

RIYADH MEMORANDUM OF UNDERSTANDING
ON PORT STATE CONTROL



مذكرة تفاهم الرياض
للفتيش والرقابة على السفن

RIYADH MEMORANDUM OF
UNDERSTANDING (MOU)
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The Maritime Authorities* of the following Member States:

- United Arab Emirates
- Kingdom of Bahrain
- Kingdom of Saudi Arabia
- Sultanate of Oman
- State of Qatar
- State of Kuwait

Hereinafter referred to as "the Authorities"

Recognizing the need to increase maritime safety and the protection of the marine environment and the importance of improving living and working conditions on board ships;

Noting with appreciation the progress achieved in these fields, in particular by the International Maritime Organization (IMO) and the International Labour Organization (ILO) and mindful especially of IMO Resolution A.682(17), concerning Regional Co-operation in the Control of Ships and discharges;

Noting also that in accordance with the provisions of the Kuwait convention (1978), the Contracting States are to take all appropriate measures

* Maritime Authorities are the national maritime administrations designated for the implementation of this Memorandum (see Annex I).

to prevent, abate and combat pollution of the marine environment.

Mindful that the principal responsibility for the effective application of standards laid down in international instruments rests upon the authorities of the State whose flag a ship is entitled to fly;

Recognizing nevertheless that effective action by port States is required to prevent the operation of substandard ships;

Recognizing also the need to avoid distorting competition between ports;

Convinced of the necessity, for these purposes, of an improved and harmonized system of port State control and of strengthening co-operation and the exchange of information;

Have reached the following understanding:

Section 1 Commitments

1.1 Each Authority will give effect to the provisions of the present Memorandum and the Annexes thereto which constitute an integral part of the Memorandum, and take all necessary steps to ratify or accede to instruments relevant for the purposes of this Memorandum.

1.2 Each Authority will establish and maintain an effective system of Port State Control with a view to ensuring that, without discrimination as to flag, foreign merchant ships visiting the ports of its State comply with the standards laid down in the relevant instruments defined in section 2.

1.3 Each Authority will achieve, within a period of 3 years from the coming into effect of the Memorandum an annual total of inspections corresponding to 10% of the estimated number of individual foreign merchant ships, hereinafter referred to as "ships", which entered the ports of its State during a recent representative period of 12 months. The Committee established pursuant to Section 7.1 will monitor the overall inspection activity and its effectiveness throughout the region. The Committee will also adjust the target inspection rate based on experience gained and progress made in the implementation of the Memorandum of Understanding.

1.4 Each Authority will consult, co-operate and exchange information with the other Authorities in order to further the aims of the Memorandum.

Section 2 Relevant instruments

2.1 For the purposes of the Memorandum "relevant instruments" are the following instruments:

- the International Convention on Load Lines, 1966;
- the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74);
- the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974;
- the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78);

- the International Convention on Standards of Training, Certification and Watch keeping for Seafarers, 1978 (STCW 78);
- the Convention on the International Regulations for Preventing Collisions at Sea, 1972;
- The International Convention on Tonnage Measurement of Ships, 1969;
- The Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No.147).

Together with the Protocols and amendments to these conventions and related codes of mandatory status as and when they enter into force.

2.2 With respect to the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention 147), each Authority will apply the instructions in Annex 1 for the application of ILO publication "Inspection of Labour Conditions on board Ship: Guidelines for procedure".

2.3 Each Authority will apply those relevant instruments which are in force and to which its State is a Party. In the case of amendments to a relevant instrument, each Authority will apply those amendments which are in force and which its State has accepted. An instrument so amended will then be deemed to be the "relevant instrument" for that Authority.

2.4 When inspecting a ship flying the flag of a State not party to a Convention or to a "relevant instrument" as amended for the purposes of Port State Control, the Authorities which are party to such Convention or "relevant

instrument" as amended shall ensure that the treatment given to such ship and its crew is not more favorable than that given to ships flying the flag of a State which is party to that Convention or "relevant instrument".

2.5 In the case of non-convention sized ships, the Authorities will apply those requirements of the relevant instruments which are applicable and will, to the extent that a relevant instrument does not apply, take such action as may be necessary to ensure that those ships are not clearly hazardous to safety, health or the environment, having regard, in particular, to Section 5 of Annex 2.

Section 3 Inspection procedures, rectification and detention*

3.1 In implementing the Memorandum, the Authorities will carry out inspections which will consist of at least a visit on board a ship in order to check the validity of the certificates and documents and furthermore satisfy themselves that the crew and the overall condition of the ship, its equipment, machinery spaces and accommodation and hygienic condition on board, meet the provisions of the relevant instruments.

