

Memorandum of Understanding (MoU)

between

The Government of the Republic of India

and

The Government of the United Arab Emirates

on

Institutional Cooperation on Maritime Transport

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**The Government of the Republic of India and
The Government of the United Arab Emirates**

Without prejudice to existing legislation at both Parties and their obligation towards International Conventions in force both Parties are desirous to sign the following "Memorandum of Understanding" for cooperation in marine transport;

In the common interest of both Parties and desirous of providing a legal foundation for the reciprocal trading relations through shipping with a view to ensuring the freedom of foreign trade and enhancing, to the greatest degree possible, co-operation in this field; recognizing that the bilateral exchange of goods should be accompanied by an effective exchange of services bases upon the principle of competition in service providing;

referring to the international conventions on the safety of navigation, the facilitation of international maritime transport, the living and working conditions of seafarers, the carriage of dangerous goods, and the protection of the marine environment among other concepts;

have agreed as follows:

Article 1
Definitions

For the purposes of this MoU, unless expressly provide otherwise:

- (1) "vessel of a Party" means a vessel which, in accordance with the regulations of such Party, flies its flag and has been entered in a register, except for vessels mentioned in Article 8 of this MoU. For the purpose of this MoU, any vessel flying the flag of a third Party and/or authorised by a shipping company of one of the Parties to this MoU, shall also be deemed to be a "vessel of a Party" during the period of the charter.
- (2) "shipping company" means any legal entity which is licensed to carry international shipping service with its owned and/or authorized vessels and has its headquarters or principal place of business in the territory of either of the Parties to this MoU.
- (3) "seafarer" means the master and any other person who, during the voyage, has duties to perform or services to render on board the vessel and whose name is inscribed on the crew list;
- (4) "competent maritime shipping authority" means:
With regard to:
 - a) The Republic of India, the Ministry of Shipping.
 - b) The United Arab Emirates, the Federal Transport Authority Land & Maritime

Article 2

International conventions

The present MoU shall not affect the rights and obligation of the Parties arising from international conventions or agreements or MoUs at regional or international level to which either of them is a Party, and also does not affect the obligations arising out of any other valid agreements or MoUs signed between the Parties.

Article 3

Freedom of Shipping; non-discrimination

- (1) A vessel of a Party shall be entitled to sail between any of the ports in the territory of either Party that are open to international trade and to carry passengers and cargo between the territories of the Parties as well as between either of these and third Parties subject to domestic law of the Parties.
- (2) The parties, without prejudice to existing legislation at both the Parties, shall refrain from any action that might be detrimental to the unrestricted participation of the shipping companies of the Parties in maritime transport and the principles of non-

discrimination, of free completion, and of the free choice of shipping company shall apply.

Article 4

Measures to facilitate maritime transport

- (1) Within the framework of their legal regime, the Parties shall take all measures necessary to facilitate and promote seaborne transport to avoid any unnecessary prolongation of lay times, and to simplify and expedite, wherever possible, customs and other formalities to be observed in ports as well as to facilitate the use of existing installations for the disposal of wastes.
- (2) The Parties undertake to abolish, upon the entry into force of the present MoU, all unilateral technical and administrative measures that entail restriction of, and have discriminatory effects upon, the free offer of services in international maritime transport subject to domestic laws.

Article 5

Equal treatment of vessels

- (1) Either Party shall grant the vessels of the other Party, when in its ports, territorial waters, or other waters under its jurisdiction, the same treatment as it grants to its own vessels employed in international maritime transport. The application of this principle is limited to the following:
 - the access to ports;
 - the use of port facilities for cargo and passenger transport as well as to the access to any services and other facilities and the departure there from.
- (2) All fees and expenses for services and any other expenses that are to be paid by one of the Parties' ships in the ports of the other Party will be paid in accordance with the legislation in force in that other Party.

Article 6

Commercial activities

- (1) Either Party shall grant the shipping companies of the other Party the right to set up and maintain in its territory branches of their own for the exercise and use of agent's and forwarders' services as well as to enroll administrative, clerical, and technical personnel for these purposes.

