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## Development of maritime policy through bilateral arrangements : trade and crewing aspects

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**WORLD MARITIME UNIVERSITY**  
Malmö, Sweden

**DEVELOPMENT OF MARITIME POLICY  
THROUGH BILATERAL ARRANGEMENTS:  
TRADE AND CREWING ASPECTS**

By

**ÖZLEM MULUN**  
Turkey

A dissertation submitted to the World Maritime University in partial  
fulfilment of the requirements for the award of the degree of

**MASTER OF SCIENCE**  
**In**  
**MARITIME AFFAIRS**

**(MARITIME LAW AND POLICY)**

2007

## DECLARATION

I certify that all material in this dissertation that is not my own work has been identified, and that no material is included for which a degree has previously been conferred on me.

The contents of this dissertation reflect my own personal views, and are not necessarily endorsed by the University.

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## ABSTRACT

Title of Dissertation: **Development of Maritime Policy through Bilateral Arrangements: Trade and Crewing Aspects**

Degree: **MSc**

This dissertation is a study of the bilateral arrangements within the context of shipping but limited to two of its aspects namely maritime trade and crewing of ships. Shipping in the modern context is the primary instrument for the conduct of global trade. It is thus no coincidence that trading nations are compelled to place maritime policy at a relatively high position on their national agendas. Since maritime matters are inherently international in character and shipping is recognizably a global business, national maritime laws need to be compatible with and reflect the international maritime regimes developed through cooperation among states with maritime interests.

In order to establish uniformity, the international maritime community constantly deliberates on the development of international legal regimes. Sometimes multilateral efforts are made through regional arrangements among states with common maritime interests based on geographical location, economic and social commonalities and with a view to establishing comity and good neighbourliness in the hope of enhancing their respective national maritime interests. In other instances states, irrespective of regional or global considerations, find it in their national interests to enter into bilateral relationships. There are multifarious reasons why states would choose bilateralism over regionalism in relation to particular maritime issues.

The central object or purpose of this work is to examine the role of bilateralism in the development of national maritime policy and the impact and influence of bilateral maritime arrangements on regional interests. In particular, a number of bilateral agreements between Turkey and some of its neighbouring states in relation to maritime trade and crewing of ships have been analyzed critically. Finally, it is recommended that policy-makers at various levels continue to keep abreast of technical and socio-economic developments in the maritime field and reformulate their maritime policies accordingly.

**KEYWORDS:** Regionalism, Bilateralism, Maritime Policy, Maritime Trade, Maritime Transport, Crewing of Ships.

# TABLE OF CONTENTS

<b>DECLARATION .....</b>	<b>I</b>
<b>ACKNOWLEDGEMENTS .....</b>	<b>II</b>
<b>ABSTRACT.....</b>	<b>III</b>
<b>TABLE OF CONTENTS .....</b>	<b>IV</b>
<b>LIST OF ABBREVIATIONS .....</b>	<b>VI</b>
<b>CHAPTER 1 INTRODUCTION.....</b>	<b>1</b>
<b>CHAPTER 2 BILATERALISM VERSUS REGIONALISM .....</b>	<b>5</b>
2.1 REGIONALISM AND REGIONAL ORGANIZATIONS.....	5
2.2 IMPORTANCE OF REGIONALISM FOR LITTORAL STATES .....	8
2.3 REGIONAL MARINE ENVIRONMENTAL ORGANIZATIONS.....	10
2.3.1 <i>Helsinki Commission (HELCOM)</i> .....	10
2.3.2 <i>Regional Marine Pollution Emergency Response Centre                 for the Mediterranean Sea (REMPEC)</i> .....	13
2.3.3 <i>Regional Organization for the Protection of the Marine Environment (ROPME)</i> .....	16
2.3.4 <i>The Black Sea Commission</i> .....	17
2.4 THE BLACK SEA AS A FRAMEWORK OF REGIONAL COOPERATION.....	19
2.5 ADVANTAGES AND DISADVANTAGES OF REGIONALISM .....	20
2.5.1 <i>Political Uses of Regionalism</i> .....	20
2.5.2 <i>Advantages of Regionalism</i> .....	22
2.5.3 <i>Disadvantages of Regionalism</i> .....	23
2.6 THE IMPORTANCE OF REGIONALISM AND BILATERALISM FOR DETERMINATION OF NATIONAL MARITIME POLICY .....	24
<b>CHAPTER 3 BILATERALISM, INTERNATIONAL TRADE AND         NATIONAL MARITIME POLICY: INTERRELATIONSHIPS .....</b>	<b>27</b>
3.1 INTRODUCTORY REMARKS.....	27
3.2 INTERNATIONAL TRADE AND ITS CONTRIBUTION TO THE MARITIME SECTOR .....	28
3.3 BILATERALISM .....	30
3.4 BILATERAL TRADE AGREEMENTS .....	32
3.4.1 <i>Specific Factors Relating to Bilateral Trade Agreements</i> .....	33
3.5 BILATERAL MARITIME AGREEMENTS .....	37
3.6 EFFECTS OF A STATE'S FOREIGN POLICY ON BILATERAL RELATIONS .....	40
<b>CHAPTER 4 ANALYSIS OF BILATERAL MARITIME AGREEMENTS         BETWEEN TURKEY AND SELECTED STATES .....</b>	<b>43</b>
4.1 PRELIMINARY OBSERVATIONS .....	43
4.2 BILATERAL MARITIME AGREEMENTS BETWEEN TURKEY AND GREECE AND TURKEY AND ALBANIA .....	44
4.3 COMPARATIVE ANALYSIS OF THE TWO BILATERAL MARITIME AGREEMENTS.....	47
4.4 BILATERAL AGREEMENTS BETWEEN TURKEY AND RUSSIA AND TURKEY AND UKRAINE REGARDING RECOGNITION OF SEAFARERS CERTIFICATES .....	59

<b>CHAPTER 5 CONCLUSION.....</b>	<b>65</b>
<b>BIBLIOGRAPHY.....</b>	<b>69</b>
<b>ANNEX 1 THE BALTIC SEA MAP.....</b>	<b>78</b>
<b>ANNEX 2 THE MEDITERRANEAN SEA MAP.....</b>	<b>79</b>
<b>ANNEX 3 THE PERSIAN GULF MAP .....</b>	<b>80</b>
<b>ANNEX 4 THE BLACK SEA MAP.....</b>	<b>81</b>
<b>ANNEX 5 THE DIFFERENT MOTIVATIONS FOR FORMING BTAS: SPECIFIC FACTORS.....</b>	<b>82</b>
<b>ANNEX 6 AGREEMENT BETWEEN THE REPUBLIC OF TURKEY AND THE HELLENIC REPUBLIC ON MARITIME TRANSPORTATION .....</b>	<b>83</b>
<b>ANNEX 7 MARITIME AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF TURKEY AND THE GOVERNMENT OF THE REPUBLIC OF ALBANIA .....</b>	<b>94</b>
<b>ANNEX 8 AGREEMENT BETWEEN THE UNDERSECRETARIAT FOR MARITIME AFFAIRS, PRIME MINISTRY OF THE REPUBLIC OF TURKEY AND THE MINISTRY OF TRANSPORT OF THE RUSSIAN FEDERATION ON MUTUAL RECOGNITION OF CERTIFICATES FOR CREW MEMBERS OF SEAGOING VESSELS.....</b>	<b>105</b>
<b>ANNEX 9 AGREEMENT BETWEEN THE PRIMA MINISTRY UNDERSECRETARIAT FOR MARITIME AFFAIRS, OF THE REPUBLIC OF TURKEY AND THE MINISTRY OF TRANSPORT OF UKRAINE ON MUTUAL RECOGNITION OF CERTIFICATES UNDER THE TERMS OF THE INTERNATIONAL CONVENTION ON STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR SEAFARERS 1978, AS AMENDED IN 1995.....</b>	<b>109</b>

## **LIST OF ABBREVIATIONS**

ASEAN	Association of South East Asians Nations
BEAC	Barents European Atlantic Council
BSEC	Black Sea Economic Cooperation
CARICOM	Caribbean Community
CBS	Council of Baltic States
CEFTA	Central European Free Trade Area
CEI	Central European Initiative
CMI	Comite Maritime International
CSI	Container Security Initiative
EC	European Community
EIA	Environmental Impact Assessment
EU	European Union
HELCOM	Helsinki Commission
IMO	International Maritime Organization
MAP	Mediterranean Action Plan
MARPOL 73/78	International Convention for the Prevention of Pollution from Ships, 1973, and its Protocol 1978
MOU	Memorandum of Understanding
MRCC	Maritime Rescue Coordination Centre



NAFTA	North American Free Trade Agreement
NATO	North Atlantic Treaty Organization
OECD	Organization for Economic Cooperation and Development
PSC	Port State Control
REMPEC	Regional Maritime Pollution Emergency Response Centre for the Mediterranean Sea
ROPME	Regional Organization for the Protection of the Marine Environment
SAR	Search and Rescue Convention
SOLAS	International Convention for the Safety of Life at Sea, 1974, and its Protocol of 1988
STCW	International Convention on Standards of Training, Certification and Watchkeeping of Seafarers 1978, as amended in 1995
UAE	United Arab Emirates
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea, 1982
UNCTAD	United Nations Conference on Trade and Development
UNEP	United Nations Environment Programme
US	United States of America
WTO	World Trade Organization

# CHAPTER 1

## INTRODUCTION

In the current milieu the term globalization has assumed certain proportions that are often inexplicable in real terms. In other words, it is a term that has for better or for worse become part of the jargon of the twenty-first century. In shipping, the term is used almost thoughtlessly as if it was a new invention. In fact shipping is and always has been largely an international business. Indeed, all maritime ventures have since centuries and millennia been international or global activities. In that sense globalization is not new to shipping. Since the latter part of the nineteenth century, attempts have been made through the Comité Maritime International (CMI) to unify maritime law and policy so that ships do not have to face multiple regimes when sailing the world's oceans. Since 1948 the task of creating uniformity in maritime practice has been assumed by the International Maritime Organization (IMO) through the adoption of its first convention on safety of life at sea<sup>1</sup>.

There are few who would doubt or debate the fact that the international approach to matters maritime is the best option. In recent times, the notion of regionalism has also gained considerable popularity and momentum through the efforts of both intergovernmental and non governmental bodies. Regionalism in terms of its *raison d'être* rests on the commonality of various parameters among states, the most important of which is geographical location. Socio-economic conditions, legal systems, cultural commonalities are other aspects of the common platform that drives regionalism. The common examples that rest on the above factors are the European Union (EU), the

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<sup>1</sup> International Convention on Safety of Life at Sea, 1974 as revised through various Protocols and Amendments since 1974, is the current version.

Caribbean Community (CARICOM), and the Association of South East Asians Nations (ASEAN). The Organization of Economic Cooperation and Development (OECD) is one grouping that extends beyond the commonality of geographical location but rather rests on, as the name implies, on economic cooperation and development. Thus, there are states as geographically far flung as Canada and Japan who are members of the OECD. Sometimes the non-geographical factors impinge on the success of regionalism more effectively in terms of policy orientation.<sup>2</sup>

Globalization has its protagonists as well as its antagonists. There are those who strenuously express the view that globalization fosters exploitation of the less developed countries by the developed ones. The opposite argument is that developing countries have much to gain from globalization despite exploitation by the West and on the whole are economically better off than they would be without this phenomenon. Regionalism appears to have few who oppose its tenets other than perhaps those who view regionalism as a kind of extended unilateralism which is largely unpopular. In the maritime field, of course, globalization is a fact of life when we perceive of the ship as a vehicle that accommodates entities of multiple nationalities.

While in summary, it can be said that internationalism and regionalism on balance are good and unilateralism is bad, not much has been said about bilateralism. That is the focus of this dissertation within the context of shipping but limited to two of its aspects namely maritime trade and crewing of ships. The principal subject of discussion is the maritime trade aspect of shipping; the issue of crewing of ships is afforded relatively less coverage in the dissertation. The intention is not to downplay the importance of crewing, but rather to confine the work to the prescribed limitations. The central object or purpose of this work is to examine the notion of bilateralism illustratively through a number of bilateral agreements between Turkey and some of its

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<sup>2</sup> See Proshanto K. Mukherjee. *Maritime Legislation*. Malmö: WMU Publications, 2002, p.44

neighbouring countries in relation to the two fields identified above. Following this introductory chapter, it is intended to carry out a comparative analysis of bilateralism versus regionalism in the context of a number of maritime regions. Regionalism and regional organizations will first be discussed on a preliminary basis highlighting their importance to the littoral states of the region. Special emphasis will be placed on economic cooperation among the states, its contribution to regional development and the advantages and disadvantages of regionalism.

