

African Maritime Transport Charter, 1994.

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PREFACE

For sometime now, a number of African countries have made laudable efforts to develop their maritime transport sector. However, inspite of these efforts the Maritime Transport Sector remains relatively undeveloped in comparison to other developing countries. The poor state of the maritime sector in Africa is clearly demonstrated by Africa's very low participation in the carriage of its seaborne trade, very slow turn around of ships at African ports and very high tariffs for sea freight and port charges that are not commensurate with the poor services offered.

At world-wide level, however, the Sector is undergoing institutional, structural and technological changes which are having a serious impact on this Sector in Africa. In view of the small size of the Sector in individual African countries, the Conference of African Ministers of Maritime Transport, meeting in its Third Session in Addis Ababa from 13-December 1993, reiterated the importance of co-operation among African countries in the Sector in finding appropriate solutions to the problems impeding the development of the Maritime Transport Sector as well as in facing the challenges brought about by the above mentioned changes. The

Conference, therefore, adopted an African Charter on Maritime Transport to provide the framework for cooperation, on one hand, among African countries and on the other hand, between African and non-African countries.

By its Resolution CM/Res.1520 (LX) on the outcome of the Third Conference of Ministers of Maritime Transport, the Council of Ministers of the OAU stressed the importance of Maritime Transport Charter. I am, therefore, urging all Member States of the OAU to sign and ratify the African Charter on Maritime Transport with the strong belief that it will foster cooperation among African countries in Maritime Transport Section and thus promote the development of this vital Sector.

Salim Ahmed Salim

Secretary General

Organization of African Unity

Addis Ababa, July 26, 1994

PREAMBLE

The Member States of the Organization of African Unity, Parties to this Charter;

CONSIDERING the co-operation objectives enshrined in the Charter of the Organization of African Unity;

CONSIDERING the Treaty establishing the African Economic Community, particularly the relevant provisions dealing with maritime transport;

CONSIDERING the relevant provisions of the UN Convention on a Code of Conduct for Liner Conferences;

CONSIDERING the relevant provisions of the Convention relating to Transit Trade of Land-locked States, signed on 8 July, 1965 in New York;

CONSIDERING economic development as a priority;

CONSIDERING the importance of maritime transport in the promotion of foreign trade and in economic development;

CONSIDERING maritime transport as a factor for regional and continental economic integration;

RECOGNIZING the specific character of shipping as an international activity;

CONSCIOUS of the need to ensure an orderly expansion of African merchant fleet and a harmonious development of African maritime transport, particularly by maintaining a fair balance between the interests of shippers and those of shipowners in our respective States;

CONSCIOUS of the peculiarity of the problems faced by the Land-locked Member States;

RESOLVED to co-operate in all fields of maritime activity;

CONSCIOUS of the need to strengthen this co-operation in order to co-ordinate and harmonize our maritime policies, both in our mutual relations and in our relations with Third States;
Have decided to adopt an African Maritime Transport Charter and have agreed as follows:

CHAPTER 1

DEFINITIONS

Article 1 Definitions

For the purpose of the present Charter:

- (a) "Charter" means African Maritime Transport Charter;
- (b) "Region" means region of the Organization of African Unity as provided for in Resolution CM/Res.464 (XXVI) of the Council of Ministers of the Organization of African Unity on the division of Africa into five (5) regions namely: Northern, Western, Central, Eastern and Southern;
- (c) "Sub-region" means at least three (3) States of one (or several) regions as defined in paragraph (b) of this article;
- (d) "Member States" means Member States of the Organization of African Unity parties to this Charter;
- (e) "Third State" means a State other than a Member State;
- (f) "Land-locked Member State" means a Member State without a sea coast;
- (g) "Transit Member State" means a Member State with or without sea coast whose territory is used in carrying import and export commodities for one or several Member States;
- (h) "Multi-modal Transport" means the carriage of goods by at least two different modes of transport one of which is a sea mode on the basis of a multi-modal transport contract from a place in one country at which the goods are taken in charge by the multi-modal transport operator to a place designated for delivery situated in a different country;
- (i) "Shipper" means a person or entity who has entered into, or who demonstrates an intention to enter into a contractual or other arrangement with a conference or shipping line for the shipment of goods in which he has a beneficial interest;
- (j) "Shippers' organization" means an association or equivalent body which promotes, represents and protects the interests of shippers and, if those authorities so desire, is recognized in that capacity by the appropriate authority or authorities of the country whose shippers it represents.
- (k) "Committee on maritime and port issues" means a committee established at port level by a Member State, which comprises, inter alia, representatives of shippers, shipowners, maritime, customs and port

administration and which is charged with allocation of cargo.