- (2) The laws and other regulations of the host Party governing the entry of foreigners and their stay in the territory of the host Party, shall be complied with in the process of setting up the branches and the employment of the personnel.
- (3) Under the provisions of paragraph (2) of this Article, the domestic laws in force in the Parties relating to the entry, abode and repatriation of foreigners shall remain applicable.

Article 7
Free transfer of monies

- (1) The Parties undertake to authorize in freely convertible currency, any current payments between nationals and companies of the Contracting Parties connected with international maritime transport, made in accordance with the provisions of the present MoU in conformity with the relevant domestic law as may be applicable.
- (2) The free movement of capital between nationals and companies of the Parties in the form of direct investment made in companies formed in accordance with the laws of the host country, investments made and the transfer abroad of such investments, shall be ensured.
- (3) The Parties shall consult each other with a view to facilitating the movement of capital between them in order to promote the objectives of this MoU.

Article 8
Exemptions

- (1) The Provisions of the present MoU shall not apply to the following types of vessels:
 - warships
 - fishing vessels
 - research vessels
 - other vessels used for non-commercial public service.
- (2) The present MoU shall not affect the laws and regulations of either Party concerning the privilege of the national flag with regard to national coastal navigation as well as to salvage, towage, pilotage, and hydrographic services.

Article 9
Compliance with legal provisions

- (1) The crew members of a vessel of either Party during their stay in the territory of the other Party, shall be subject to the laws in force there.
- (2) Passengers and consignors of goods shall comply with the laws and regulations in force in the territory of both Parties governing the entry, stay and departure of passengers as well as the import, storage, and export of goods, including the provisions concerning shore leave, immigration, customs, taxation, and quarantine.

Article 10
Reciprocal recognition of ship's document

- (1) Each Party shall recognize the nationality of vessels of the other Party as indicated in the vessels' documents on board issued by the Competent Authority of the other Party in accordance with its domestic law.
- (2) The other documents on board issued or recognized by a Party shall be recognized by the other Party with respect to the vessels of the former Party.
- (3) Vessels of either Party possessing Tonnage Measurement Certificates issued in accordance with the International Convention on Tonnage Measurement of Ships, shall not be re-measured in the ports of the other Party.
- (4) Provided that, should the latter Party have reasonable grounds to question the correctness of the said Certificate, the following procedure shall be adopted, namely:-
 - (i) the concerned Party shall inform the country whose flag the vessel is flying about the grounds for such suspicion;
 - (ii) the competent authority of the country in which the harbour is situated and which has suspicion may direct a surveyor to give a ruling in accordance with its domestic law, or, if necessary, in accordance with Article 12 of the IMO International Convention on Tonnage Measurement of Ships, 1969.

- (5) Each Party shall recognize the identity documents issued by the competent authorities of the other Party to its crew members. The crew list of the vessel will be recognized for the purposes of this MoU only if it is submitted by the Master of the vessel to the concerned Port Authority when the vessel arrives at or visits any port of the other Party. The identity documents so issued are hereinafter referred to as "IDs".
- (6) Each Party shall recognize certificates of competency of crew members issued or recognized by the other Party on the basis of the latter's domestic law and in accordance with the International Convention on Standards of Training, Certification and Watch keeping for Seafarers (STCW 1978/1995), as amended.

Article 11

Travel documents of the members of the crew

- (1) For the members of the crew, whether they are citizens of any of the Parties to this MoU or of a third state, those travel documents issued by the competent authorities that may be used for border crossing under the national prerequisites of the Party the border of which is to be crossed, shall be deemed admissible border-crossing documents. Valid Passport and Seamen Book/Visa are the authorized International travel documents for the seamen while travelling for International voyage.