In the next chapter bilateralism will be discussed in the context of international trade and national maritime policy. The mutual benefits with regard to flag state implementation through bilateral agreements will be examined. As mentioned above, the focus will be mainly on trade and peripherally on crewing issues. The importance of a state's foreign policy on bilateral relations in these areas will be analyzed in contextual detail. In the following chapter, an examination will be made of Turkey's bilateral relations with Greece and Albania in respect of maritime affairs in general, and with Russia and Ukraine in respect of crewing issues. In this chapter the text will present an overview of these particular bilateral relations and a number of bilateral agreements pertaining to the above will be critically reviewed and analysed. The salient features of these agreements will be highlighted focusing on government policies and strategies. It is envisaged that the discussion will be as detailed as the context will allow, that is, it will not go beyond maritime interests of the states concerned in the areas of trade and crewing of ships in the stated proportions. The two areas have been chosen selectively while it is recognized that there are many other facets to the bilateral maritime interests of the states concerned.

In the concluding chapter, a summary of the findings will be presented and recommendations may be made mainly from the perspective of Turkish interests the purpose of which will be to enhance the effectiveness of these agreements without

disturbing their fundamental frameworks. As a final word to this introductory chapter it remains to be pointed out that, this study is primarily policy-oriented focusing on the maritime interests of Turkey in the two identified areas. It is true that the direction of policy matters lies much in the development of international maritime regimes, and those individual policies of states in the process of promoting mutuality and accommodating the corresponding interests of its neighbouring states are key to the objects of uniformity and harmonization of maritime affairs globally.

## **CHAPTER 2**

### **BILATERALISM VERSUS REGIONALISM**

#### **2.1 Regionalism and Regional Organizations**

The basic definition of regionalism is a legal framework of cooperation among states which are in the same geographical area including economic, political and cultural relationships for the intention of protecting their interests on a regional basis.<sup>3</sup> Regionalism is advantageous because of economies of scale where one subject is related to another and is followed by countries and international organizations. On the other hand, regionalism can be disadvantageous for countries attempting to adapt themselves to new procedures and arrangements in order to implement them in their own national legislation. Forming regions can be an advantage for one country but a disadvantage for another. Therefore there are no particular criteria for advantages that one may try to search. There are many different regional agreements all over the world, making it difficult to generalize regional motives and types.<sup>4</sup>

Regions have objectives which evolve in order for them to be successful; therefore trade may be a secondary objective which is subsequent or secondary to political or security objectives. It is thus difficult if not impossible to find a regional arrangement which focuses only on trade without consideration of, for example, security and political issues.<sup>5</sup>

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<sup>3</sup> See Sheila Page, *Regionalism among Developing Countries*. New York: Palgrave Publishers, 2000, p.5.

<sup>4</sup> *Ibid.*, at p. 9.

<sup>5</sup> *Ibid.*, at p. 6.

In the case of geographical coverage for the establishment of a regional arrangement, conditions might be different depending on the needs of individual countries in the region. Therefore regional blocks may be formed among geographical neighbours and also among those which are not so situated. It is much easier and less expensive to establish and carry out trade when countries are geographically close to each other and particularly when they share a common border. Although some countries are in the same geographical vicinity, they can be divided by the sea. Much difficulty can be expected in terms of enforcing controls. However countries may overcome such difficulty by arriving at regional or bilateral arrangements.

Shipping has traditionally been the least expensive mode of transport from past to the present. Customs unions<sup>6</sup> and free trade areas<sup>7</sup> have existed since at least the time of the Ionian League throughout the Mediterranean region.<sup>8</sup> Most of the countries of the established regional arrangements are geographically contiguous to each other, i.e., neighbouring countries such as the members of the CARICOM, the EU and the ASEAN.

The EU has been formed by industrially developed nations in the same geographical region for economic integration that consists of a free trade area, customs union and common markets.<sup>9</sup> Although the EU's legal competence is based on trade, its policy covers political and security issues as well. Among the member states in the EU

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<sup>6</sup> See Vincent H. Smith, Daniel A. Sumner & C. Parr Rosson (2002), *Bilateral and Multilateral Trade Agreements*. Retrieved May 30, 2007 from the World Wide Web: [http://www.farmfoundation.org/2002\\_farm\\_bill/vsmith.pdf](http://www.farmfoundation.org/2002_farm_bill/vsmith.pdf). In customs unions, usually common external tariffs eliminate trade barriers between members and establish identical barriers to trade with non-members.

<sup>7</sup> *Ibid.* Tariff and non-tariff barriers to trade between member countries are removed in a free trade area. Trade barriers vary from country to country with the rest of the world and each member country determines trade barriers by their policy makers.

<sup>8</sup> *Supra*, footnote 3 at p. 66.

<sup>9</sup> See "European Union: The History of the European Union". Retrieved May 30, 2007 from the World Wide Web: [http://europa.eu/abc/history/index\\_en.htm](http://europa.eu/abc/history/index_en.htm). A common market is a customs union in which the free movement of goods and services, labour, and capital is also permitted among member nations.

there is no tariff or formal border controls.<sup>10</sup> Another example of regional arrangements is the ASEAN which has been formed by Asian countries in the same region in order to accelerate economic growth such as elimination of tariff and non-tariff barriers among member states, social progress and cultural development.<sup>11</sup> The CARICOM is also an example of geographical regionalism which aims to accelerate sustainable economic development as well as to promote social, cultural and technological development among member states.<sup>12</sup>

Although the OECD is an arrangement that rests on economic cooperation and development among member states, it extends beyond the commonality of geographical location. Some countries are far away from each other such as Australia, Canada, Japan and the United States of America who are members of OECD.<sup>13</sup>

Regions also can be formed for non economic reasons such as national security, peace and assistance for developing political and social institutions. Such alliances may include regions united by common security problems of countries from different parts of the world such as the North Atlantic Treaty Organization (NATO). NATO is an intergovernmental organization which aims to provide security among member countries consisting of the states of North America and Europe by political and military means.<sup>14</sup>

In respect of the maritime field, regional arrangements are made by littoral states for functional relations which may be based on environmental issues. The Organization

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<sup>10</sup> *Supra*, footnote 3 at p. 97

<sup>11</sup> See "Association of South East Asian Nations: Establishment, objectives and fundamental principles". Retrieved May 30, 2007 from the World Wide Web: <http://www.aseansec.org/64.htm> and see also the Web Page: [http://nti.org/e\\_research/official\\_docs/inventory/pdfs/asean.pdf](http://nti.org/e_research/official_docs/inventory/pdfs/asean.pdf)

<sup>12</sup> See "Caribbean Community: Objectives of the Community". Retrieved May 30, 2007 from the World Wide Web: <http://www.caricom.org/jsp/community/objectives.jsp?menu=community>

<sup>13</sup> See Organization for Economic Cooperation and Development. Retrieved May 31, 2007 from the World Wide Web: [http://www.oecd.org/home/0,2987,en\\_2649\\_201185\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/home/0,2987,en_2649_201185_1_1_1_1_1,00.html)

<sup>14</sup> See "North Atlantic Treaty Organisation: What is NATO?". Retrieved May 31, 2007 from the World Wide Web: <http://www.nato.int/nato-welcome/index.html>



of the Black Sea Economic Cooperation (BSEC) in the Black Sea Region, the Helsinki Commission (HELCOM) in the Baltic Sea Region, and the Regional Marine Pollution Emergency Response Centre (REMPEC) in the Mediterranean Sea Region and Regional Organization for the Protection of the Marine Environment (ROPME) in Persian Gulf Sea area are examples of regional cooperation among states for environmental reasons.

## **2.2 Importance of Regionalism for Littoral States**

Over time, man's use and abuse of the oceans and their resources made regulation inevitable at the level of first the rudimentary community and subsequently, larger units such as the state, and finally, the world.<sup>15</sup> For nations, continents and old empires, the sea has been considered as a power centre and storage for energy. With its wide expanses and limitless resources, the sea represents a source of power that nature uses. Many nation states have been rewarded by this power as a consequence of geographical configuration. The concept of the littoral state has been defined by this power.<sup>16</sup> As such, "littoral" has been defined as belonging to the shore especially of the sea or great lakes or rivers; or coastal regions, particularly the zone of high and low tide levels; or bordering the ocean, sea or lakes. Combined with the concept of a state which is a political union with effective power over a geographical area exercises its sovereignty within its territory and territorial waters as well as complete sovereignty and jurisdiction over its internal waters.<sup>17</sup>

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<sup>15</sup> See Peter Malanczuk, *Akhehurst's Modern Introduction to International Law*. London: Routledge, 1997, p. 207.

<sup>16</sup> See Kishor Uprety, *Transit Regime for Landlocked States: International Law and Development Perspectives*. Herndon, VA, USA: The World Bank, 2005, p 22.

<sup>17</sup> See Merriam Webster Dictionary the term "littoral". Retrieved May 31, 2007 from the World Wide Web: <http://mw1.merriam-webster.com/dictionary/littoral>.

Although the sea is free for all people of the world to use, it can be described as a control point of states; particularly coastal states which purport to confine the uses of the sea for the benefit of their national interests.

Approximately 70.8% of the earth's surface is covered by water<sup>18</sup>; therefore sea transport which is slower but cheaper than other means of transport has developed inevitably. In this context the role of littoral states is unquestionably significant in the transport chain not only for themselves but also for the 38 landlocked states of the world. The littoral states therefore take advantage of their positions for economic and political gain by exercising jurisdiction over their territorial seas, contiguous zones, Exclusive Economic Zones and their continental shelves. Under the United Nations Convention on the Law of the Sea (UNCLOS), 1982, coastal states are free to set laws and regulate the use of any resources in those areas.

Littoral states which are in the same region may cooperate with each other in order to eliminate tariffs, for economical reasons, or to preserve their waters for security reasons or to protect the marine environment. They provide for cooperation among themselves on regional issues and problems where they have common interests and concerns including real and potential detriment.<sup>19</sup>

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<sup>18</sup> Indeed, about 70 percent of the earth is covered with water, 97 percent of it being salty oceans. Thus only a small portion of the earth's water is fresh water in rivers, lakes, and the ground (see <http://www.windows.ucar.edu/tour/link=/earth/Water/overview.html>, visited May 29, 2007); see also C. K. Chaturvedi, *Legal Control of Marine Pollution* 3 (Deep & Deep Publications 1981). Today more than 75 percent of the world's trade volume moves across the oceans; almost every product in the market has been transported by sea at some stage between its raw material source and final sale. Industrialized and developing countries alike depend on maritime transport for economic development. See Hans J. Peters, *The Maritime Transport Crisis*, World Bank Discussion Papers No. 220, v (World Bank 1993).

<sup>19</sup> See John C. Baker (Editor). *Cooperative Monitoring in the South China Sea: Satellite Imagery, Confidence Building Measures, and the Spratly Islands Disputes*. Westport, CT, USA: Greenwood Publishing Group Incorporated, 2002, p 1.

A combination of growing population, rapid economic development, and increased coastal population including sewage and fertilizer runoff can cause environmental problems for the coastal areas of littoral states, and these problems urge littoral states to enter into co-operative arrangements and put into place regional organisations in order to address environmental issues.<sup>20</sup> The Black Sea littoral states are an example of regional cooperation aimed at protecting the Black Sea and preventing pollution not only from land based sources, but also from shipping activities which generally comprise carriage of oil and energy resources by sea from the Caspian Sea and Central Asia through the Black Sea. This particular sea use activity can cause serious pollution problems.<sup>21</sup>

## **2.3 Regional Marine Environmental Organizations**

### **2.3.1 Helsinki Commission (HELCOM)**

The Baltic Sea<sup>22</sup> is a brackish inland sea which is located in Northern Europe and linked to the White Sea by the White Sea Canal and to the North Sea by the Kiel Canal. The riparian states such as Sweden, Finland, Estonia, Russia, Latvia, Lithuania, Poland, Germany and Denmark border on and pollute the Baltic Sea. Furthermore, non-riparian states such as Slovakia, Norway, Ukraine and Belarus also pollute the Baltic Sea.<sup>23</sup> Therefore, the Baltic Sea states have decided to regulate and reduce pollution in that Sea.<sup>24</sup> This was the reason for the creation of the Helsinki Commission.

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<sup>20</sup> *Ibid.*, at p.136

<sup>21</sup> See Tunc Aybak (Editor). *Politics of the Black Sea: Dynamics of Cooperation and Conflict*. London: I. B. Tauris & Company, Limited, 2001, p 10.

<sup>22</sup> See Annex 1 of this dissertation at page 78.

<sup>23</sup> See Paul Williams. *International Law and the Resolution of Central and East European Transboundary Environmental Disputes*. New York: Palgrave Publishers, 2000, p. 12

<sup>24</sup> *Ibid.*, at p.14.

