services at the regional and international levels, by activating the role of such existing specialist unions as the Arab Federation of Shipping and any such unions that are established in the future;

(f) To consolidate and coordinate efforts in following up new developments in the field and the application of international maritime requirements and standards;

(g) To strengthen cooperation with regard to the building, maintenance and repair of vessels.

Article 4 **Seaports and harbours**

The parties to this Memorandum of Understanding have agreed as follows:

(a) To simplify and standardize the laws, regulations and procedures that govern the operation of seaports and harbours, including customs, health and administrative procedures, in order to reduce the time spent by vessels in their ports, in accordance with the Convention on Facilitation of International Maritime Traffic and its amendments;

(b) To develop and update the institutional frameworks for seaport and harbour management with a view to achieving greater efficiency;

(c) To standardize tariff, dues and charges structures and statistical systems relating to maritime transport and ports;

(d) To establish cooperation between the parties to the Memorandum of Understanding with respect to the exchange of expertise in the management and operation of seaports and harbours;

(e) To raise standards of performance and efficiency in seaports and harbours and increase their competitive capabilities;

(f) To diversify the activities of seaports and harbours to include, inter alia, the industrial, commercial and logistical fields and regional and international distribution services;

(g) To exchange information, using electronic data interchange systems, on the shipping lines and vessels operating between seaports and harbours, and the available capacity of national fleets, in order to achieve coordination and integration;

(h) To prepare periodic studies and strategic plans for the development of seaports and harbours.

Article 5 **Coastal transportation between the seaports of the parties to this Memorandum of Understanding**

The parties to this Memorandum of Understanding have agreed to develop coastal transportation between their seaports, with a view to increasing the volume of intraregional trade, using the following methods:

(a) By encouraging coastal transportation movements between seaports and harbours and providing facilities and support for national coastal transport companies;

(b) By providing and developing coastal transport services and according them appropriate capacities and facilities;

(c) By facilitating the reception of coastal transport ships and vessels and providing them with the appropriate services and facilities in seaports and harbours;

(d) To simplify and facilitate port and customs procedures and all other procedures relating to vessels and commodities involved in coastal transportation in ports and harbours.

Article 6 **Port State Control**

The parties to this Memorandum of Understanding have agreed as follows:

(a) To take action to apply Port State Control to the ships in their seaports and to cooperate in the electronic interchange of data relating to certificates and other documents on those ships;

(b) To establish control centres in ports, standardize the procedures applied and employ specialized, experienced controllers and inspectors, in accordance with the provisions of the relevant international agreements in force.

Article 7

The marine labour force, education and training

The parties to this Memorandum of Understanding shall observe the following:

(a) Compliance with regional and international laws and standards concerning the marine labour force, living and working conditions on board ship and maritime education, training and qualification;

(b) Accession to regional and international agreements and conventions concerning the marine labour force and education, training and qualification and, in particular, those of the International Labour Organization and the International Maritime Organization;

(c) The employment in national fleets of a marine labour force comprised of their nationals with the necessary qualifications provided for under the international conventions in force. Priority should be given to the national work force through a system for the exchange of marine labourers;

(d) The need to provide practical maritime training opportunities on the vessels of the parties to this Memorandum of Understanding for student trainees, officers and marine engineers who are nationals of the parties to the Memorandum and, in particular, of those who do not possess any vessels, to carry out marine service;

(e) The need to establish and support centres and institutions for education, research, training and information on the maritime transport sector, by means of the following:

(i) Establishing a maritime databank in order to store information and permit the parties to the Memorandum of Understanding to exchange such information electronically;

(ii) Formulating and developing curriculums and systems for maritime training, coordinating training programmes and exchanging training expertise between the parties to the Memorandum of Understanding.

Article 8

Marine safety and security and the protection of the marine environment

The parties to this Memorandum of Understanding have agreed as follows:

(a) To comply with the regional and international laws and standards relating to marine safety;

(b) To comply with the regional and international laws and standards relating to the security of ports and vessels;

(c) To comply with the regional and international laws and standards relating to the prohibition, prevention and eradication of the pollution of the marine environment and the preservation of that environment;

(d) To cooperate with the parties to the Memorandum of Understanding in respect of the fields referred to above;

(e) To exchange, using electronic means, information on security procedures at ports and on board ship;

(f) To exchange, using electronic means, information on rapid intervention plans for the prevention of marine pollution within ports;

(g) To undertake on a periodic and regular basis joint exercises in the prevention of marine pollution;

(h) To coordinate and cooperate in combating marine pollution;

(i) To establish and support marine and environmental safety and security education and training centres.

Article 9 Regional and international conferences

The parties to this Memorandum of Understanding have agreed as follows:

(a) To coordinate with a view to reaching uniform stances at the regional and international levels;

(b) To participate effectively in international conferences on maritime transport and seaports, in order to be involved in the formulation of regional and international policies and legislation on those issues, while reserving the rights and future of the maritime sector and ports.

Article 10 Maritime protection and indemnity

The parties to this Memorandum of Understanding have agreed to urge national shipping companies to coordinate with maritime protection and indemnity clubs in respect of the insurance of goods and vessels, with a view to gaining relative advantages from such cooperation, and to consider joining the maritime protection and indemnity club of the Association of Islamic Shipowners, with a view to insuring the ships of the companies of the parties to the Memorandum of Understanding.

