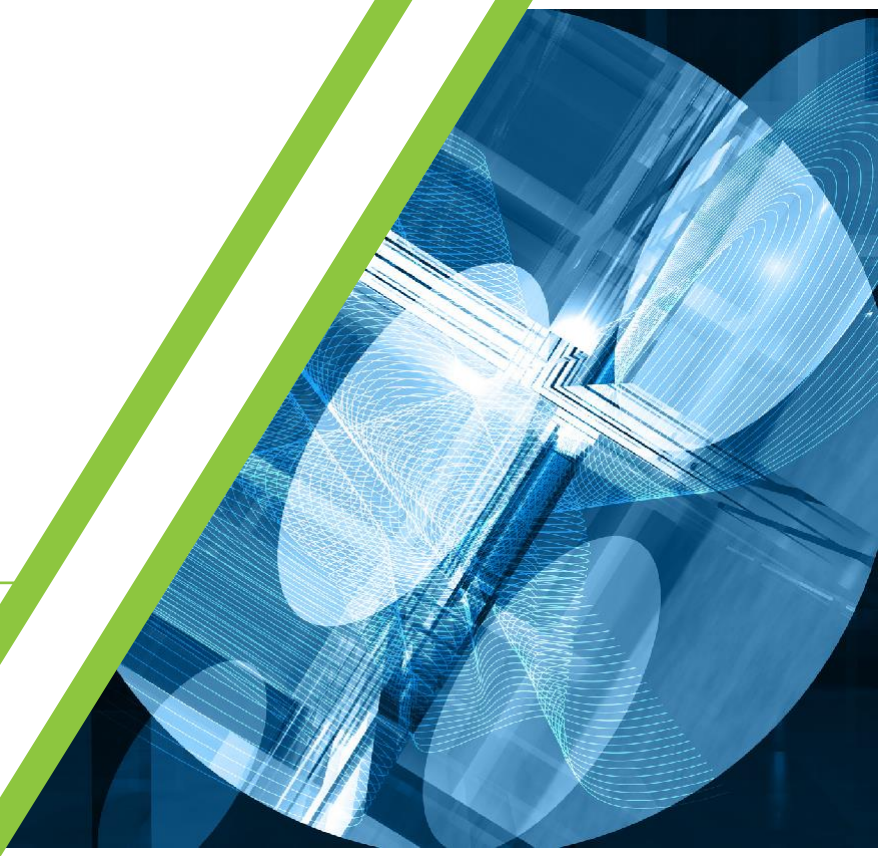
International Understanding on Maritime Transport Principles



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BETTER POLICIES FOR BETTER LIVES

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Please cite this document as:
OECD, *International Understanding on Maritime Transport Principles*, OECD/LEGAL/5014

Series: OECD Legal Instruments

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Background Information

The International Understanding on Maritime Transport Principles was adopted on 28 October 1999 on the occasion of the Martime Transport Committee/Dynamic non-member Economies Workshop. The Sector 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. This Understanding provides principles of open markets, competitive shipping services, and rules, standards and codes on safety and pollution control.

PREAMBLE

Discussions on shipping policy have taken place in Kobe, Japan between members of, and observers to, the OECD Maritime Transport Committee and representatives from government and business circles of the Dynamic non-member Economies on 27-28 October 1999 (for participating Parties see last page of this Understanding).

Participating governments "Parties" agreed upon the principles of open markets, competitive shipping services, and generally accepted international rules and standards and codes on safety and pollution control.

The following items record the Understanding on Principles concerning shipping policy, encouragement of commercial initiatives and co-operation, safety and protection of the environment, consultations and the future of the dialogue. These Principles should be applied amongst the participants and without prejudice to any higher standards or commitments for the benefit of freer sea-borne trade and enhancing maritime safety and the marine environment.[1] Parties may apply cabotage principles for their domestic trade routes.

This Understanding is without prejudice to the General Agreement on Trade in Services, the 28th June 1996 Ministerial Decision on Maritime Transport Services and to future negotiations on trade in services at the WTO.

I. SHIPPING POLICY

I.1. Free and non-discriminatory access to international sea-borne trade

Appropriate policies, based on the principle of free circulation of shipping in international trade in free and fair competition, should be put in place in order to promote unrestricted and thereby fair participation of sea-going vessels, of any nationality, in international seaborne trade of commercial cargoes. Parties should refrain from any discriminatory measure and/or practice, which would impinge upon the choice of the flag or upon free competition in international seaborne transportation of commercial cargoes shipped on carriers of participating Parties.

I.2. Shippers' freedom and needs

Shippers should be free to choose among different shipping services for the transport of commercial cargoes on all international trade routes. This Principle needs to be supported by measures facilitating administrative procedures to expedite cargoes beyond ports or across borders.

I.3. Promoting competition on a free and fair basis

Appropriate policies should be put in place to safeguard and promote free and fair competition in international shipping between carriers from all Parties participating in international maritime transport operations, while preventing the abuse of dominant positions, to the benefit of the economic interests of shipowners, shippers and, ultimately consumers.

Such policies should also ensure that applicable competition laws, regulations and other policies contain the required flexibility to adjust to the rapidly evolving conditions of international shipping.