The main task of the HELCOM is to protect the marine environment of the Baltic Sea from all sources of pollution, whether from land, ships at sea or airborne and to restore and safeguard its ecological balance through intergovernmental co-operation since 1974. The Commission presently has ten Contracting Parties, nine of which are the Baltic Sea Coastal states namely, Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Poland, Russia and Sweden, and the European Community.<sup>25</sup>

The adoption of the 1974 Convention on the Protection of the Marine Environment of the Baltic Sea Area was the first major use of international law to support the control of discharges of pollutants into the Baltic Sea. The dumping of hazardous wastes directly to the Baltic Sea has been banned and states are required to use the best practicable means to prevent the introduction of specific noxious pollutants into the sea. Pollution from vessels is regulated and also specific actions have been identified to be taken to eliminate or minimize pollution of the sea by oil or other harmful substances by the Convention.<sup>26</sup>

In 1992, the Baltic Sea littoral states negotiated and decided to sign the Convention on the Protection of the Marine Environment of the Baltic Sea which revised and superseded the 1974 Convention. Several international legal principles have been adopted in order to support the new Convention such as the “polluter pays principle”,<sup>27</sup> the precautionary principle;<sup>28</sup> the requirement of best environmental practice for all

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<sup>25</sup>See “Helsinki Commission: About HELCOM”. Retrieved June 1, 2007 from the World Wide Web: [http://www.helcom.fi/helcom/en\\_GB/aboutus/](http://www.helcom.fi/helcom/en_GB/aboutus/)

<sup>26</sup> See “The Baltic Sea Convention, at arts. 3, 7, 11”. The Convention does not, however, apply to the international waters of the Baltic Sea.

<sup>27</sup> This is a principle in International environmental law where the polluting party pays for the damage done to the environment. The environmental pollution damage should be internalised in other words it should be borne by the polluter rather than imposed on society as a whole. It is regarded as a regional custom because of the strong support it has received in most Organization for Economic Co-operation and Development (OECD) and European Community (EC) countries.

<sup>28</sup> An internationally recognized principle for action that states where there are threats of serious or irreversible damage, scientific uncertainty shall not be used to postpone cost-effective measures to prevent

sources and best available technology for point sources. There is also a requirement for Environmental Impact Assessment (EIA)<sup>29</sup> which must include participation by the affected states and the duty to inform other state parties of accidents.<sup>30</sup> In addition, the Convention requires all state parties to report to HELCOM, the governing body of the Helsinki Convention, and the major body for international environmental cooperation in the Baltic region.<sup>31</sup>

The principal environmental problems in the Baltic Sea relating to maritime activities are safety of navigation, responding to pollution incidents, ship generated waste, air pollution and invasive species. One of the Baltic Sea strategies for ship-generated wastes and associated issues is to establish port reception facilities and to comply with international discharge regulations under MARPOL 73/78.<sup>32</sup>

The Commission meets annually with occasional meetings held at Ministerial level, reaching unanimous agreement on actions to be taken to achieve the aims of pollution prevention, which are then regarded as recommendations to the governments concerned. There are four Committees which are Environment, Technological, Maritime and Combating, the Programme Implementation Task Force and an Administration Unit.<sup>33</sup>

Like most regional commissions, HELCOM has no enforcement power. It can not compel signatory states to abide by the terms of the convention. Instead, unanimous

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environmental degradation. If the costs of current activities are uncertain, but are potentially both high and irreversible, the precautionary principle holds that society should take action before the uncertainty is resolved.

<sup>29</sup> See The Baltic Sea Convention, at arts. 3, 6, 7, 13, 17.

<sup>30</sup> See the 1992 Baltic Sea Convention, at arts. 5, 16.

<sup>31</sup> *Supra*, footnote 25

<sup>32</sup> See Anne Christine Brusendorff (2006). *The initiative in the HELCOM to improve Maritime Safety in the Baltic*. In “Risk Management in the Maritime Sector: Challenges and Difficulties”, WMU Maritime Administration Seminar, 28-30 August 2006.

<sup>33</sup> *Supra*, footnote 25

decisions reached by the members of HELCOM are regarded as recommendations to the signatory governments. Recommendations are intended to be translated into national policies and laws as soon as possible.

### **2.3.2 Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC)**

Due to its geographical and historical characteristics as well as its natural and cultural heritage, the Mediterranean<sup>34</sup> is an original and unique eco-region which comprises 22 countries and territories.<sup>35</sup> The Mediterranean Sea connects three continents on the north by Europe (Spain, France Monaco, Italy, Malta, Slovenia, Croatia, Bosnia and Herzegovina, Montenegro, Albania, Greece, Turkey), on the south by Africa (Egypt, Libya, Tunisia, Algeria, Morocco), and on the east by Asia (Syria, Cyprus, Lebanon, Israel).

The Mediterranean Sea is connected to the Atlantic Ocean by the Strait of Gibraltar (only 14 km (9 miles) wide on the west) and to the Aegean Sea, Sea of Marmara as well as to the Black Sea by the Turkish on the East. There is also a connection between Mediterranean and Red Sea by Suez Canal. As a geographical aspect there are also a lot of large islands in the Mediterranean Sea including Cyprus, Crete, Euboea, Rhodes, Lesbos, Chios, Cephalonia and Corfu in the eastern Mediterranean; Sardinia, Corsica, Sicily, and Malta in the central Mediterranean; and Ibiza, Majorca and Minorca (the Balearic Islands) in the western Mediterranean.<sup>36</sup>

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<sup>34</sup> See Annex 2 of this dissertation at page 79.

<sup>35</sup> See Guillaume Benoit. *Sustainable Future for the Mediterranean: The Blue Plan's Environment and Development Outlook*. London: Earthscan Publications, 2005, p xi.

<sup>36</sup> See Wikipedia The Free Encyclopedia: Mediterranean. Retrieved June 1, 2007 from the World Wide Web: <http://en.wikipedia.org/wiki/Mediterranean>

Due to its special characteristics the region brings coastal states of the Mediterranean region at different levels of economic and social development together that share a common interest which is based on the protection of the Mediterranean Sea from pollution.<sup>37</sup> As a consequence, by a decision of the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region, the REMPEC which is a United Nations regional centre was established in 1976 within the framework of the Mediterranean Action Plan (MAP)<sup>38</sup> in order to protect the Mediterranean Sea.<sup>39</sup> The Centre, which is based in Malta, has been administered by the IMO and forms part of the Regional Seas network of the United Nations Environment Programme (UNEP).<sup>40</sup>

The main purpose of the organization is to strengthen the capacities of Mediterranean States and to assist them in building up their capacities in the fields of both prevention of pollution from ships and preparedness for and response to marine pollution; to facilitate co-operation among the Mediterranean States to respond to accidental marine pollution by compiling reports on accidents that have or could have caused marine pollution; to provide a framework for the exchange of information on operational, scientific, legal and financial matters.<sup>41</sup>

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<sup>37</sup> *Supra*, footnote 35 at p. xi

<sup>38</sup> See Gabriela Kutting, *Environment, Society and International Relations: Towards More Effective International Environmental Agreements*. London: Routledge, 2000, p.62. Mediterranean Action Plan was developed following a series of conferences and meetings by United Nations agencies and Mediterranean governments on preventing pollution in the sea and created in 1975 at an inter-ministerial conference and its legal frame work which is Barcelona Convention was established in 1976. To research the origins of pollution, to take common action to form legal agreements and to try to deal with the problems of development and their impact on the environment in the policy-planning programme are the three-pronged approach of MAP.

<sup>39</sup> See “Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC): Aims and Objectives of REMPEC”. Retrieved June 2, 2007 from the World Wide Web: <http://www.repmec.org/about.asp?id=1&lang=en>

<sup>40</sup> UNEP assesses global, regional and national environmental conditions and trends, develops international agreements and national environmental instruments, strengthens institutions for the wise management of the environment, and integrates economic development and environmental protection.

<sup>41</sup> *Ibid*

The objectives, functions and working program of REMPEC are defined by Contracting Parties to the Barcelona Convention (1976)<sup>42</sup> which is the basis for the legal foundation for international cooperation in preventing, reducing and abating pollution and protecting the marine environment and coastal region of the Mediterranean.

The Barcelona Convention consists of five protocols, first one is “Dumping from Ships and Aircraft (1976)<sup>43</sup>”, second one “Cooperation in Combating Pollution by Oil and Other Harmful Substances in Cases of Emergency (1976)” which prescribes cooperation in the Mediterranean Region in case of oil or other emergencies in order to reduce or eliminate any damage caused by an incident, third one “Pollution from Land-Based sources (1980)” which tackles the problem of discharges from direct or coastal outfalls and from rivers or other watercourses or run-offs and of atmospheric pollution, fourth one “Specially Protected Areas (1982)<sup>44</sup>” which encourages parties to establish protected areas and to work on their restoration and also applies not only to areas of environmental importance but also to historical and archeological sites and the final protocol is “Pollution Resulting from Offshore Activities (1994)” which requires offshore activities to be authorized by the competent national authorities and be accompanied by a study on its effects. All Mediterranean States and the EU are parties to the Convention and first two protocols. In order to increase the participation the Convention requires states who become a signatory to the Convention has to sign at least one protocol at the same time as the Convention.<sup>45</sup>

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<sup>42</sup> In 1995, the Barcelona Convention has been amended and renamed Convention for the Protection of the Marine Environment and Coastal Region of the Mediterranean Sea against Pollution and its Protocols.

<sup>43</sup> The Protocol for prevention of pollution of the Mediterranean Sea by dumping from ships and aircraft was amended to include incineration at sea.

<sup>44</sup> The Protocol concerning Mediterranean Specially Protected Areas was amended in 1995 and replaced by the Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean.

<sup>45</sup> Supra, footnote 38 at p.63.



### **2.3.3 Regional Organization for the Protection of the Marine Environment (ROPME)**

The Persian Gulf<sup>46</sup>, also known as the Arabian Gulf, is a 600 mile long body of water which is located in the northwest corner of the Indian Ocean. This region is also known for its oil production which holds 64% of the world's oil reserves. Bahrain, Iran, Iraq, Kuwait, Qatar, Saudi Arabia, and the United Arab Emirates (UAE) are oil producers of the world. The Strait of Hormuz, 56 km wide at the narrowest point", is the world's most important waterway for oil transportation and as a whole the area is one of the most strategic bodies of water in the world for the same reason. Due to the high level of oil traffic, the area had to be protected from pollution. Thus, to protect the semi-enclosed sea surrounded by them, eight riparian states of the region, namely, Bahrain, Iran, Iraq, Kuwait, Oman, Qatar, Saudi Arabia and the UAE devised a common action plan.

With the aim of protecting the marine environment against pollution from various sources, a proposal was brought by Kuwait to UNEP to convene a regional conference. At the conference three documents were adopted which were- the Kuwait Action Plan for the Protection and Development of the Marine Environment and the Coastal Area, the Kuwait Regional Agreement for Cooperation on the Protection of the Marine Environment from Pollution, the Protocol concerning Regional Cooperation in Combating Pollution by oil and other Harmful Substances in Cases of Emergency.

The purpose of the regional cooperation was to take all appropriate measures at the national and regional levels to protect the marine environment from various pollution

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<sup>46</sup> See Annex 3 of this dissertation at page 80.

sources such as ship-based, land-based and exploration and exploitation of the seabed and subsoil of the territorial sea.<sup>47</sup>

### 2.3.4 The Black Sea Commission

The Black Sea is an almost entirely closed sea between southeastern Europe and Anatolia which is connected to the Mediterranean by the Turkish Straits and the Sea of Marmara.<sup>48</sup> In the European ecosystem, the Black Sea is a vital and component part of the region. For the Black Sea political economy, the health of the environment is one of the most important issues in view of the fact that the Black Sea is the one that suffers damage by human activities among the other regional seas. With its fish stocks, the ecosystem balance and maritime transportation the Black Sea is very important for its littoral states. The Black Sea is like a gateway to the Mediterranean and constitutes warm waters for all Black Sea countries except Turkey.<sup>49</sup>

By covering 22 countries including six littoral states, the reservoir of the Black Sea<sup>50</sup> is over 2 million km<sup>2</sup>. Besides carrying fresh water and nutrients, international rivers flow into the Black Sea these include the Danube, Dniestr and Dniepr which are three of Europe's major rivers. Then these are the Don, Coruh, Kizilirmak, and Yesilirmak which also carry pollutants. These rivers are polluted by highly populated cities such as Munich, Vienna, Budapest, Belgrade, and Kiev. The pollutants are discharged into the Black Sea by these rivers.<sup>51</sup>

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<sup>47</sup> See Regional Organization for the protection of the Marine Environment-Kuwait. Retrieved June 20, 2007 from the World Wide Web: <http://www.ropme.com/>.

<sup>48</sup> *Supra*, footnote 23 at p.229

<sup>49</sup> *Supra*, footnote 21 at p.10

<sup>50</sup> See Annex 4 of this dissertation at page 81.

<sup>51</sup> See Bayram Ozturk & Ayaka Amaha Ozturk (2005), *Biodiversity in the Black Sea: Threats and the future*. In Miyazaki Nobuyuki (Editor). *Mankind and the Oceans*. (p. 158). Tokyo: United Nations University Press.

Pollution is a significant danger for the Black Sea. The majority of the oil originates from land-based sources, as well as from rivers such as the Danube which is the largest river system in Europe. Among major sources of all pollution the largest contributor is the Danube River which carries large amounts of oil pollution to the Sea. The amount of run-off of the river is about 2000 km<sup>3</sup> annually which is three times more than the other rivers discharging into the Black Sea. In other words, about half of the total of 110,000 tons per year of oil pollution discharged into Black Sea as well as Turkish Straits is generated by the Danube River.<sup>52</sup> The discharge from the Danube and other rivers carrying pollutants into the Black Sea can cause serious environmental problems in that area. In addition, some tanker accidents because of oil spills are one of the reasons of pollution issues in the Black Sea region.<sup>53</sup> The consequences of pollution discharged into the Black Sea causes decline in fish populations and biodiversity causing a collapse of the regional fishing industry and threats to the tourism industry.

