



# Understanding on Common Shipping Principles

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## Background Information

The Understanding on Common Shipping Principles was adopted by the Participants on 9 June 1993. The Understanding is a Gentlemen's Agreement among the Participants; it is not an OECD Act, as defined in Article 5 of the OECD Convention, although it receives the administrative support of the OECD Secretariat. The Understanding provides principles of free and fair market competition, non-discriminatory treatment, freedom for shipping companies to offer multimodal transport services and engage in joint venture investments, efficient transfer of funds, adherence to market pricing principles, freedom of choice of shipping services for shippers, access to inland waterways for seagoing vessels, compliance with rules and standards safety, training, pollution control and working conditions on board.

The Parties to this Understanding<sup>1</sup> agree to the following Principles and relevant observations regarding their application.

**Principle I: The participation under free and fair market competitive conditions of sea-going ships of any nationality in international sea-borne trade.**

**Agreed Observations to its application among Parties to this Understanding**

- i) Parties to this Understanding affirm their commitment to a freely competitive environment as being an essential feature of international shipping. In so doing they agree to refrain from any discriminatory measure and/or practice which would impinge upon the choice of flag or upon free competition in international sea-borne transportation of commercial cargoes shipped by carriers of participating Parties. In particular they agree that non-conference lines will be free to operate in competition with a conference as long as they adhere to the principle of fair competition on a commercial basis. They also confirm the commitment to a freely competitive environment as being an essential feature of liquid and dry bulk trades.
- ii) Acceptance of Principle I affirms the commitment of all Parties to progressively eliminate any current discriminatory practices or national discriminatory regulations such as preferential treatment concerning access to commercial cargoes in liner and bulk trades by carriers of participating countries<sup>2</sup>.
- iii) Where Parties to this Understanding consider that the free competitive transport market has been undermined or disregarded by another Party to this Understanding, they will address such problems through bilateral consultations or as agreed to under Principle XII.

**Principle II: Non-discriminatory treatment with respect to access to ports open to international trade, the use of infrastructure and auxiliary maritime services of those ports as well as related fees and charges.**

**Agreed Observations to its application among Parties to this Understanding**

- i) Parties to the Understanding agree to provide, inter alia, non-discriminatory treatment as regards fees and charges in their ports, customs facilities, and the assignment of berths and facilities for loading and unloading.
- ii) Without prejudice to pertinent international agreements certain parties may need a transitional period towards compliance to national treatment as regards fees and charges.<sup>3</sup>

**Principle III: Non-discriminatory treatment as regards agency operations and relations with forwarders.**

**Agreed Observations to its application among Parties to this Understanding**

Acceptance of Principle III should not be understood to incorporate a general commitment to national treatment or market access. Furthermore, parties to this Understanding maintain their capacity to prevent any proposed acquisition or establishment of new business if they consider this necessary in the interest of maintaining a competitive environment.<sup>4</sup>

**Principle IV: The freedom for shipping companies to offer an efficient total transport system (multimodal transport services) and engage in joint venture investments.**

**Agreed Observations to its application among Parties to this Understanding**

Acceptance of Principle IV should not be understood to impose obstacles if Parties to this Understanding choose to prevent proposed acquisitions or establishment of new businesses if they consider this necessary in the interests of maintaining a competitive environment.<sup>5</sup>

**Principle V: The free, efficient and timely transfer of funds related to all aspects of commercial shipping operations.**

**Agreed Observations to its application among Parties to this Understanding**

Parties to this Understanding agree to promote and implement policies and banking practices ensuring unencumbered commercial transactions with respect to the transportation sector in general and the maritime industry in particular. Parties undertake to ensure the transfer of moneys in an efficient manner without discriminatory taxation whether these funds be owing due to services rendered, income gained from short/long term investment, interest on loans, returns on stock-holding/commercial papers or any other form of financial arrangements between commercial and/or public enterprises.

**Principle VI: Encouragement of co-operation through commercial negotiations between shipping companies while adhering to the principles of free and fair market commercial operations.**

**Agreed Observations to its application among Parties to this Understanding**

- i) Parties to this Understanding agree that it is to be left to the commercial judgement of shipping lines as to whether they operate as non-conference lines, seek conference or consortia membership or operate within any other commercial structure they wish to establish. Furthermore, Parties to this Understanding acknowledge that the decision to allow a particular shipping line to join a particular conference rests with that conference, except where national laws prohibit closed conferences.
- ii) Parties to this Understanding furthermore agree that encouragement of co-operation of shipping lines through commercial contacts and negotiations does not include active or tacit approval of cargo sharing agreements between carriers or other restrictive practices which could close the trade or exclude the participation of other carriers in the trade. Parties to this Understanding acknowledge the importance for intensified commercial co-operation in the field of Electronic Data Interchange.