3.2 Whenever there are clear grounds for believing that the condition of a ship or of its equipment or crew does not substantially meet the requirements of a relevant instrument a more detailed inspection shall be carried out, including further checking of compliance with on-board operational requirements.

* Reference is made to IMO Assembly resolution A.787(19) on Procedures for Port State Control as may be amended by IMO.

3.3 Clear grounds exist when the Port State Control Officer (PSCO) finds evidence which in his professional judgment warrants a more detailed

inspection of ship, equipment or crew. The Authorities will regard as clear ground, *inter alia*, those set out in Annex 3.

3.4 Nothing in these procedures should be construed as restricting the powers of the Authorities to take measures within its jurisdiction in respect of any matter to which the relevant instruments relate.

3.5 The relevant procedures and guidelines for control of ships specified in Annex 2 shall also be applied.

3.6 In selecting ships for inspection, the Authorities shall give priority to the following ships:

- Ships visiting a port of a State, the Authority of which is a signatory to the Memorandum, for the first time or after an absence of 12 months or more;
- Ships which have been permitted to leave the port of a State, the Authority of which is a signatory to the Memorandum, on the condition that the deficiencies noted must be rectified within a specified period, upon expiry of such period;
- Ships which have been reported by pilots or port authorities as having deficiencies which may prejudice their safe navigation;
- Ships whose statutory certificates on the ship's construction and equipment, have not been issued in accordance with the relevant instruments;
- Ships carrying dangerous or polluting goods, which have failed to

report all relevant information concerning the ship's particulars, the ship's movements and concerning the dangerous or polluting goods being carried to the competent authority of the port and coastal State;

- Ships which have been suspended from their class for safety reasons in the course of the preceding six months.

3.7 The Authorities will seek to avoid inspecting ships which have been inspected within the previous 61 months by other Authorities unless there are clear grounds for inspection. These procedures are not applicable to ships listed under 3.6 which may be inspected whenever the Authority deems appropriate.

3.8 Inspections will be carried out only by a person, duly authorized by his Authority to carry out Port State inspections and responsible to that Authority, who fulfils the requirements of paragraph 3.10 and the qualification criteria specified in Annex 4.

3.9 The PSCO carrying out Port State Control may, if necessary, be assisted by a person or persons having appropriate expertise and approved by the Maritime Authority of the inspecting state.

3.10 The PSCO carrying out Port State Control and the person assisting him shall have no personal or commercial interest either in the port of inspection or in the ships inspected, nor shall the PSCO be employed or undertake work on behalf of non-governmental organizations which issue statutory and classification certificates or which carry out the surveys necessary for the issue of those certificates to ships.

3.11 Each PSCO shall carry a personal document in the form of an identity

card issued by his authority indicating that the PSCO is authorized to carry out inspections. Reference is made to Annex 5.

3.12 On completion of an inspection the master of ship shall be provided by the PSCO with a document in the form specified in Annex 6 to this Memorandum of Understanding, giving the results of the inspection and details of any decision taken by the PSCO and of the corrective action to be taken by the master, owner, or operator.

3.13 The Authorities are or shall be satisfied that any deficiencies confirmed or revealed by the inspection are rectified.

3.14 In the case of deficiencies which are clearly hazardous to safety, health or the environment the Authority will detain the ship or will stop the operation in relation to which the deficiencies have been revealed. The detention order or the stoppage of the operation shall not be lifted until the hazard is removed, except under the conditions provided for in 3.17 below.

3.15 When exercising his professional judgment as to whether or not a ship should be detained, PSCO shall be guided by the criteria set out in Annex 2.

3.16 In the event that a ship is detained the Authority shall immediately notify the Flag State concerned and its Consul or, in his absence, its nearest diplomatic representative of the action taken. Where relevant, the organization responsible for the issue of the certificate(s) shall also be informed.

3.17 Where deficiencies referred to in 3.14 cannot be remedied in the port of inspection, the Authority may allow the ship to proceed to another port, or the nearest repair yard subject to any appropriate conditions determined by

that Authority with a view to ensuring that the ship can so proceed without danger to safety, health or the environment. In such circumstances the Authority will notify the competent Authority of the State where the next port of call or the repair yard is situated, the parties mentioned in 3.16 and any other Authority as appropriate. Notification to Authorities will be made in accordance with Annex 7. The Authority receiving such notification will inform the notifying Authority of action taken.