As described above, the Black Sea is facing various pollution problems and there is no single remedy available to solve it. Therefore, in addition to national policies, regional cooperation is needed to manage the fisheries and assess the pollution load in order to preserve and protect the Black Sea environment. For this purpose, countries bordering the Black Sea which are Turkey, Romania, Bulgaria, Ukraine, Russia and Georgia have undertaken several actions to manage and protect the marine environment.<sup>54</sup> To that end, the Bucharest Convention (The Convention on the Protection of the Black Sea against Pollution) was negotiated and signed by all littoral states in 1992. The Convention entered into force in 1994.<sup>55</sup> The disposal of radioactive waste into the Black Sea has been prohibited by the Convention and the member states

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<sup>52</sup> See Peter N. Ehlers, *Marine Issues: From a Scientific, Political and Legal Perspective*. The Hague: Kluwer Law International, 1920, p 178.

<sup>53</sup> See Libor Jansky, *Danube: Environmental Monitoring of an International River*. Tokyo: United Nations University Press, 2004, p.16.

<sup>54</sup> *Supra*, footnote 51 at p.167

<sup>55</sup> *Supra*, footnote 23 at p. 43

have been required to adopt rules and regulations regarding liability when the marine environment has been damaged and also required to have judicial authority to respond to liability disputes.<sup>56</sup>

On 7 April 1993, prior to the entry into force of the Convention, the Black Sea littoral states signed the non-binding Black Sea Declaration, which established a “Black Sea Commission”; declared the parties’ intent to apply the precautionary approach, to pursue economic and environmental integration and called for the development of additional protocols to the Convention relating to the transboundary movement of hazardous waste, pollution from ships, conservation of marine resources and the development of an emergency response plan.<sup>57</sup> The main challenges of the Black Sea Commission are to combat pollution from land-based sources and maritime transport and to achieve sustainable management of marine living resources as well as to pursue sustainable human development. Pollution reduction from rivers, priority pollution sources, vessels; regulatory and legal tools, conservation of biological diversity, promotion of responsible fisheries and ecologically sound technologies are main policy measures of the Commission.

## **2.4 The Black Sea as a Framework of Regional Cooperation**

After the Cold War, formation of regional arrangements and organizations has been developed within the context of Europe. Six new cooperation frameworks namely the Barents European Atlantic Council (BEAC), Council of Baltic States (CBS), Central European Free Trade Area (CEFTA), Central European Initiative (CEI) and the BSEC have been established in the European continent from the north to the Black Sea region

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<sup>56</sup> See Bucharest Convention, arts. 4– 16, 25, at 112– 20

<sup>57</sup> See Ministerial Declaration on the Protection of the Black Sea (7 April 1993)

at the end of the Cold War.<sup>58</sup> BSEC was designed as an alternative regional project to European integration. The BSEC was created to accomplish a better commercial, financial and legal environment to develop and improve the economies in the region and help it to integrate into the European and the World Economy.<sup>59</sup> As an intergovernmental regional organization, the BSEC works on different issues such as transport, energy, banking and finance, trade and industrial cooperation, exchange of statistical data and economic information, agriculture, environmental protection, health care, cooperation in science and technology, legislative information cooperation, tourism and communications.<sup>60</sup> All successful regional cooperation projects develop around politically, administratively and economically advanced core areas.<sup>61</sup> In the case of regional cooperation, the geopolitical location must be assessed against political and economic factors. Geopolitics can not exclusively determine the future of regional cooperation. Therefore, other economic factors must be also taken into account.

## **2.5 Advantages and Disadvantages of Regionalism**

### **2.5.1 Political Uses of Regionalism**

Before explaining the advantages and disadvantages of regionalism, it is useful to understand the term “region” in a maritime context. The term region can be divided into three senses as the formal, the functional and the political.<sup>62</sup> A formal definition of a

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<sup>58</sup> *Supra*, footnote 21 at p.4

<sup>59</sup> *Supra*, footnote 21 at p.33

<sup>60</sup> *Supra*, footnote 21 at p.34

<sup>61</sup> See William Wallace, Introduction: “The Dynamics of European Integration”. In William Wallace (Ed), *The Dynamics of European Integration*. London; New York: Pinter Publishers for the Royal Institute of International Affairs, 1990, pp. 15-18.

<sup>62</sup> See Olav Schram Stokke, Sub-regional cooperation and protection of the Arctic marine environment: the Barents Sea. In Davor Vidas (Editor), *Protecting the Polar Marine Environment: Law & Policy for Pollution Prevention*. New York: Cambridge University Press, 2000, p 124.

region would be dealing with the physical and geographical character of the sea whether it is a semi-enclosed or an enclosed sea. A functional definition of region would focus on use such as resource exploitation, navigation, fisheries, defense and the environmental vulnerability of a region. A political definition of region would circumscribe cooperation developed by states for common interests whether or not the element of geographical vicinity is included.<sup>63</sup>

Some regional seas are semi-closed or enclosed such as the Mediterranean and the Black Sea; some seas are oceanic, such as those off West and East Africa; some are based on island groupings such as in the Caribbean. Some regional seas involve ecosystem management or coastal zone management, and environmental protection whereas others do not. There is no conclusive description or definition of the concept of a “region” beyond a variable usage of the formal, functional and political definitions of a marine region. Furthermore, the balance among these three elements changes from case to case depending on the peculiar characteristics of the countries involved and their relative commonalities. What matters at the end of the day, is whether the concept of a region works in the particular circumstances. The important thing here is that there must be a close connection between the “political region” and the “geographical region”.<sup>64</sup>

Besides forming regions for maritime protection, Port State Control (PSC) of shipping is another important example of the use of regionalism. The Paris Memorandum of Understanding on PSC (Paris MOU) is a mechanism that binds all member states of European countries to ensure that vessels which enter and leave European ports are seaworthy and environment friendly. Thus sub-standard vessels are deterred from using European ports. In addition to the Paris MOU, there are other

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<sup>63</sup> See Alan Boyle, Globalism and Regionalism in the protection of the marine environment. In Davor Vidas (Editor). *Protecting the Polar Marine Environment: Law & Policy for Pollution Prevention*. New York: Cambridge University Press, 2000, p 26.

<sup>64</sup> *Ibid.*, at p. 27

regional co-operative arrangements on PSC between states such as the Black Sea MOU, the Mediterranean MOU, Tokyo MOU (Asia-Pacific Region), the Caribbean MOU, Indian Ocean MOU, West & Central Africa MOU and Latin America MOU.<sup>65</sup> Except for the Paris MOU, the other MOUs are less formal regional instruments which set out guidelines in order to provide uniformity in the procedure for inspections which are conducted and also to strengthen cooperation between states in relation to exchanges of information.<sup>66</sup>

### 2.5.2 Advantages of Regionalism

In terms of protection of the maritime environment, in many cases a maritime regional approach works better than an international approach.<sup>67</sup> By allowing states to cooperate in common interests, which is more difficult to achieve on a global basis, regional arrangements eradicate the weaknesses of unilateralism. They are responses reflecting the common interests of states in dealing with common problems in cases such as pollution emergencies, land-based pollution<sup>68</sup> and ship source of pollution<sup>69</sup>, PSC of shipping, fisheries and dumping of wastes.<sup>70</sup>

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<sup>65</sup> *Supra*, footnote 62 at p. 31.

<sup>66</sup> See Edgar Gold, "Essentials of Canadian Law: Maritime Law", Toronto: Irwin Law, 2003, p.229.

<sup>67</sup> See Robert W. Knecht, "A Commentary on the Institutional and Political Aspects of Regional Ocean Governance, *Ocean and Coastal Management*, Vol.24, 1994, pp. 39-50.

<sup>68</sup> The most widespread threat of land-based pollutants to marine and coastal habitats is posed by a combination of municipal sewage, solid waste, fertilizers, urban run-off and other nitrogenous compounds.

<sup>69</sup> See Jingjing Xu, "The Spectrum of the legal regime governing ship-source oil pollution and its economic implications", 2006, 12 *JIML*, 402-419. The author opines that ship-generated pollution is categorised according to the way it occurs or enters the sea and mentions that according to Judge Thomas A. Mensah there are two categories, namely, 'voluntary pollution' arising from the deliberate discharge of oil and 'accidental pollution' resulting from accidental discharge or escape of oil. The author then mentions that in the opinion of Professor P.K. Mukherjee, the voluntary aspect can be subdivided into 'operational discharges' from ships which are incidental to a ship's normal operations comprising oily bilge water or oily mixtures emanating from machinery spaces or tank washings when navigating or at anchor or alongside, and 'deliberate actions' comprising toxic, hazardous such as radioactive and nuclear wastes which are "dumping" at sea.

<sup>70</sup> *Supra*, footnote 62 at p. 32

Regional approaches also tend to create institutions or organizations that may be more effective and coherent. The Helsinki Commission, the Black Sea Commission and REMPEC are good examples. On the other hand, some regional commissions may not be working effectively due to lack of adequate political and institutional support such as the Red Sea<sup>71</sup> and Gulf of Aden.<sup>72</sup>

On technical matters such as monitoring of pollution, environmental impact assessment, scientific research and dissemination of information and expertise, regional cooperation can be more effective and easy to organize. Some special needs and circumstances of a range of seas with diverse oceanographic and ecological characteristics can be accommodated through regional arrangements by facilitating some flexibility in implementation.

### **2.5.3 Disadvantages of Regionalism**

Regional cooperation can sometimes disintegrate the options for, and the success of, international control of compliance with environmental standards. In the case of land-based sources of marine pollution, the lack of any global oversight can be a real problem. This source of pollution is sometimes not controlled properly by some of the regional authorities. Also, in some regions there are no regional authorities to handle this kind of issue.<sup>73</sup>

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<sup>71</sup> The Red Sea and Gulf of Aden have been used by oil tankers and cargo ships representing potentially serious risks to marine ecosystems. The area is shared by many littoral states and a regional approach is essential to conserve and protect the common interest which is the marine environment. However, regional cooperation is not able to work properly due to many threats which have been identified as being related to lack of planning and management of development in the coastal zone, limited use of environmental assessment procedures in making investment decisions, and inadequate enforcement of existing laws.

<sup>72</sup> See Peter M. Haas, *Save the Seas: UNEP's Regional Seas Programme and the Coordination of Regional Pollution Control Efforts*. *Marine Policy Yearbook*. Chicago: Chicago University Press: 188-212.

<sup>73</sup> See Alan E. Boyle & Patricia W. Birnie, *International Law and the Environment*. Oxford: Oxford University Press, 2002, pp.304-19.



Regional agreements which are dealing with common interests and spaces can create conflicts with third parties who are not parties to the agreement. Another disadvantage of regionalism in the maritime field is the scope of application of the regional approach which is only restricted with environmental issues.

Global, regional and national measures are being taken to reduce the input of polluting substances into marine waters. International agreements such as the Bucharest Convention (the Black Sea Convention), Helsinki Convention and the MAP provide a binding legal framework. In the Black and Baltic Sea areas, for example, targets have been set to reduce emissions, losses and discharges of hazardous wastes.<sup>74</sup> However, some states have difficulties in implementing their obligations under these agreements, which reduces the effectiveness of regional agreements such as MAP and the Black Sea Convention.<sup>75</sup>

In order for regional organizations established by conventions or agreements between states with common interests in the region to work effectively, it is necessary for them to have political will and scientific input; rules alone cannot solve any problem.<sup>76</sup>

## **2.6 The Importance of Regionalism and Bilateralism for Determination of National Maritime Policy**

It is crucial to identify whether bilateralism which links one country with another, or regionalism which links one country with other countries in the same region, will

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<sup>74</sup> Helsinki Commission, Ad hoc Task Force for the HELCOM Baltic Sea Action Plan, Fourth Meeting, Helsinki, Finland, 6-7 February 2007. Retrieved June 10, 2007 from the World Wide Web: <http://sea.helcom.fi/dps/docs/documents/Ad%20hoc%20Task%20Force%20for%20HELCOM%20BSAP/HELCOM%20BSAP%20TASK%20FORCE%204%202007/3-26-BSPA.pdf>

<sup>75</sup> *Ibid*

<sup>76</sup> *Supra*, footnote 62 at p. 33.

prevail for a long period to facilitate the determination of a country's policy. In general, the bilateral approach focuses on the mutual benefits of two countries. However, in a regional approach more than two countries' interests are involved in the same region and there might be possible conflicts which can arise from the implementation of the bilateral agreements. For example, the bilateral agreement between one country which exports petrol and one that imports it from that country might pose a likelihood of threat for the environment where regional cooperation has already been established for preventing pollution and protecting the environment on a regional basis. Although this conflict seems to be an inherent dilemma, if the objectives of bilateralism and regionalism are established with a consistent approach through a state's policy, then regionalism and bilateralism are going to be effective tools for determining possible effects of national policy of a state and national policy itself.