Article 11 Marine insurance

The parties to this Memorandum of Understanding have agreed to encourage dealings with national ship insurance companies.

Article 12 Vessel classification

The parties to this Memorandum of Understanding have agreed to take action to activate the Arab Organization for the Classification of Vessels and to urge those countries that have not yet done so to accede to the agreement concerning the establishment of that Organization.

Article 13 International multimodal transport

The parties to this Memorandum of Understanding have agreed to call for the application of international multimodal transport as part of the Integrated Transport System in the Arab Mashreq (ITSAM) and in accordance with the internationally recognized procedures and instruments concerning the operations of that type of transport; and to accede to the United Nations Multimodal Transport Convention and other relevant conventions.

Article 14
Legislation and procedures

The parties to this Memorandum of Understanding have agreed to develop existing maritime legislation with a view to achieving the goals of developing maritime transport and ports in keeping with the relevant international agreements and conventions.

Article 15
Executive mechanisms

The parties to this Memorandum of Understanding have agreed to assign responsibility for follow-up and activation of the Memorandum of Understanding to the ESCWA Committee on Transport.

Article 16
Signature, ratification, acceptance, approval and accession

1. This Memorandum of Understanding shall be open for signature by members of the Economic and Social Commission for Western Asia in Damascus, from 9 to 12 May 2005 and thereafter at United Nations Headquarters in New York until 31 December 2005.
2. The members referred to in paragraph 1 above shall become parties to this Memorandum of Understanding by one of the following means:
 - (a) Definitive signature, namely, signature without ratification, acceptance or approval;
 - (b) Signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval;
 - (c) Accession.
3. Ratification, acceptance, approval or accession shall be effected by the deposit of the required instrument with the depositary.
4. States other than members of ESCWA may accede to this Memorandum of Understanding upon approval by all ESCWA members parties thereto, by depositing an instrument of accession with the depositary. The ESCWA secretariat shall distribute the applications for accession of non-members of ESCWA to members of ESCWA parties to the Memorandum of Understanding for their approval. Once notifications approving such applications are received from all members of ESCWA parties to the Memorandum of Understanding, the application for accession shall be deemed approved. The secretariat shall notify the depositary of such approval.

Article 17
Entry into force

1. This Memorandum of Understanding shall enter into force ninety (90) days after five (5) members of ESCWA have put their definitive signature thereto, or deposited an instrument of ratification, acceptance, approval or accession.
2. With respect to any member of ESCWA that puts its definitive signature to the Memorandum of Understanding or deposits the instrument of ratification, acceptance, approval or accession after the date on which five (5) members of ESCWA have put their definitive signature thereto or deposited an instrument of ratification, acceptance, approval or accession, the Memorandum of Understanding shall enter into force ninety (90) days after that member has put thereto its definitive signature or deposited the instrument of ratification, acceptance, approval or accession. With respect to any non-member of ESCWA that deposits an instrument of ratification, the Memorandum of Understanding shall enter into force ninety (90) days after that member has deposited that instrument.

Article 18 Amendments

1. Once the Memorandum of Understanding has entered into force, any party thereto may propose amendments thereto.
2. Any proposed amendments to the Memorandum of Understanding shall be submitted to the ESCWA Committee on Transport.
3. Amendments shall be adopted if they are approved by two thirds of the parties to the Memorandum of Understanding that are present at a meeting to be called for that purpose which includes the parties directly concerned with the proposed amendment.
4. The ESCWA Committee on Transport shall inform the depository of amendments that are adopted in accordance with paragraph 3 of this article no later than forty-five (45) days after the adoption of those amendments.
5. The depository shall inform all parties to the Memorandum of Understanding of amendments thereto that are adopted. Such amendments shall enter into force with respect to all parties three (3) months after those parties have been informed thereof, unless the depository receives objections thereto from more than one third of the parties to the Memorandum of Understanding within three (3) months of the date on which they were informed of the amendments.
6. No amendment may be made to this Memorandum of Understanding during the period specified in article 19 below if, upon the withdrawal of one party, the number of parties to the Memorandum of Understanding becomes fewer than five (5).

Article 19 Withdrawal

Any party may withdraw from the Memorandum of Understanding by giving written notice to that effect to the depository. Withdrawal shall be effective twelve (12) months after that notice has been deposited, unless revoked by the party before the expiration of that period.

Article 20 Termination

This Memorandum of Understanding shall cease to be in force if the number of parties thereto falls to fewer than five (5) in any successive period of twelve (12) months.

Article 21 Scope of the Memorandum of Understanding

1. No party to the Memorandum of Understanding shall be prevented by any part of the text thereof from taking any measures it considers necessary for its internal or external security or in its interests.
2. Information on such measures, which should be temporary, and on the nature thereof, must be notified to the depository as soon as they are taken.
3. No party to this Memorandum of Understanding shall be prevented thereby from concluding agreements or treaties on maritime transport, seaports and harbours, guided by the principles and goals of this Memorandum of Understanding whenever possible.

Article 22
The depository

The Secretary-General of the United Nations shall be the depository of this Memorandum of Understanding.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Memorandum of Understanding:

DONE at Damascus on the ninth day of May 2005, in the Arabic and English languages, which are equally authentic.