CHAPTER II - Principles and Objectives of Co-operation

Article 2 Principles

Member States hereby adhere to the following fundamental principles of maritime cooperation:

- (a) solidarity and independence of States;
- (b) harmonization and co-ordination of Member States policies in all areas connected with international maritime transport and ports;
- (c) the need to make maritime and port activities and services more efficient in order to promote economic and social development;
- (d) the right of free access to the sea for every land-locked Member States with the proviso that they comply with the laws and regulations of the transit States.

Article 3 Objectives

The objectives of African maritime co-operation are as follows:

- (a) To define and implement harmonized shipping policies capable of promoting harmonious and sustained development of the African fleet and to foster on a pragmatic basis close co-operation between the States of the same region or sub-region and between the regions or sub-regions of Africa;
- (b) To hold regular consultations with a view to determining African common positions on all issues of international maritime policy and to define, for each given problem, concerted solutions;
- (c) To harmonize Member States' views as regards the implementation of international maritime conventions to which they are parties;
- (d) To promote bilateral and multilateral co-operation between the maritime administrations of Member States, their respective operational organizations in the field of maritime transport;
- (e) To undertake studies that will encourage the promotion and the development of co-operation in maritime transport and port operations between countries, regions or sub-regions of Africa;
- (f) To encourage the establishment of regional and/or sub-regional shipping lines.

CHAPTER III - Organs

Article 4 Continental Unit for the Co-ordination of activities relating to co-operation in Shipping and Port Operations in Africa

In order to ensure the effective co-ordination of maritime and port development and international policies, activities and programmes, Member States agree to establish a Continental Unit for the co-ordination of activities of regional co-operation organizations in shipping and port operations in Africa (UCOMAR) within the General Secretariat of the OAU.

Article 5 Regional and Sub-regional organizations for co-operation in the maritime field

1. Member States agree to establish, wherever they do not yet exist, regional and sub- regional co-operation organizations in maritime and port operations, and to make them operational as early as possible.
2. Member States also agree to work towards the strengthening of existing organizations, develop and sustain active co-operation among the various regional and sub-regional maritime institutions.

Article 6 Establishment and strengthening of National Maritime Institutions

Member States agree to:

- (a) establish in order to make them functional as early as possible, or strengthen the operation of national shippers' councils (or equivalent agencies), national shipping lines, wherever possible, ports, committee on maritime and port issues and national, sub-regional or regional maritime training and research institutions;
- (b) bring together these various national agencies within regional or sub-regional specialized co-operation organizations in maritime and port activities;
- (c) work towards the strengthening of existing regional and sub-regional specialized co-operation organizations in maritime and port operations.

CHAPTER IV-Co-operation in Maritime Transport

Article 7 Co-operation among African Merchant Shipping Lines

In promoting co-operation among African shipping lines, Member States agree to:

- (a) Encourage, where they do not yet exist, the establishment of pools and cargo booking offices, the pooling of traffic rights at sub-regional, regional and continental levels in order to ensure optimum use of available maritime transport facilities. To this end, African shipping lines are encouraged to enter into pool agreements and operate joint services.
- (b) Promote the establishment of a common marketing network of shipping agencies within and outside Africa in order to enable African merchant shipping lines to improve on the co-ordination of their consignment and handling operations.

Article 8 Maritime Traffic

Member States agree to:

- (a) Adopt guidelines and a framework for reallocation of traffic in each region wherever possible with a view to promoting, among other things, the establishment of consortia;
- (b) Establish a harmonized system of cargo sharing;
- (c) Guarantee a fair share of the traffic to national shipping lines while ensuring high quality services at competitive costs.

Article 9 Employment of Seafarers

1. Member States agree to achieve, through the establishment of regional seafarer employment exchanges, an efficient co-operation with respect to ship personnel between African States lacking adequate trained manpower and those having excess trained manpower in relation to their national needs.
2. In this regard, they agree to comply with the international maritime regulations relating to maritime transport, training and qualification of seafarers.

Article 10 Multi-modal Transport

Member States agree to promote the establishment of multi-modal transport joint ventures so as to enable African shipping lines set up within the framework of the UN Convention on International Multi-modal Transport of Goods, modern systems of point-to- point transportation, improve their

services and increase their capacity to finance modern and efficient fleet.