Between two available international tools, bilateralism opens the doors for continued and closer cooperation between concerned parties on shipping matters. One of the most important features of bilateralism is the promotion of merchant shipping activities between two countries through exchange of information on maritime transport and/or shipping policies. Regulations, training, legislation and enhancement of maritime training, licensing and certification to improve the competency of seafarers are the major items which are potential candidates for bilateralism in the maritime field. Through the enhancement of all these major subject matters, the principal aim is to improve maritime activities between two countries. Invariably, the achievement of this aim is going to result in an increased level of maritime activities which might be potential threats for the environment and the marine habitat of the region. At this point, regionalism becomes important. States have to improve maritime activities while protecting the marine environment. In other words, regionalism is one way to bring all parties concerned for accomplishing cooperation for the benefit of all littoral states in the region even if those might be bilateral agreements accruing to their mutual benefits. This sensitive balance

between regionalism and bilateralism can only be established by synchronizing both approaches. In this respect, regionalism and bilateralism in the maritime field are important complementary tools through which a state can develop strong national maritime policies.

# **CHAPTER 3**

## **BILATERALISM, INTERNATIONAL TRADE AND NATIONAL MARITIME POLICY: INTERRELATIONSHIPS**

### **3.1 Introductory Remarks**

In the last Chapter it was observed that regional approaches are effective where there are substantial commonalities in terms of socio-economic conditions, politics and geography among the states in the region. Thus, it is a good way to gather all parties concerned in the same region to achieve their common goals and benefits. However, if not all countries in the same region have common interests bilateralism can come into the arena if two countries have mutual interests. In such instances, bilateralism can solve problems more effectively than regionalism. Therefore, it is recognized that there is a need for bilateralism in national maritime policy. The best way to achieve bilateralism is through development of effective maritime policies of the states concerned. The purpose of this chapter is to examine bilateralism and bilateral trade agreements, to analyze how bilateralism works in the maritime sector and how it is affected by a state's foreign policy. In order to understand how international trade and maritime interests are interconnected and dependant on each other, it would be meaningful to start the discussion with international trade and its contribution to the maritime sector.

### 3.2 International Trade and its Contribution to the Maritime Sector

Over ninety percent of all of the world's trade is carried out through ships. Therefore, shipping plays a vital role in supporting international trade and the world economy as the most efficient, safe and environmentally friendly method of transporting goods and providing services around the world.<sup>77</sup>

International trade has promoted an interdependency and inter-connectivity between countries which would accelerate growth and wealth and scatter skills and technology as well as give economic opportunities to both individuals and countries. In the context of the global economy, shipping as a major industry has made important contributions for the developing world. Many developing countries gain substantially from maritime activities. Examples are supply of seafarers; ship recycling, shipbuilding and port services all of which provide an important source of income.<sup>78</sup>

Shipping is only one link in the transport chain which makes the transportation cheaper and better from origin to destination.<sup>79</sup> In order to achieve this goal, the transport system which consists of roads, railways, inland waterways, shipping lines and air freight services, has been developed to provide fast and cheap access to every corner of the world. Practically, the system divides into three zones, inter-regional transport, short-sea shipping, and inland transport. Inter-regional transport is the only economic transport between the major industrial regions of Asia, Europe and North America. Short

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<sup>77</sup> See Efthimios Mitropoulos, Secretary-General of the International Maritime Organization (2005). *International Shipping-Carrier of World Trade*. World Maritime Day 2005. Retrieved June 12, 2007 from the World Wide Web: [http://www.imo.org/includes/blastDataOnly.asp/data\\_id%3D12878/message%28E%29.pdf](http://www.imo.org/includes/blastDataOnly.asp/data_id%3D12878/message%28E%29.pdf)

<sup>78</sup> *Ibid*

<sup>79</sup> See Martin Stopford, *Maritime Economics*, London & New York: Routledge Taylor & Francis Group, 1997, p. 7

Sea shipping provides transport within regions such as in Europe.<sup>80</sup> The European Commission introduced short sea shipping which includes the movement of cargo and passengers by sea between ports situated in geographical Europe or between those ports and ports situated in non-European countries having coastlines in the enclosed seas bordering Europe.<sup>81</sup> Short sea shipping is not convenient for the countries which are not members of a regional union such as the EU due to application of cabotage<sup>82</sup>. The inland transport system consists of the network of seaway transportation, railways and roads.<sup>83</sup>

Shipping is important for various reasons. First, shipping is directly related to trade, not only as a derived demand of commerce but also as a trade in itself. Trade in maritime services consists of a large share of many countries' balance of payments and, as a result of the strong interest in reducing trade barriers in services, has promoted substantial analysis and discussion in international trade groups around the world. Second, shipping is the primary method of transportation for internationally traded items, therefore problems arising from its regulation can be tackled by officially sanctioned international or domestic trade institutions.<sup>84</sup>

Shipping being a *de facto* global business serving all continents underlines the necessity of an active external relations policy. The wide spectrum of shipping services connects a country with virtually all foreign ports. At the same time a large part of the

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<sup>80</sup> *Ibid.*, at p. 8

<sup>81</sup> See Maritime Transport: Short Sea Shipping. Retrieved June 19, 2007 from the World Wide Web: [http://ec.europa.eu/transport/maritime/sss/index\\_en.htm](http://ec.europa.eu/transport/maritime/sss/index_en.htm)

<sup>82</sup> Cabotage is the transport of goods or passengers between two points in the same country without going out into the open sea. In other words, it is a practice by countries which enact laws to reserve coastal trade to ships of their national fleet. The general practice in the maritime industry is to treat cabotage as domestic trade. Therefore, it is reasonable for cabotage to be discriminatory to keep foreign flagged vessels out of coastal waters and internal trade.

<sup>83</sup> *Supra*, footnote 79, at p. 9

<sup>84</sup> See Michael F. Rosanio, Special Assistant to Executive Director Transport Institute Washington D.C., *The Bilateral Agreement: A Policy Option Reconsidered*. In Shipping Nationalism and the Future of the United States Liner Industry: The UNCTAD Code and Bilateralism, U.S.A: Times Press Educational Publishing, 1984, p.49.

fleet is engaged in serving the trades between the other continents, the so called cross trades. Therefore, economic development, national policies, as well as bilateral, regional and multilateral agreements account for the continued interest and attention devoted by countries to shipping. As mentioned earlier, seaborne trade is the *raison d'être* of the shipping industry, and for various reasons bilateral agreements have confined to govern international trade since a long time and they are still prevailing.<sup>85</sup>

### 3.3 Bilateralism

A bilateral agreement is one through which two countries give to each other preferential treatment or particular privileges to one another that they do not give to other countries in respect of politics, trade and culture. Bilateralism also involves the normative belief among policymakers from both countries which have trade transactions that they should primarily deal with the issues among themselves through one-to-one governmental links without involving the private sector and settling the issue in multilateral arenas.<sup>86</sup>

At its most basic level, bilateralism in the relationship between two countries' is characterized by several specific features. First, in most cases the foreign affairs of two countries is significant to determine the priorities and commonalities. Second, a set of clear and well-defined bilateral institutional mechanisms for negotiations are key issues in the relationship. Third, there must be common dimensions or goals of two which present mutual interests. Fourth, although they work for common goals, there must be

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<sup>85</sup> See Beth A. Simmons, *From unilateralism to bilateralism: Challenges for the multilateral trade system*. In Edward Newman (Editor), *Multilateralism under Challenge*, Tokyo: United Nations University Press, 2006, p 442.

<sup>86</sup> See Ellis S. Krauss, *Beyond Bilateralism: U. S. - Japan Relations in the New Asia-Pacific*. Palo Alto, CA, USA: Stanford University Press, 2003, p 5.

either an absolute<sup>87</sup> or a comparative advantage<sup>88</sup> between two countries in order for them to enter into bilateral negotiations on trade. The most important implication of bilateralism is its tendency to attenuate the relative imbalance of negotiating powers between larger and smaller economies. Since bilateral agreements are made sequentially, it is more difficult to create coalitions with the possibility of balancing the powers of the industrialized countries.

Regardless of the prestige engendered by modern multilateral systems such as the United Nations (U.N.) and the World Trade Organization (WTO)<sup>89</sup>, an agreement at the bilateral level is important and mostly achieved through diplomacy. There are many treaties which have been concluded bilaterally between two states in various fields such as trade, education, security, employment, technology, aviation and, last but not least, the maritime field.

International trade has always played a key role in a country's economy by expanding markets for both goods and services, creating jobs, promoting competition, raising productivity, and providing and exchanging new ideas and new technologies. Global Trade gives consumers and countries the opportunity to be exposed to goods and services not available in their own countries. The possibility of buying South American

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<sup>87</sup> See Ma Shuo, *Maritime Economics*, World Maritime University, 2006, p. 7. A country has an absolute advantage in the production of a good relative to another country if it can produce the good at a lower cost or with higher productivity. Absolute advantage compares industry productivities across countries.

<sup>88</sup> *Ibid.* A country has a comparative advantage in the production of a good if it can produce that good at a lower opportunity cost (the value of the next best opportunity) relative to another country.

<sup>89</sup> WTO is an international organization designed to supervise and liberalize international trade and came into being on January 1, 1995, and is the successor to the General Agreement on Tariffs and Trade (GATT), which was created in 1947, and continued to operate for almost five decades as a *de facto* international organization. Its stated goal is to lower trade barriers and provide a platform for negotiation of trade and main mission is "to ensure that trade flows as smoothly, predictably and freely as possible". This main mission is specified in certain core functions, the foundation of the multilateral trading system, serving and safeguarding five fundamental principles, which are nondiscrimination, reciprocity, binding and enforceable commitments, transparency and safety valves.



bananas in Europe, Brazilian coffee in Asia and a bottle of South African Wine in America is the very essence and advantage of international trade. It is through regional, bilateral or multilateral arrangements among interested countries that international trade can be promoted. Each trading methodology has different advantages in different fields where one sometimes prevails over another. States usually pursue trade agreements on a bilateral basis to expand their economic opportunities.

Actually, the need for shipping originates from the need for international trade. In other words, maritime industry mostly meets the demand of international trade by carrying a large amount of goods by sea from one continent to another. Thus, international trade plays a determining role in a state's policies in terms of economics and is accordingly related to maritime transport. On the basis of reciprocity, the development of maritime transport is in direct proportion to the advancement of trade between two countries. In this respect, the determination of maritime policy based on bilateral agreements that minimize trade barriers between countries becomes an important factor in the facilitation trade of reciprocal relations.

### **3.4 Bilateral Trade Agreements**

Bilateral agreements can deal with a range of topics including trade and transport. Some such agreements contain specific policies reserving the carriage of foreign trade between the two countries to national tonnage. Bilateral trade agreements are common in trade relations usually between countries with centrally planned economies and trade between centrally planned economies and market economy countries.

Most bilateral trade agreements are negotiated and entered into between two states, or a country and a regional organization such as the EU, the ASEAN or the North

American Free Trade Agreement (NAFTA)<sup>90</sup>. Bilateral trade agreements are more advantageous compared with regional trade agreements simply because only two countries are involved and there is no geographical or regional limitation. There are 192 countries in the world excluding the Vatican and two non-country members of the World Trade Organization. It is therefore theoretically possible to have 18,721 (194 times 193 divided by 2) bilateral trade agreements worldwide.<sup>91</sup> The most common bilateral agreement is a free trade agreement under which member countries abolish tariffs with respect to each other.<sup>92</sup>

Bilateral trade agreements are basically politically motivated. In the creation of bilateral trade agreements political and foreign relations of two countries as well as the personalities involved play a major role. In addition, economics and economic related considerations are taken into account while forming bilateral trade agreements.<sup>93</sup>

### **3.4.1 Specific Factors Relating to Bilateral Trade Agreements**

There are basically three specific factors which characterize bilateral agreements. They are economic, strategic and event driven. These factors are very broadly perceived and contain sub-categories for the economic and event driven categories.<sup>94</sup> Therefore,

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<sup>90</sup> The NAFTA is an example of the benefits that the United States, Canada and Mexico could derive from moving forward with multilateral trade liberalization by phasing out tariffs gradually. Unlike the European Union, NAFTA does not create a set of supranational governmental bodies, nor does it create a body of law superior to national law. It is a treaty under international law.

<sup>91</sup> See Jayant Menon (2006). *Bilateral Trade Agreements and the World Trading System*. ADB Institute Discussion Paper No: 57, 2006, p.5. Retrieved June 13, 2007 from the World Wide Web: [http://www.adbi.org/files/dp57\\_bta\\_wts.pdf](http://www.adbi.org/files/dp57_bta_wts.pdf)

<sup>92</sup> Free trade agreements are done by governments on trade of goods and services within those countries without imposing restrictions to each other such as taxes, tariff and non-tariff barriers. The theory is to provide all trading partners to gain from free trade.

<sup>93</sup> *Supra*, footnote 91, at p.6.