3.18 The Authorities will take measures to ensure that ships referred to in paragraph 3.17 which either proceed to sea without complying with the conditions determined by the Authority which detained the ship or which do not call into the agreed port or yard to undertake repairs, shall be refused access to any port within this Memorandum until the owner or operator and the flag State notify the Authority of the State where the ship was found defective or the Authority which receives the vessel that the ship complies with all applicable requirements of the relevant instruments. In the latter case, the receiving Authority will notify all other Authorities of such compliance.

3.19 Notwithstanding provisions contained in 3.18 above, in exceptional circumstances, recognized by the Authority, access to specific port may be permitted to minimize the risk of loss of life or of pollution.

3.20 The provisions of Section 3.16 and 3.19 are without prejudice to the requirements of relevant instruments or procedures established by international organizations concerning notification and reporting procedures relating to Port State Control.

3.21 When exercising control under the Memorandum, the Authorities will make all possible efforts to avoid unduly detaining or delaying a ship. Nothing in the Memorandum affects rights created by provisions, of relevant

instruments relating to compensation for undue detention or delay.

3.22 In case the master, owner or agent of the ship notifies the Port State Control Authorities prior to, upon arrival or whilst the vessel is in the port, of any damage, breakdown or deficiency to the ship, its machinery and equipment, which is intended to be repaired or rectified before the ship sails from that port, the detention should be issued only if deficiencies justifying detentions are found after the master has given notification that the ship was ready for inspection. The same procedure applies when the Port State Control Authorities are notified that the ship is scheduled to be surveyed at the port with respect to flag, statutory or class requirements.

3.23 In exceptional circumstances, when a ship on its way to a specified repair yard needs to call at a port for temporary repairs for safety reasons, it may be allowed into that port. All commercial operations are forbidden, except the unloading of its cargo if required for safety reasons. The ship may be allowed to proceed to the specified repair yard only if the flag State of the ship has issued statutory certificates to the ship restricting their validity to that specific voyage, and the Port State is satisfied that such ship shall not pose undue risk to safety of ship, or to the environment or cause undue hardship to the crew.

3.24 The owner or the operator of a ship will have the right of appeal against a detention decision to higher administrative Authority or to the Court of competent jurisdiction, according to the law in each country. However, an application for appeal shall not cause the detention to be suspended.

3.25 Should an inspection reveal deficiencies warranting detention of a ship, all costs relating to inspections subsequent to the first shall be covered by the ship-owner or the operator. The detention shall not be lifted until full

payment has been made or a sufficient guarantee has been given for the reimbursement of the costs.

Section 4 Provision of information

4.1 Each Authority will report on its inspections under the Memorandum and their results, in accordance with the procedures specified in Annex 9.

4.2 The Authorities will supply the following information to the Secretariat:

- a) Number of PSCOs working on their behalf on Port State Inspections.
- b) Number of individual ships entering their ports in a representative year prior to the Memorandum;
- c) Fees for inspections, if any.

This information will be updated annually.

Section 5 Operational violations

Where there are suspected violations of Rule 10 of the International Convention for Preventing Collisions at Sea, 1972 or suspected violations of MARPOL 73/78, the Authorities will, upon the request of another Authority, Endeavour to secure evidence regarding such violation.

With respect to the violations, involving the discharge of harmful substances, the Authority requested to secure evidence will visit the suspected ship in port

in order to obtain information, and where appropriate, will take a sample or samples of any alleged pollutant.

In the cases referred to this paragraph, the requesting Authority should confirm that the Flag State of the suspected ship has already been notified of the alleged violation.

Section 6 Training programmes and seminars

The Authorities will Endeavour to establish appropriate training programmes and seminars.

Section 7 Organization

7.1 A Committee composed of a representative of each of the Authorities that are party to the Memorandum will be established. A representative of the International Maritime Organization, of the International Labour Organization will be invited to participate without vote in the work of the Committee. Representatives of the Maritime Authorities of other States of the Region, and, subject to the provisions of Section 10, any other Organization or Authority which the Committee may deem appropriate, may be accorded the status of observer without vote.

7.2 The Committee will meet once a year and at such other times as it may decide.

7.3 The Committee will:

- Carry out the specific tasks assigned to it under the Memorandum;
- Promote by all means necessary, including seminars for surveyors, the harmonization of procedures and practices relating to the inspection, rectification, detention and the application of 2.4;
- Develop and review guidelines for carrying out inspections under the Memorandum;
- Develop and review procedures, including those related to the exchange of information;
- Keep under review other matters relating to the operation and the effectiveness of the Memorandum;
- Promote by all means necessary the harmonization of the operation and effectiveness of this Memorandum with those of similar agreements for other Regions;
- Adopt the budget and decide the contributions of every Party to the Memorandum.