I.4. Promotion of compatibility of competition laws and regulations

Co-operation and, where appropriate, consultation among Parties, both in the application of existing regulatory arrangements and as regards their future development, is agreed upon as a pragmatic means of promoting compatibility of competition rules applied to international shipping.

I.5. Non-discrimination as regards access to and treatment in ports

Parties should accord non-discriminatory treatment to all national and foreign suppliers of shipping services with respect to access to ports open to international trade, access to and use of port and maritime auxiliary services, as well as related fees and charges.

I.6 Commercial presence of foreign operators: agency operations, freight forwarding, intermodal haulage associated with an international sea leg

Parties should allow access on a non-discriminatory basis to all suppliers of shipping and related services to provide:

- agency operations and related freight services, and
- intermodal haulage[2] transport operations associated with an international sea leg.

I.7. Transfer of funds

Parties should provide unrestricted, efficient and timely transfer of funds related to commercial_shipping operations.

II. ENCOURAGEMENT OF COMMERCIAL INITIATIVES AND CO-OPERATION

II.1. Efficient use of resources by commercial operators

As a general principle, Parties agree that commercial operators should be encouraged to identify and eliminate existing commercial practices, which lead to the uneconomic allocation of resources, and to develop efficient and cost-effective commercial systems and practices so that maritime transport does not impede the flow of trade.

II.2. Co-operation between all those involved in international sea-borne transport

Co-operation between all those involved in the international sea-borne transport chain should continue. In this context special emphasis should be put on co-operation in areas such as Electronic Data Interchange.

II.3. Improvement in transparency as regards those involved in maritime transport operations

Within the limits of their laws and regulations, Parties to this Understanding confirm their readiness to provide without undue delay information to those having a legitimate interest in obtaining information on owners, operators or any other person involved in maritime transport operations.

III. PROMOTION OF MARITIME SAFETY AND PROTECTION OF THE ENVIRONMENT

III.1. Strict compliance with internationally agreed rules and standards

Parties stress their determination that all vessels should comply with internationally agreed rules and standards concerning the safety of ships, persons on board and the prevention of pollution of the marine environment. They agree to ensure compliance with these rules by all vessels within their jurisdiction. Apart from being a safety and environmental risk, non-compliance might provide unfair advantages to those shipowners who operate substandard ships.

III.2. Support given to actions taken by the International Maritime Organisation and the International Labour Organisation

Strong support should be given to actions taken by the International Maritime Organisation to improve the safety of ships and persons on board and the prevention of pollution of the marine environment and to

enhance the implementation of international conventions. Third countries should be urged to adopt a similar approach.

Where appropriate, strong support should also be given to relevant actions taken by the International Labour Organisation.

III.3. Flag and port state control

Parties agree on the fundamental importance of effective flag state control and the necessity also of effective port state control, as processes for monitoring compliance and enforcement of standards.

Parties also agree on the need for improved regional co-operation among port state control authorities.

III.4. Adequately trained seafarers

Parties agree to exchange information on the efforts undertaken in training skilled seafarers, and on how to promote seafaring whilst at the same time fostering and improving the quality of crewing.

IV. CONSULTATIONS

Whilst not inhibiting bilateral discussions, Parties to the Understanding recognise the merits of consulting as regularly as is necessary on problems which they encounter, or to exchange views on the implementation of the Principles of this Understanding. These consultations should also involve, as appropriate, private and commercial interests in the maritime sector and should, *inter alia*, cover the following matters:

a) the means of both maintaining and improving competitive access to international sea-borne trade on a free and commercial basis;

b) developments as regards each other's shipping policies;

c) any problems encountered in the application of each other's or third country's shipping policies and practices;

d) ways and means of achieving mutually acceptable solutions if conflicts of law or policy in shipping and related fields arise.

Statement by Participants[3] at the Adoption of the Principles to be adhered to in International Maritime Transport

1. Participants agreed to ask the OECD to ensure regular discussion among participants on the implementation of the Understanding.

2. Participants furthermore invited other DNMEs to adhere to this Understanding as it is.

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[1] These Principles are to be adhered to without prejudice to measures applied by Parties to protect their essential security interests, public order and health.

[2] Malaysia expresses a reservation on this element of Principle I.6.

[3] Participating Parties: Australia, Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Finland, France, Germany, Greece, Hong Kong (China), Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, Malaysia, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Singapore, Spain, Sweden, Switzerland, Chinese Taipei, Thailand, Turkey, United Kingdom, United States. The Commission of the European Union was also represented.

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- **Recommendations** are adopted by Council and are not legally binding. They represent a political commitment to the principles they contain and entail an expectation that Adherents will do their best to implement them.

- **Substantive Outcome Documents** are adopted by the individual listed Adherents rather than by an OECD body, as the outcome of a ministerial, high-level or other meeting within the framework of the Organisation. They usually set general principles or long-term goals and have a solemn character.

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

- **Arrangements, Understandings and Others**: several other types of substantive legal instruments have been developed within the OECD framework over time, such as the Arrangement on Officially Supported Export Credits, the International Understanding on Maritime Transport Principles and the Development Assistance Committee (DAC) Recommendations.