Article 11 Cabotage

Member States agree to promote cabotage at sub-regional, regional and continental levels.

Article 12 Maritime Transport Ancillaries

Member States agree to organize the activities of the maritime transport ancillaries with a view to ensuring greater competitiveness and offer better quality services to the benefit of their economies.

Article 13 Legal Framework

Member States agree to set up enabling harmonized legislative and regulatory framework that shall promote and guarantee the stability of maritime transport joint ventures, particularly multi-modal transport joint ventures.

Article 14 Follow-up, Evaluation and Financing of Merchant Fleet

Within the framework of actions for follow-up, evaluation and search for funds to finance their fleet, Member States agree to:

- (a) conduct a periodical study on the situation of African shipping lines and take the most appropriate decisions on the basis of the findings of the study;
- (b) appeal to African and international funding institutions to support African States in their policies on ship and related equipment acquisition and operation;
- (c) promote the establishment of regional funds for the development of maritime transport and a more rational use of existing opportunities offered by the African Development Bank and by sub-regional or regional development banks.

Article 15 Sustaining the Development of Maritime Transport

In order to sustain the development of maritime transport in Africa, Member States, among other things, agree to:

1. Promote co-operation in the field of ship repair through:

(a) the co-ordination of their needs in the area of ship repair and the adoption of international conventions at the level of each region, in order to promote the use of African shipyards, wherever possible, and strengthen their negotiating power vis-à-vis non-African shipyards with a view to realizing significant economies of scale;

(b) the establishment of sub-regional and regional centres to manufacture, repair and overhaul containers;

(c) the identification of major shipyards within the Continent which can undertake adequate repair of African ships and the establishment, if need be, of new and more efficient installations.

2. Establish, reactivate research, training and information centres. In this regard, Member States agree to:

(a) establish information exchange centres in order to improve the dissemination of information, promote the exchange of information among operators and encourage the establishment of electronic data interchange systems in Africa;

(b) encourage the use of such electronic data interchange systems for the dissemination of information relating to port state control among African States;

(c) establish or strengthen existing national, sub-regional and regional maritime research and development centres, with the assistance of maritime operators or associations of operators and with the technical and financial assistance of inter-governmental and international organizations;

(d) promote a sub-regional and regional approach to maritime training through adaptation and co-ordination of programmes, exchange of trainers and trainees as well as teaching materials;

(e) promote the use and the strengthening of the existing sub-regional and regional maritime training institutions.

CHAPTER V-Co-operation in the Area of Assistance to Shippers

Article 16 Direct Assistance to Shippers

Member States agree to encourage, wherever they do not exist, the creation of shippers' organizations and intensify direct assistance to shippers in the area of transport operations in connection with export and import activities

Article 17 Effective Management and Pooling of Freight

Member States agree to promote an effective consolidation of cargo at national, subregional and regional levels so as to help shippers to obtain shipping services better adapted to their needs and at a lower cost

Article 18 Facilitation of Maritime Traffic

Member States shall encourage the establishment, at national, sub-regional and regional levels, of committees on facilitation, harmonization and simplification of administrative and customs procedures.

CHAPTER VI-Ports Development and Management

Article 19 Rationalization of Port Services and Costs

Member States shall agree to co-operate on issues pertaining to the rationalization of services at their ports in order to realize economies of scale on services provided. In this connection, they agree to encourage:

- (a) any actions aimed at facilitating the acquisition of modern port materials and equipment;
- (b) the promotion at sub-regional or regional level of a concerted programming of port dredging in order to facilitate negotiation on dredging contracts and reduce costs.

Article 20 Improvement of Port Management and Operation

In order to improve the competitiveness of the port system in Africa, Member States agree to:

1. achieve an autonomous management of African ports so as to increase their effectiveness;
2. encourage:
 - (a) the adoption of a harmonized port tariff and statistic system;
 - (b) periodic survey of the situation of ports and harbours in Africa;
 - (c) medium and long-term studies on port development;
 - (d) the formulation of strategic plans.

CHAPTER VII Co-operation in the Field of Maritime Legislation

Article 21 Improvement and Harmonization of Legislations

Member States agree to:

- (a) adopt and, where necessary, update their existing maritime legislations so as to make them compatible with the promotion of national maritime and port activities;
- (b) examine with a view to revising and harmonizing, if necessary, their maritime and port legislations in order to make them compatible with each other and with the relevant international maritime conventions in force in the field of maritime transport and related activities;
- (c) request the General Secretariat of the OAU to periodically draw an indicative list of relevant international maritime conventions to be ratified by States that might not yet be Contracting Parties.