7.4 Except where provided otherwise in Section 9, the Committee will take its decisions acting on simple majority.

7.5 A Secretariat will be established in accordance with the following principles:

- a) The Secretariat is a non-profit making body located in the Sultanate

of Oman.

- b) The Secretariat will be totally independent from any maritime administration or organization;
- c) The Secretariat will be governed by and be accountable to the Committee;
- d) The Secretariat will have a bank account into which all dues and contributions are made;
- e) The Secretariat will operate from the established bank account in accordance with the budget determined by the Committee.
- f) The Secretariat will have a financial year commencing on January.

7.6 The Secretariat, acting under the guidance of the Committee and with the limits of the resources made available to it, will:

- Prepare meetings, circulate papers and provide such assistance as may be required to enable the Committee to carry out its functions;
- Facilitate the exchange of information, carry out the procedures outlined in Annex 10 and prepare reports as may be necessary for the purposes of the Memorandum;
- Carry out such other work as may be necessary to ensure the effective operation of the Memorandum.

Section 8 Financial Mechanism

8.1 The cost of running the Secretariat and the Information Centre are financed by:

- a) the financial contribution of Parties to the Memorandum; and
- b) gifts and subscriptions, if any, by donor countries or organizations approved by the Committee

8.2 Each Party to the Memorandum undertakes to settle its financial contributions to the costs for running the Secretariat and the Information Centre, in conformity with the decisions and procedures adopted by the Committee.

Section 9 Amendments

9.1 Any Authority, which has accepted the Memorandum, may propose amendments to the Memorandum.

9.2 In the case of proposed amendments to sections of the Memorandum the following procedure will apply:

- a) The proposed amendment will be submitted through the Secretariat for consideration at least six weeks before the Committee meets;
- b) Amendments will be adopted by a two-third majority of the representatives of the Authorities participating in the Memorandum. Each Authority is entitled to only one vote. If so adopted, an amendment will be communicated by the Secretariat to

the Authorities for acceptance.

- c) An amendment so adopted will be deemed to have been accepted either at the end of a period of six months after adoption by the representatives of the Authorities in the Committee or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee at the time of adoption
- d) An amendment will take effect 60 days after it has been accepted or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee.

9.3 In the case of proposed amendments to Annexes of the Memorandum the following procedure will apply:

- a) The proposed amendment will be submitted through the Secretariat for consideration by the Authorities;

The amendment will be deemed to have been accepted at the end of a period of three months from the date on which it has been communicated by the Secretariat unless an Authority requests in writing that the amendment should be considered by the Committee. In the latter case the procedure specified in 9.2 will apply;

- c) The amendment will take effect 60 days after it has been accepted or at the end of any period determined unanimously by the Authorities.

Section 10 Administrative provisions

10.1 The Memorandum is without prejudice to the rights and obligations under any international Instrument.

10.2 A Maritime Authority of a State of the Region may accede to the Memorandum provided it complies with the criteria specified in annex 9.

10.3 Authorities meeting the requirement specified in Annex 9 may become parties of the Memorandum by:

- a) Signature without any reservations as to acceptance, or
- b) Signature subject to acceptance, followed by acceptance.

The Memorandum remains open for signature, at the Headquarters of the Secretariat from

10.4 Acceptance or accession will be effect by a written communication by the Maritime Authorities to the Secretariat.

10.5 The Secretariat will inform the Maritime Authorities who have signed the Memorandum of any signature or written communication, or of acceptance or accession and of the date on which such an event has taken place.

10.6 This Memorandum will enter into force for each Authority 90 days from the date of acceptance or accession.

10.7 Any Maritime Authority or Organization wishing to participate as an observer will submit in writing an application to the Committee and will be accepted as an observer subject to the unanimous consent of the representatives of the Authorities present and voting at the Committee

meeting.

10.8 Any Authority may withdraw from the Memorandum by providing the Committee with 60 days notice in writing.

10.9 The English text is the official version of the Memorandum.

ANNEX 1

MARITIME AUTHORITIES SIGNING THIS MEMORANDUM

On behalf of the UNITED ARAB EMIRATES

On behalf of the KINGDOM OF BAHRAIN

On behalf of the KINGDOM OF SAUDI ARABIA

On behalf of the SULTANATE OF OMAN

On behalf of the STATE OF QATAR

On behalf of the STATE OF KUWAIT