<sup>94</sup> See the figure of “The Different Motivations for forming BTAs: Specific Factors” in Annex 5 at page 82.

totally eleven specific factors can be classified to clarify the reasons for increases in bilateral trade agreements.<sup>95</sup>

Economically motivated bilateral trade agreements are divided into two sub-categories, namely, sector driven agreements and market access agreements. Sector driven bilateral trade agreements in a few sectors are based on motivation which includes positive and negative elements. Some agreements are planned so as to expand liberalisation into sectors which are difficult to achieve at a multilateral level. Liberalization is moving from the easier task of reducing taxes to adopting less transparent forms of protection. The latter is difficult at the multilateral level but easier at the bilateral level because it requires only two parties to agree; and therefore poses less hindrance compared with a regional or multilateral agreement. In terms of sectors excluding bilateral agreements, the most sensitive is agriculture as far as liberalization is concerned. Agriculture can be important to one partner but sensitive for the other. A state may be reluctant to liberalize a single sector because that may compel it to stay away from a regional or multilateral formation. However, the absence of a certain sector in one country may make it easier for it to enter into a bilateral trade agreement with another state that has that sector.<sup>96</sup>

Market access can be further divided into two groups, namely, market restoration and market creation. For market restoration, if a state has no possibility or expectation of becoming a member of EU and NAFTA, it will likely enter into bilateral arrangements to restore market access. With regard to market creation, countries with weak or insufficient economic relations in the past would attempt to reinforce trade and other economic relations with one another.<sup>97</sup>

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<sup>95</sup> *Supra*, footnote 91, at p.6.

<sup>96</sup> *Supra*, footnote 91, at p. 7-8.

<sup>97</sup> *Supra*, footnote 91, at p. 8-9.

Having mentioned economically motivated bilateral trade agreements, it is useful to explain strategically motivated bilateral trade agreements as well. They are classified as lobby driven and terror driven. Through lobby-driven bilateral trade agreements, countries with economic power try to magnetize and persuade weak and poorer countries to accept reciprocal negotiations with them.<sup>98</sup> In the maritime field, countries often negotiate bilateral agreements to protect the interests of their shipping industries in general and seafarers in particular. As a supplier of seafarers a country forges bilateral agreements with another which has a demand for seafarers through the recognition regime relating to seafarers' certificates under regulation I/10 of STCW.

Through terror driven bilateral trade agreements, a country like the United States pursues the objective of fighting its war on terror by using trade policy.<sup>99</sup> In the maritime field, international trade security is a major concern, and the movement of cargo has been a long-standing area of vulnerability. The U.S. introduced the so called Container Security Initiative (CSI) to ensure all containers that pose a potential risk of terrorism are identified and inspected at foreign ports before they are loaded on vessels. In order to achieve this, the U.S. needs the cooperation of other states and has to date twenty-eight bilateral agreements to make this initiative operational in foreign ports<sup>100</sup>.

Another specific factor for forming bilateral trade agreements is event driven which is divided into three parts. These are Preferential Trade Agreements (PTAs), WTO and Political. In PTAs, a bilateral agreement can be made between a member state and a non-member state of a preferential trade.<sup>101</sup> In parallel, bilateral maritime agreements between EU member states and non-EU member states are the dominant

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<sup>98</sup> *Supra*, footnote 91, at p. 10.

<sup>99</sup> *Ibid*

<sup>100</sup> See "U.S. Customs and Border Protection: Container Security Initiative". Retrieved June 14, 2007 from the World Wide Web: [http://www.cbp.gov/linkhandler/cgov/border\\_security/international\\_activities/csi/csi\\_strategic\\_plan.ctt/csi\\_strategic\\_plan.pdf](http://www.cbp.gov/linkhandler/cgov/border_security/international_activities/csi/csi_strategic_plan.ctt/csi_strategic_plan.pdf)

<sup>101</sup> *Supra*, footnote 91, at p. 11.

legal instruments governing issues relating to market access and the relevant management of ships, shipping companies and seafarers with respect to maritime relations between EU and non-EU countries.<sup>102</sup> Thus far, the EU as a legal entity has signed a bilateral maritime agreement with China to deal with maritime issues.<sup>103</sup>

In WTO, countries aspiring to be its members have to negotiate bilateral agreements with major economic powers such as the U.S. and the EU as part of their accession procedure.<sup>104</sup>

Bilateral trade agreements almost invariably include political aspects. Countries with good political relations can expedite economic integration between themselves. Countries with unstable political relationships suffer the opposite fate; their economic ties can be detrimentally affected.<sup>105</sup> Whether or not there is a good political relationship between two countries, in both cases, if there is a need for trade in these countries, there should be transportation either by sea or land. In the case of overseas trade, strong maritime policy becomes more important. Thus, the maritime policy of a country is the main factor which can facilitate effective trade. As mentioned earlier, in section 3.2. of this dissertation,<sup>106</sup> a strong national maritime policy depends on bilateral relations where bilateral maritime agreements are the main tools.

Long-term trade agreements can be negotiated and signed through mutual consultations and negotiation between two neighboring countries. However, modes of

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<sup>102</sup> See Hongbin Zhang (2005). *Maritime Negotiations in the WTO: An analysis of the Doha Round*. Unpublished master's thesis, Erasmus University, Rotterdam, Netherlands. Retrieved June 12, 2007 from the World Wide Web: [http://www.maritimeeconomics.com/downloads/Thesis\\_ZhangH.pdf](http://www.maritimeeconomics.com/downloads/Thesis_ZhangH.pdf)

<sup>103</sup> See Agreement on Maritime Transport between the European Community and its Member States, of the one part, and the Government of the People's Republic of China of the other part. Retrieved June 14, 2007 from the World Wide Web: <http://www.official-documents.gov.uk/document/cm66/6621/6621.pdf>.

<sup>104</sup> *Ibid*

<sup>105</sup> *Supra*, footnote 91, p.11-12

<sup>106</sup> See Chapter 3 Section 3.3 of this dissertation, at p. 27.

transportation through which trade is carried out must be determined within the framework of these agreements. As an example, if the Republic of Turkey and Russian Federation's relevant foreign trade authorities other than the maritime authority enter into a trade agreement to facilitate trade between the two countries and decide to carry cargo or goods by ships, the initiative can be decelerated and encountered by bureaucratic and technical difficulties such as PSC and recognition of certificates of seafarers, due to the absence of any bilateral maritime agreements between these two countries. In order to facilitate trade and afford privileges to the contracting flag state of the ships, and to the seafarers of that state, bilateral maritime agreements are being concluded.

### **3.5 Bilateral Maritime Agreements**

The world maritime industry has been governed and guided by bilateral agreements over many years as an opportunity to consolidate existing business improvements and to further promote maritime relations between two countries and their economic operators on the basis of equality and mutual benefit. Such agreements usually cover constructive actions provided by the two contracting parties to shipping companies, vessels and seafarers that belong to the other party on a reciprocal basis.

Bilateral Maritime Agreements are positive and flexible tools which can be used in a variety of circumstances to achieve any number of desired goals rather than mechanisms such as trade barriers which are artificial, as well as mechanisms such as customs, transport taxes and political conflicts between countries which are destined to restrict and distort the efficient operation of markets.<sup>107</sup> Bilateral agreements require two

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<sup>107</sup> See George Kenwood, *Growth of the International Economy, 1820-2000: An Introductory Text*. London: Routledge, 1999, p. 101.

parties, a problem or problems to be solved, a goal which reflects the mutual benefits of the parties and creative negotiators to design a solution. A political and economic environment is also needed; one which is conducive to implementation of the agreement and which ensures consistency in trade and eliminates obstacles so that trade between the two countries is increased.

Bilateralism refers to mutual interaction which is descriptive of policy or strategy that proceeds through bilateral ties. States adopt bilateral agreements to the extent that their interests are better served through maintaining separate relationships with other states. A flag state can enter into various maritime agreements with other flag states on a state by state basis. Agreements negotiated by countries can take different forms and often differ from country to country depending on their respective national interests. In the maritime field, bilateral arrangements can embrace matters such as fisheries management, maritime delimitation, maritime safety, maritime transportation and crewing of ships.

Some countries are interested in cargo sharing arrangements to reserve the carriage of certain cargos to a specified number of participants, mainly the national flag carriers. In implementing such kind of agreement, both countries' governments undertake to grant equal access to the carriers of the other party of government controlled cargoes moving in the trade. Some are interested in bilateral agreements on maritime transport which cover all aspects of door-to-door service<sup>108</sup> and is based on the principles of freedom to provide maritime services, free access to cargo and unrestricted access to the use of ancillary services. Some agreements relate to fisheries management

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<sup>108</sup> See Edward G- Hinkelman, *Dictionary of International Trade*. Novato, CA, USA: World Trade Press, 2002, p 65. Door-to-door is a shipping service from shipper's door to consignee's door. It involves the use of one or more "modes" in other words; road, rail, air, or inland water transport in addition to shipping by sea.

in a particular sea to provide closer cooperation between the contracting parties to ensure conservation and sustainable exploitation and management of fish stocks. Under such agreements appropriate measures can be taken to prevent over fishing in that particular sea. These agreements also cover vessel licensing, scientific research, quota swaps on a reciprocal basis and minimization of illegal fishing activities.

In addition to bilateral maritime agreements on maritime transport which essentially comprises facilitation of international trade, states might also agree on mutual recognition of seafarers' certificates. Such agreements alleviate bureaucratic burdens through mutual recognition of certificates issued by each state. Agreements often relate to seafarers' shore leave and repatriation without any problem. They also provide mutual training opportunities through exchange of seafarers which leads to facilitation and improvement of international trade.

Bilateral maritime agreements also deal with search and rescue in cases of emergency. In situations such as vessels being in distress, the parties communicate and coordinate with each other through the Maritime Rescue Coordination Centre (MRCC). As well, mutual assistance is provided to assist and rescue people and vessels in distress through deployment of their respective rescue units. Other bilateral maritime agreements relate to delimitation of maritime boundaries including, continental shelves, exclusive economic zones and territorial sea boundaries. Regional trade agreements can play an important role in promoting liberalization and expansion of trade and fostering development.<sup>109</sup> While bilateral agreements have essentially the same effects as regional ones, in the maritime field the advantages are two-fold. Through bilateral maritime agreements, the domestic maritime markets of each contracting party can be liberalized

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<sup>109</sup> See Doha World Trade Organization Ministerial 2001: Ministerial Declaration. WT/MIN(01)/DEC/1. 20 November 2001. Retrieved June 12, 2007 from the World Wide Web: [http://www.wto.org/English/thewto\\_e/minist\\_e/min01\\_e/mindecl\\_e.htm](http://www.wto.org/English/thewto_e/minist_e/min01_e/mindecl_e.htm)



and disputes and problems can be settled easily. Furthermore, implementation of bilateral agreements is more effective, efficient and relatively easy. In regional or multilateral agreements, making persuasive arguments and reaching compromises is usually quite time-consuming because of numerous contradicting interests.<sup>110</sup>

On the other hand, bilateral maritime agreements are only limited to the two related parties and to the period of time to which they have agreed. This can isolate other states in the region and can be viewed by them as a disadvantage. Of course, these states also have the option to negotiate bilaterally for special treatment unless their regional interests are negatively affected as mentioned in Chapter 2 section 2.6 of this dissertation.

Nevertheless, effects of a state's foreign policies on bilateral relations of each concerned country that is based on its national interests are the determining factors of application of bilateral and regional agreements as international mechanisms.

### **3.6 Effects of a State's Foreign Policy on Bilateral Relations**

Foreign policy can be defined as ideas or actions designed by policy makers to help to protect a country's national interests, national security, ideological goals and economic prosperity as well as to solve problems or promote modifications to policies, attitudes, or actions of other states, in non-state actors<sup>111</sup>, pertaining to international economy or the physical environment of the world. The foreign policy of a state sets objectives to determine how the country is going to interact with other states or non-state actors. Positive foreign policy boosts bilateral ties with other states politically,

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<sup>110</sup> *Supra*, footnote 102.

<sup>111</sup> Non-state actors are non-governmental organizations, multinational corporations, the international media, international organized and drug groups, international paramilitary and terrorist groups etc.

economically and culturally. However negative foreign policy can bring about aggression, war and exploitation.