**Principle VII: Adherence to market pricing practices by all parties involved in commercial shipping operations.**

**Agreed Observations to its application among Parties to this Understanding**

Parties to this Understanding agree to curtail the use of pricing practices which, when judged by the criteria of economic profitability, are non-compensatory and, if necessary, undertake appropriate steps to have their operators (state owned and private/commercial enterprises) refrain from such pricing practices.

**Principle VIII: Freedom for shippers to choose among different shipping services for the transport of commercial cargoes on all trade routes.**

**Agreed Observations to its application among Parties to this Understanding**

Recognising that shippers require unrestricted access to adequate, economic and efficient shipping services Parties to this Understanding agree that their policies should be directed to safeguarding and promoting the freedom of choice for shippers to choose between different services offered for transportation of commercial cargoes.

**Principle IX: Open access to inland waterways for all seagoing vessels engaged in the maritime related transport of commercial cargoes in international trade.**

**Agreed Observations to its application among Parties to this Understanding**

Parties to this Understanding, in accepting the provisions of Principle IX, acknowledge that, because inland waterways are at present largely governed by specific national, bilateral and multilateral regulations, there may be a transitional period between acceptance of the Understanding and full

implementation of the provisions of this Principle. Notwithstanding this acknowledgement, Parties agree to the principles of non-discriminatory treatment and reciprocity with respect to all sea-going vessels engaged in the transport of commercial cargoes in international trade utilising inland waterways. It must however be noted that this Principle does not apply to cabotage.

**Principle X: Compliance with applicable international rules and standards regarding maritime safety and training, the prevention of pollution of the environment and the living and working conditions on board vessels.**

**Agreed Observation to its application among Parties to this Understanding**

Parties to this Understanding recognise the need for rigorous international safety and environmental standards in all aspects of international sea-borne trade. They therefore undertake to ensure compliance with applicable international rules and standards through, inter alia, such measures as national and port state control and enforcement.

**Principle XI: Improvement of transparency as regards those involved in maritime transport operations.**

**Agreed Observation to its application among Parties to this Understanding**

Parties to this Understanding, within the limits of their laws and regulations, confirm their readiness to provide information to those having a legitimate interest in obtaining information on the owner or owners, operator or operators or on any other person(s) involved in maritime transport operations.

**Principle XII: Consultations: Parties to this Understanding, while not inhibiting bilateral discussions of Parties involved, agree to consult as regularly as needed. In particular Parties to this Understanding agree to consult on:**

- a) The means of maintaining and improving competitive access to international sea-borne trade of commercial cargoes;
- b) The means of opposing the introduction of any new restrictive measures in third countries;
- c) Any problems encountered in the application of shipping policies and practices;
- d) Developments as regards each other's shipping policies;
- e) Ways and means of achieving mutually acceptable solutions if conflicts of law or policies arise;
- f) Ways and means of establishing compatible statistical data systems in the field of sea-borne trade; and
- g) Ways and means to overcome specific problems related to land-locked countries, especially those of central and eastern Europe.

**Agreed Observations to its application among Parties to this Understanding**

- i) Parties to the Understanding acknowledge that the consultation process on the above issues should as appropriate involve also private and commercial interests in the maritime sector.
- ii) Acceptance of Principle XI, in particular point b), should not be understood to imply co-ordinated action by the parties to this Understanding.
- iii) Parties to this Understanding agree to distribute information on shipping policy developments in the respective countries via the OECD Maritime Transport secretariat.

- iv) If such Party (Parties) to Party (Parties) consultations or negotiations cannot resolve conflicting interests or when a Party (Parties) refuses to enter into these consultations a country's right to take appropriate measures is not negated by this Principle.
- v) When action by a third country restricts access by carriers of a Party to the Understanding in its trade with that third country, the Party should make an effort to consult with the third country to resolve the situation. If these consultations fail to achieve results, the Party may take appropriate action to ensure that its carriers have an effective opportunity to participate in that trade.

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<sup>1</sup> Australia, Austria, Belgium, Bulgaria, Canada, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Russia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, United States. The Commission of the European Communities was also represented.

<sup>2</sup> The Parties agreed to hold consultations within three years aimed at confirming full compliance with this Principle.

<sup>3</sup> Idem.

<sup>4</sup> Idem.

<sup>5</sup> Idem.

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- **International Agreements** are negotiated and concluded within the framework of the Organisation. They are legally binding on the Parties.
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