Article 22 Co-operation Agreement

Member States agree to enter into co-operation agreements between themselves in the field of maritime transport and ports on the basis of the principles embodied in this Charter.

CHAPTER VIII-Co-operation between Land-locked and Transit Countries

Article 23 Transit Trade of Land-locked Member States

Transit Member States agree to grant facilities and benefits to Land-locked Member States using port infrastructure and equipment and apply to transit goods, non-discriminatory administrative, fiscal and customs measures in accordance with the principles of this Charter.

Article 24 Co-ordination of Policies and Actions

Transit Member States and Land-locked Member States agree to co-ordinate their policies of acquisition and use of means of land transport (road and rail), river, air, maritime transport and port. They also agree to co-ordinate the actions and instruments of implementation of their national maritime policies, those concerning, inter alia, grouping, pooling and cargo sharing, operation of cargo handling equipment as well as clearing and forwarding of cargo in transit.

Article 25 International Agreements and Conventions on Transit

Member States are encouraged to enter into bilateral and multilateral transit agreements and apply in a concerted manner, the relevant sub-regional, regional and international

conventions in force, particularly those relating to transit.

Article 26 Exceptions and Safeguards

Notwithstanding any provisions contained therein, the implementation of this Charter shall be subject to the relevant provisions of Article 35 of the Treaty establishing the African Economic Community.

CHAPTER IX-Final Provisions

Article 27 Signing and Ratification

1. This Charter is open for signature by Member States at the General Secretariat of the Organization of African Unity.
2. The ratification, acceptance, approval or accession shall be carried out in accordance with the respective constitutional procedures of Member States and by the deposit of a duly signed instrument with the General Secretariat of the Organization of African Unity.
3. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the present Charter with respect to the Contracting Parties or after all the necessary measures have been taken for the entry into force of the amendment with respect to the said States shall be deemed to be in conformity with the amended convention.

Article 28 Entry into Force

1. This Charter shall provisionally enter into force Thirty (30) days after being signed by at least Twenty (20) Member States of the Organization of African Unity.
2. It shall finally enter into force Thirty (30) days after the Secretary General of the Organization of African Unity has received the instruments of ratification, acceptance or approval of Two-thirds of Member States of the Organization of African Unity.

Article 29 Amendment and Revision of the Charter

1. Any Member State may submit proposals for the amendment or revision of the present Charter.
2. Proposals for amendment or revision shall be submitted to Member States within a maximum period of thirty (30) days after they have been received at the Headquarters of the Organization of African Unity. The Council of Ministers shall be seized of the proposals for amendment or revision of the

Charter only when all the Member States have been duly notified and after a period of one year.

3. The amendments shall be adopted by consensus by the Council or, failing that, by two thirds majority, and shall be submitted to Member States for ratification in conformity with their respective constitutional procedures.

Article 30 Entry into Force of Amendments

1. Amendments shall come into force Thirty (30) days after the deposit of the instruments of ratification of two thirds of Member States of the Organization of African Unity at the office of the Secretary General of the Organization of African Unity

2. Without prejudice to Article 27, paragraph 3, any State which becomes party to the Charter after the entry into force of an amendment shall be deemed to be party to the unamended Charter with regard to any Contracting State which is not bound by the said amendment.

Article 31 Denunciation

A Member State may denounce the Charter by giving a written notice to the Secretary General of the Organization of African Unity specifying the reasons for such denunciation. The withdrawal shall take effect one year after the notice has been duly served, unless a later date is fixed by the State concerned.

Article 32 Settlement of Disputes

Member States undertake to settle their disputes regarding the interpretation or the application of the provisions of this Charter in accordance with Article 87 of the Treaty Establishing the African Economic Community.

Article 33 Depository

1. The Charter, drafted in four original texts in English, Arabic, French and Portuguese, the four texts being equally authentic, shall be deposited with Secretary General of the Organization of African Unity

who shall transmit a certified true copy thereof to the Government of each of the signatory States.

2. The Secretary General shall notify Member States of the dates of deposit of the instruments of ratification or accession and shall, upon the entry into force of this Charter, register the same with the United Nations Secretary General.

IN WITNESS WHEREOF, the undersigned, duly authorized by their respective Governments, have signed this Charter in the four official languages of the Organization of African Unity, the four (4) texts being equally authentic, in a single original.

Done at Addis Ababa, Ethiopia,

On 15th day of December, Nineteen Hundred Ninety-three

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