More traditional objects of foreign policy such as protection of national interests and security or promotion of trade and economy or preservation of sovereignty and culture are based on material interests of the state concerned. National interests which are formed by geopolitical, cultural, psychological sometimes even historical dimensions and invoked by states for domestic political advantage is important for determination of foreign policy in two ways. First of all, it is through the concept of national interest that policy makers understand the goals to be pursued by a state's foreign policy. It thus in practice forms the original basis for state action. Secondly, it works as a symbolic device through which the legitimacy of and political support for state action is made. Thus, states take actions to consolidate and legitimize national interest. It is important because it has substantial power and is central to the decision-making process.<sup>112</sup>

A bilateral approach can thus be the guiding principle for a country's foreign policy towards settling disputes with another country and for developing trade, cooperating in various areas such as education and training, maritime issues, and humanitarian, labour, and security matters. There can not be a bilateral foreign policy with an adversarial state whose national interests are in conflict with that state's interests. If a state has a conflict of a fundamental nature with another country, as for instance, it does not recognize that state as a state or its frontiers, or it does not accept certain basic interests of a state, then no bilateral relationship with that country and bilateral foreign policy can be applied to that situation. For example, Southern Cyprus is not recognized by Turkey and therefore vessels flagged in that part of Cyprus cannot call at Turkish

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<sup>112</sup> See Weldes, J. (1996), 'Constructing National Interests', in *European Journal of International Relations*, 2/ 3, September, pp. 275— 318. In Scott Burchill, *National Interest in International Relations Theory*. Gordonsville, VA, USA: Palgrave Macmillan, 2005, p 3-4.

ports and trade between the two countries is strictly prohibited. This issue affects bilateral maritime agreements between Turkey and other countries that might be interested in trading with Southern Cyprus. Vessels which have had their last port of call in Southern Cyprus are not allowed to call at Turkish Ports.

On the other hand, contrary to the above situation, bilateral agreements can effectively influence the relations between two countries when their foreign policies are in line with each other through mutual benefits. Even if countries may have conflicts otherwise on various issues, bilateral agreements can be used as mechanism to facilitate cooperation based on mutual benefits. A good example is a series of bilateral agreements between Turkey and Greece on the mutual improvement of their maritime relations.<sup>113</sup> According to this agreement, cooperation and communication will be increased in the maritime field. Disincentive difficulties related to bilateral maritime relations and maritime trade and traffic will be eliminated, carriage of goods by sea and services provided in the ports will be facilitated and information related to maritime education, culture and technology will be exchanged. The same treatment will be ensured by each party for the other party's vessels engaged in international maritime trade and transport. Positive and efficient foreign policy provides for maritime relations to be improved through bilateral agreements.

Having perused the significance of bilateralism and bilateral maritime agreements in a state's maritime policy, it will be useful to analyze some bilateral maritime agreements as case studies concluded by Turkey with Greece and Albania respectively and some specific agreements on recognition of seafarer's certificates concluded by Turkey with Russia and Ukraine.

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<sup>113</sup> See Annex 6, Agreement between the Government of the Republic of Turkey and the Government of the Hellenic Republic on maritime transport.

# **CHAPTER 4**

## **ANALYSIS OF BILATERAL MARITIME AGREEMENTS BETWEEN TURKEY AND SELECTED STATES**

### **4.1 Preliminary Observations**

In the preceding Chapter, bilateralism and its effectiveness has been addressed from various aspects in relation to trade and crewing as important national maritime interests. It has been observed that national maritime policy objectives can be enhanced through bilateral arrangements. The purpose of this last substantive chapter is to illustrate the usefulness of bilateral maritime agreements through an analytical critique of a number of such agreements where Turkey is one of the parties. First, the bilateral maritime agreements between Turkey and Greece, namely, the “Agreement Between the Republic of Turkey and the Hellenic Republic on Maritime Transport”<sup>114</sup>, and between Turkey and Albania, namely, the “Maritime Agreement between the Government of the Republic of Turkey and the Government of the Republic of Albania”<sup>115</sup> will be discussed. The agreements will be examined and evaluated focusing on their adequacy, substance and drafting deficiencies, and then a comparative analysis of the two agreements will be attempted. Finally, specific agreements on recognition of seafarer’s certificates between Turkey and Russia and Turkey and Ukraine will be addressed.

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<sup>114</sup> Hereinafter referred to as the “Greece Agreement”. The full text of this Agreement is reproduced as Annex 6 to this dissertation.

<sup>115</sup> See Hereinafter referred to as the “Albania Agreement”. The full text of this Agreement is reproduced as Annex 7 to this dissertation.

In the opinion of this writer, this kind of review exercise is not only useful; it is essential in view of the recognition that parties need to be clear and precise with regard to their bilateral maritime policies. Furthermore, following such review, it may be necessary to revise certain aspects of the relevant agreement and transform others into national legislation so that full and complete effect can be given to the agreement.

## **4.2 Bilateral Maritime Agreements between Turkey and Greece and Turkey and Albania**

The object of the discussion under the above sub-heading is to discuss the two above-mentioned instruments independently and not comparatively. It is observed, however, that the respective subject matters of the two agreements in question are much the same but there are a number of differences both in form as well as in substance. Since the content and scheme of both instruments are placed on a common foundation, it is found to be appropriate to discuss only the Greece Agreement vertically followed by comments and critique. In other words, only the common merits and deficiencies of the two agreements will be pointed out at present. It is intended to draw out the differences and distinctions between the two instruments in the comparative analysis which follows subsequently. The object of the discussion as a whole is to suggest improvements for both the agreements.

In general terms, the agreement between Turkey and Greece on maritime transport aims to develop maritime relations, in particular, shipping, on the basis of free and fair competition and freedom of navigation, and to strengthen their commercial cooperation in commercial activities and operations including seaborne trade. The most important aspect of this Agreement is to give preferential treatment and privileges to the Parties concerned. For instance, Parties agree to reduce the port fees and pilotage dues as

well as any dues and charges in respect of use of services intended for navigation. Also each Party agrees to accord to the vessels of other Party the same treatment as it accords to its own vessels in cases of distress within their territorial waters. Furthermore, vessels engaged in international transport are entitled to free access to ports, allocation of berths, full use of port facilities for loading and discharging cargoes, transshipment, embarking and disembarking of passengers. As a matter of convenience, the Parties agree to facilitate and expedite port formalities such as customs, sanitary, police controls and recognition of certificates. This agreement also provides seafarers transit rights to join a vessel, temporary shore leave without visa during the stay of a vessel in ports and authorization for a person to remain in its territory for health reasons.

The objectives of both the agreements are, without doubt, laudable and exemplary. Nevertheless, there are some ambiguities and anomalies. For instance, Article IV on the whole is somewhat general and superficial, even lacking in clarity in places. With regard to paragraph (b), the obligation to “promote contacts and cooperation” between shipping, related enterprises and organizations, is somewhat vague. Similarly, the obligation to “eliminate any difficulties which may prevent the development of maritime traffic as well as maritime relations” is equally generalized and imprecise. This Article should be reformulated in more specific detail for it to be meaningful. Another example is Article V, paragraph (b) where the phrase “elimination of obstacles which might hamper the trade” is not at all clear as to what kinds of obstacles are being contemplated. In paragraph (e) the phrase “to abstain from implementing any cargo sharing agreement” is ambiguous. The draft should be more precise and transparent. When a provision is not sufficiently detailed and clear, it should be revised or eliminated.

Article VI, paragraph (3) states that every effort must be made within the limits of the national legislation and port regulations to facilitate maritime traffic such as

customs, sanitary and police control. As much as this provision seems plausible in practice, it is hardly attainable to expedite port formalities such as customs which is under the responsibility of the Undersecretariat of Customs in Turkey, where the Ministry of Health deals with sanitary issues and, the Security General Directorate is in charge of police control. In this sense, therefore the aim of this paragraph is virtually unattainable. In Article VI (4), the terms “laws and regulations” are used together. It is to be noted that regulations are a part of law, thus a reference to laws alone should suffice. Article VII (1) is open to fraudulent acts because there is no Annex in this Agreement consisting of the copy of ship’s documents certifying nationality. Furthermore, instead of “relevant international conventions”, it is more appropriate to state the names of the conventions to which the Agreement refers. Article XIV is within the scope of the Search and Rescue (SAR) Convention; thus there is no need to have an additional provision. In this agreement there is no provision relating to the transportation of passenger which is also the part of maritime transport. There are still no regular passenger transportation voyages between the two countries. Moreover, Article XVII (2) states that the agreement is valid for an indefinite period which does not provide any opportunity for renewing and reformulating it. The only way to reformulate the agreement is to repeal it and draft a new and more elaborate one.

Although the purpose and substance of the Albania Agreement is essentially the same as the Greece Agreement, the Albania Agreement has two additional articles which are absent in the Greece Agreement. In the Albania Agreement, Article XV provides for “Transfer of Income and Other Receipts of Shipping Companies” and XVI is about “Protection of the Marine Environment”. Both articles refer to the respective national legislation of the two states. With Respect to Article XV, the national legislation in each state must be carefully examined to ensure compatibility with the agreement. Article XVI warrants detailed examination. The first paragraph reflects the principle of state

responsibility entrenched in public international law and codified in UNCLOS.<sup>116</sup> The second paragraph refers to liability where state responsibility has been breached. This is also reflective of the relevant codified provision of UNCLOS.<sup>117</sup> In the succeeding paragraph of Article XVI, the “polluter pays principle” is reflected. What is perhaps most important in this Article is that references are made to the relevant pollution legislation in force in the jurisdictions of the Parties as well as any applicable relevant international conventions. These instruments must therefore be examined in conjunction with this Article of the Albania Agreement. Furthermore, consideration should be given to revising the Greece Agreement to include a corresponding Article, particularly in view of the reference in the second preambular statement in the Greece Agreement, singling out the importance of protection of the marine environment together with that of maritime safety.

#### **4.3 Comparative Analysis of the Two Bilateral Maritime Agreements**

It is now incumbent to examine the two bilateral agreements, article by article in terms of legal content and interpretation. The object is to identify similarities and differences among the two agreements.

It is notable that in the Greece Agreement “maritime transport” is identified as the subject matter whereas in the Albania Agreement the title is more general and the caption “maritime agreement” is used. Given that the substance of both agreements is virtually identical; there is no compelling reason for the titles to be different.

In the Greece Agreement, the term “parties” is used rather than “contracting parties”, which is the term used in the Albania Agreement. It is suggested that for the

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<sup>116</sup> See Article 235 (1). See also *supra*, footnote 73, at pp. 139-148

<sup>117</sup> See Article 235 (2) and (3).



sake of consistency the expression “contracting parties” is used in all maritime agreements at the beginning. In subsequent instances the term “Parties” as a short form can be used in the agreements. It might be better draftsmanship to include in the “Definitions” clause a definition of “Party” or in the first preambular clause, as is the case in the Albania Agreement.<sup>118</sup>

In the preamble to these two agreements, both parties intend to develop the relations and strengthen the cooperation between the Parties in the maritime field by contributing to the international shipping. Although the object and purpose of each of these agreements is similar, the way of expression is different. For instance, in the Albania Agreement one of the aims is to contribute to the development of commercial relations between the two Parties whereas in the Greece Agreement the aim, expressed in a more comprehensive way, is to contribute to the development of international shipping on the basis of the principles of freedom of “merchant navigation” and to encourage the promotion of bilateral commercial links between those parties concerned. In this context, it is notable that the term “merchant navigation” is manifestly meaningless. It should be simply “freedom of navigation” which is the term used in the UNCLOS; or if the intention is to include navigation pertaining to naval vessels, then the term “freedom of navigation of merchant ships” should be used.

Furthermore, in the Greece Agreement at the end of preamble there is a reference to principles of international law particularly those addressed in international conventions to which both states are parties. This statement is missing in the Albania Agreement and the reason for it is not clear.

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<sup>118</sup> In the Albania Agreement the first preambular clause after referring to the full official names of Turkey and Albania contains the words “...hereinafter referred to as the Contracting Parties or Parties”. Note that pursuant to the formulation so indicated, it is permissible to use either “Contracting Parties” or simply “Parties” in the context of the Agreement.

Article I of both these agreements is the “definitions” clause which specifies in sequence the definitions of “vessel of the Party”<sup>119</sup> “crew member”, “international maritime transport”, and “cabotage”. With regard to the first definition in the Albania Agreement, at the end of the definition the word “the compliance with national laws and regulations” is used. This expression is missing in the Greece Agreement and it is not clear why that is so. Another glaring drafting inconsistency is that in the Albania Agreement. “Vessels carrying hazardous waste” are expressly excluded from the definition of “vessels of the contracting party”, whereas in the Greece Agreement, there is a separate clause under Article II, paragraph 3, which provides that “commercial vessels carrying hazardous waste”. Although this is only a drafting inconsistency, for the sake of good order, it should be rectified.

In the second paragraph of Article I of both agreements, there is another drafting inconsistency although the difference is not substantive. The term “crew member” is used in the Albania Agreement whereas “member of the crew” is used in the Greece Agreement. In the third paragraph of both agreements, the draft is identical in respect of the term “international maritime transport”. In the fourth paragraph the definition of the term “cabotage” appears to be identical in both the Greece and Albania Agreement. Even so, there are some differences in the use of punctuation marks and conjunctions. As well, there are some grammatical errors in the Albania Agreement where the terms “thorough bill of lading and thorough tickets” have been used incorrectly instead of using “through bill of lading” and “through tickets”.

Article II of both the agreements is captioned “Scope of the Agreement”. Substantively, the scope of both of these agreements differs in some paragraphs. In the first paragraph of the Greece Agreement, it is mentioned that the purpose of this

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<sup>119</sup> This expression is used in the Greece Agreement. In the corresponding definition in the Albania Agreement the term used is “vessel of the contracting party”.

agreement is to develop the relations in the maritime field on the principles of free and fair competition between the two parties. This is mentioned in the third paragraph of the Albania Agreement. Also in the Greece Agreement there is mention of freedom of navigation and avoidance of any action that could adversely affect international maritime transport and trade, the principle of non-discrimination which will be applied to international maritime transport activities of natural persons and legal entities operating ships under the flag of one Party in the territory of the other Party. These are not provided in the Albania Agreement.