Article 12

Entry, transit, and stay

- (1) Either Party may, in accordance with the laws and regulations in force in the host country, give permission to those members of the crew of a vessel of the other Party who are holders of a valid border-crossing document within the meaning of Article 11 of this MoU to go ashore and to stay in the area of the port town during the lay time of their vessel.
- (2) Where necessary, the competent authorities of either Party shall, in accordance with the laws and regulations in force in the host country, issue to those members of the crew of a vessel of the other Party who are holders of a valid border-crossing document within the meaning of Article 11 of this MoU, a visa:
 - for the purpose of repatriation;
 - to enable them to go on board own ship or any other vessel authorized by either parties;

- for any other reason deemed accepted by the competent authorities of the other Party.
- (3) The competent authorities of either Party shall permit any member of the crew of a vessel of the other Party who is taken to hospital in the territory of the first Party to stay as long as may be medically necessary for in-patient treatment.
 - (4) Either Party reserves the right to refuse undesirable persons entry into its territory even if such persons hold one of the documents specified in Article 11 of this MoU.
 - (5) Either Party undertakes to take back, without formality, any person having entered the territory of the other Party from board a vessel of the first Party when such person does not meet, or ceases to meet, the conditions of entry or stay applicable in the territory of the other Party.
 - (6) Staff of the diplomatic missions and consular posts of either Party as well as the members of the crews of vessels of such Party shall be entitled, while complying with the relevant laws and regulations in force in the host country, to contact one another and to meet in person.
 - (7) Notwithstanding the provisions of paragraphs (1) to (6) above, the regulations of the Parties governing the entry, stay, and departure of foreigners shall remain unaffected.

Article 13
Incidents at sea

- (1) If a vessel flying the flag of either Party is shipwrecked, runs aground, or otherwise suffers distress while in the territorial waters of the other Party, the authorities of the latter Party shall provide to the members of the crew and to the passengers of such vessel as well as to the vessel and its cargo the same protection and assistance as to a vessel flying their own flag.
- (2) In the event of maritime casualty within the meaning of the preceding paragraph, either Party shall refrain from levying import duties and domestic taxes on any of the vessel's cargo or equipment, materials, provisions, or other appurtenances unless any such articles are used or consumed in the territory of the Party concerned and are re-exported to the other party within time period prescribed in the customs law of that party. The competent customs branch office shall be informed, without delay, of the maritime casualty.

- (3) Both Parties undertake to co-operate, upon the request and in accordance with the procedure provided for by their respective national legal provisions to promote vessel safety and the protection of the marine environment, in the investigation of those maritime casualties for which at least one of the Parties has been found to be responsible in terms of the IMO Casualty Investigation Code. Where necessary, such co-operation is in particular intended to facilitate the conclusions as provided for in that Code.

Article 14 **Co-operation**

The Parties shall encourage the shipping companies and the maritime institutions in either country to seek and develop appropriate forms of co-operation. This shall apply, in particular, to technical matters and to the training of specialists.

Article 15 **Consultations**

- (1) Either Party or its competent maritime authorities may request, at any time, working visits or consultations with the other Party or its maritime authority.
- (2) Any such working visit or consultations requested by either Party or its maritime authority should commence within a period of time not exceeding ninety (90) days following the receipt of such request.

Article 16 **Settlement of Disputes**

- (1) Should any dispute arise between the Parties with regard to the interpretation or application of the present MoU, the Parties shall seek to settle such dispute amicably through negotiations between their maritime authorities following a request for consultations.
- (2) The Parties may agree upon a court of arbitration to be instituted.

Article 17
Entry into force

The present MoU shall enter into force on the date on which the Parties have notified each other that their respective national prerequisites for such entry into force have been fulfilled. The relevant date shall be the day on which the last notification is received.

Article 18
Duration of the MoU, amendments and denunciation

- (1) This MoU shall remain in force for an initial period of five (5) years where after it shall be renewed automatically for successive periods of one (1) year, unless terminated by either Party by giving six months written notice in advance through the diplomatic channel of its intention to terminate this MoU.
- (2) Either Party may, following a request for consultations, propose amendments to the present MoU.
- (3) Either Party may, at any time, notify the other Party of its decision to denounce the present MoU. In this event, the MoU shall cease to have effect six months after receipt of such notification by other Party, unless the denunciation has been revoked prior to the lapse of the said period of time.

In witness thereof the undersigned, being duly authorized thereto by their respective Governments, have signed and sealed this MoU in two originals each in English, Hindi and Arabic languages, all texts being equally authentic. In case of any divergence in interpretation, the English text shall prevail.

Done at New Delhi on 25 January, 2017.



**For the Government of the
Republic of India**



**For the Government of the
United Arab Emirates**