In the first paragraph of Article II of the Albania Agreement there is a useful provision pertaining to these provisions do not appear in the Greece Agreement. Furthermore, the second paragraph of Article II of the Albania Agreement mentions about the replacement of this agreement with the old agreement between the Republic of Turkey and the Socialist Popular republic of Albania which was concluded in 1987. Notably, the second paragraph of the Greece Agreement corresponds to the fourth paragraph of the Albania Agreement, both of which provide for the non-applicability of the respective agreement. But, there are some differences which although not of any substantive consequence warrant careful examination. For instance, although the subparagraphs of (a) and (b) are the same in both agreements, there is a difference in third subparagraph of the Greece Agreement which refers to “activities reserved by the national legislation of each of the Parties”, whereas in the Albania Agreement the corresponding reference is to “activities reserved by each of the Contracting Parties”. The difference in the draft begs the question as to whether these are activities referred to in the Albania Agreement for which there is no statutory authority; or whether there is just no legislation addressing those activities. In addition, there is a subparagraph (d) in the Greece Agreement which is not there in the Albania Agreement covering the non-applicability of this agreement to immigration and the transportation of immigrants. Furthermore, as pointed out earlier, the third paragraph of the Greece Agreement does

not appear in Article II of the Albania Agreement but is provided in the first paragraph of Article I.

Articles III of both the agreements are identical in format and content. It relates to “Competent Authorities” and specifies the name of the authority entitled to implement the respective agreements.

Although the title of Article IV which is “Measures Related to Implementation” is the same in both agreements, there are some substantive differences. In implementing the agreement the Albania Agreement requires parties to cooperate with each other through their respective relevant authorities. This provision is absent in the Greece Agreement. Subparagraph (a) of both agreements is identical in sense; however, one important feature is missing in the Greece Agreement which is present in the Albania Agreement. This is the explanatory phrase “to make necessary arrangements in line with their national legislation”.

In subparagraph (b) of the Greece Agreement “cooperation” is used whereas in the Albania Agreement only “exchange of information” is required. This is an anomaly which makes the Greece Agreement provision much wider than the Albanian counterpart. In the same subparagraph, in the Greece Agreement only “shipping” is used whereas in the Albania Agreement “shipping industries” is used which is more clear and specific. On the other hand, in the Greece Agreement, after shipping, “related enterprises as well as organizations” is used which does not appear in the Albania Agreement. The content of subparagraph (c) of the Greece Agreement, is conspicuously absent in the Albania Agreement. The obligation to eliminate difficulties preventing the development of maritime traffic flow and maritime relations is quite significant and should be included in the Albania Agreement.

Subparagraph (c) of the Albania Agreement consists of “cooperating in the fields of ship construction, ship-repair and ship-breaking, and promoting joint ventures between their relevant industries of the Parties in these areas”. This is a clear and specific provision. By contrast, subparagraph (h) of the Greece Agreement only consists of encouraging cooperation in various other maritime fields in the shipping industry. Notably, subparagraph (d) of the Greece Agreement is identical to subparagraph (e) of the Albania Agreement. Both provisions aim to facilitate transportation of commercial goods through sea and services provided at ports. Subparagraph (d) of the Albania Agreement covers technical cooperation, cooperation in education and exchange of trainees in maritime matters which differs somewhat in substance and is not so detailed in the corresponding provision of the Greece Agreement contained in subparagraph (g). The text is “exchange of information on maritime education, culture and technology.

Subparagraph (e) of the Greece Agreement is for exchanging information with a view to strengthening cooperation between the merchant fleets of the two states which is not directly mentioned in the Albania Agreement. Subparagraphs (f) of both agreements are the same in terms of the objective of each; they only differ in the usage of different expressions, namely, “seek possibilities of cooperation in the relevant international fora” in the Greece Agreement and “establish cooperation in the relevant international fora” in the Albania Agreement. Sub-paragraph (f) consists of very general information and is not sufficiently clear as to the field in which to cooperate and opportunities are to be sought. In such bilateral agreements provisions should be as clear and precise as may be possible to facilitate effective and efficient implementation of the agreement.

Unlike the heading which is “Principles concerning the Cooperation” of Article V of the Greece Agreement, the heading for the Albania Agreement is “Principles governing International Maritime Transport”. The object of the Article appears to be similar in both agreements but the expressed nuances are different. The first paragraph

in both agreements requires the principles of free and fair competition to be followed by the parties. These are enumerated as (a), (b), (c), (d) and (e) in the Greece Agreement which is more comprehensible and detailed than the corresponding provisions, paragraphs (1), (2) and (3) of the Albania Agreement. The latter lacks detail is not set out in specific terms. Subparagraph (a) of the Greece Agreement requires the Parties to ensure that there is unrestricted access of vessels of both states engaged in the sea transport of goods and passengers between the ports of the Parties as well as between their ports and those of third parties. This provision is absent in the Albania Agreement which is significant for the development of international trade between the parties.

Subparagraph (b) of the Greece Agreement calls for cooperation between the Parties is to eliminate obstacles which might hamper the development of sea trade between the ports of the parties. The same sentiment is expressed in the first paragraph of the Albania Agreement by the words “development of the international maritime transport” instead of “development of sea trade” which are the words used in the Greece Agreement. In the opinion of this writer “international maritime trade” is the better formulation. The substance of subparagraph (c) in the Greece Agreement which requires the Parties to “refrain from measures preventing the participation of the vessels of the parties in the sea trade between the ports of the Parties those of third countries” does not exist in the Albania Agreement. This provision is important to improve maritime relations and trade with the other countries without conflicting with national interests and running counter to the foreign policy of each state.

Subparagraph (d) of the Greece Agreement is identical to the Albania Agreement which removes the unilateral restrictions reserved for vessels of the parties with respect to international maritime transport of goods and passengers. However, with respect to paragraph (e) in the Greece Agreement, there is no corresponding provision in the Albania Agreement regarding abstaining from implementing any cargo sharing

arrangement. The second paragraph of this Article appears to be the same in the both agreements except that in the Albania Agreement. The reference is to “this agreement” whereas in the Greece Agreement, the corresponding reference is to the paragraph 1 of Article V. Subparagraph 3 of this Article is identical in both agreements.

In Article VI the heading of which is “Treatment to be accorded to vessels at ports” is same in both agreements. Although the first paragraph is identical in both agreements, the second paragraph of the Greece Agreement is not replicated in the Albania Agreement which requires parties to grant to each other the same treatment as that given to the most favored nation in all shipping matters. Also, this provision is not to apply to advantages resulting from being a party to an Economic Integration Agreement. The third paragraph of the Greece Agreement is the second paragraph of the Albania Agreement except that the obligation to facilitate maritime traffic is absent in the Albania Agreement. The fourth paragraph of the Greece Agreement is identical to the third paragraph of the Albania Agreement. In this Article the word “due” is regularly used in the Greece Agreement whereas in the Albania Agreement both the words “due” and “duty” are used which is an anomaly. It is a basis level in the drafting of legal instruments that the same term should be used to convey the same meaning. A different term should be used only when a different meaning is intended.

In Article VII, the heading of which is “Documents of Vessels”, the substance is all about recognition of ship’s documents, measurement of tonnage in ports, registration and forced sale. The obligations pertinent to these issues are the same for both agreements except that some explanatory expressions are clearer in the Albania Agreement. For instance, in the first paragraph after the words “the contracting Parties” the expression “for its own vessels” is used in the Albania Agreement which is absent in the Greece Agreement.

In the Greece Agreement “Identity Documents” is used as a heading for Article VIII but in the Albania Agreement heading is “Seamen’s identity Documents”. Notably, the first and second paragraph of both agreements is identical but the heading in the Albania Agreement is more specific and as such is more clear and comprehensible.

Article IX in both agreements is about the “rights and obligations in the port of call”. The substantive provision allows seamen to stay on temporary shore leave without visa but such shore leave is subject to regular frontier and customs controls when seamen go ashore and return to their vessels. Even though, these two paragraphs are same, in the Greece Agreement only the term “identity documents” is used, whereas in the Albania Agreement “seamen’s identity documents” is used. The latter term is obviously more clear and precise.

Pursuant to Article X - “Rights of Transit of Crew Members”, holders of seamen’s identity documents are permitted as crew members to enter the territory of the other party to join ships or to pass in transit to their vessel or transfer to another vessel. In this regard they are treated as passengers and must hold the necessary visas. Paragraph one and two of this Article are similar in both agreements except for the requirement of furnishing financial coverage for travel expenses which is mentioned only in the Albania Agreement. The third paragraph of this Article is the same in both agreements. It covers necessary authorization which must be given for seafarers to stay in that territory, to return to his country or proceed to another port in the event of health problems.

The first paragraph of Article XI which is about “Exceptions to the Rights of Crew Members” is identical except that the cross-referred Articles differ in the two agreements. In the Greece Agreement they are Articles IX and X whereas in the Albania Agreement, although the sequence of the Articles is the same, they are Articles VIII and



IX. The remainder of the second paragraph, which is about denying undesirable persons entry to the territory, and the third paragraph are the same in both agreements except that the cross reference in the third paragraph to Articles in the first paragraph of the Albania Agreement is inaccurate.

Article XII which is related to “judicial prosecution of crew members” deals with the provisions related to any crime or offence committed on board a vessel within the territorial waters of the other party. The provisions in this Article are identical in form but some additional information is found in both agreements such as “security” in subparagraph (c) of the Greece Agreement and “psychotropic substances” in subparagraph (d) of the Albania Agreement.

In Article XIII of both agreements, the heading is civil proceedings. The articles respectively provide that the judicial or administrative authorities of either Party are prohibited from “undertaking any civil proceedings between crew members, related to a contract of employment of a crew member of a vessel of the other Party”<sup>120</sup>. The words in quotation are ambiguous at best and need to be reformulated. It would appear that the provision does not permit the judicial or administrative authorities of one party to the agreement to hear a civil suit in which the parties involved is a crew member of a ship of which the other party is the flag state and his employer, and the employment is the subject of the dispute.

The heading of Article XIV is “Assistance for Vessels in Distress” in the Greece Agreement whereas it is “Vessels in Distress” in the Albania Agreement. The first paragraph of this Article is similar in both agreements except that in subparagraph (a) of the Article in the Greece Agreement, there is an additional item mentioned, and that is

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<sup>120</sup> The prohibition is subject to a contrary requirement by a competent diplomatic or consular officer of the flag state.

cargo. This is a deficiency in the Albania Agreement. There is no doubt that when a vessel is in distress it is important not only to save vessel, crew and passengers but also to save the “cargo”. Therefore, “cargo” should be added in the relevant provision in the Albania Agreement. The second paragraph is about “compensation for actions relating to salvage of a vessel or assistance provided to the vessel or its cargo”. The text is identical in both agreements.

It is notable that Article XV in the Greece Agreement relates to obligations pursuant to international conventions relating to” maritime matters”. The corresponding provision in the Albania Agreement is contained in Article XVII and the reference there is to international conventions and agreements to which Turkey and Albania are Parties, which is markedly different Article XV in the Greece Agreement.

The subject matter and substance of Article XV-“Transfer of income and other receipts of Shipping Companies” and of Article XVI-“Protection of the Marine Environment” in the Albania Agreement have no corresponding provisions in the Greece Agreement. The reason for their absence in the Greece Agreement is not apparent; both these are important subject matters and should be included.

Article XVI of the Greece Agreement is the same as Article XVIII of the Albania Agreement and is about “Settlement of Disputes”. Although the substance is the same in both agreements, there are some disparities in the first and third paragraphs. The provision in the first paragraph is about how and when disputes are to be settled. In the Greece Agreement the disputes are settled “through diplomatic channels” which is a rather loose and general prescription. By contrast, in the Albania Agreement it is stipulated that the disputes “shall be settled between the Competent Authorities of the Contracting Parties”. The third paragraph is about the likelihood of Turkey’s membership in the EU. The provision in the Greece Agreement is cast in relatively

general terms simply providing that the two parties must hold bilateral consultations if in the relation to a particular issue. An EU regulation enacted subsequently alters the obligations or application of the agreement. The contrasting provision in the Albania Agreement makes an additional specific reference to any agreement between Turkey and the EU which may have the effect of changing the mutual obligations or application of the agreement between Turkey and Albania.

Article XVII of the Greece Agreement and Article XIX of the Albania Agreement depict the Final Clauses. In both agreements the provisions are identical and provide for mutual notification regarding completion of ratification procedures, period of validity and denunciation.

A perusal of the two agreements as carried out above reinforces the statement previously made by this writer that states should take into consideration their national interests in maritime matters while they are developing their maritime policies. The interests of states vary in terms of their historical, economic, cultural, geographical and political relations. Therefore, bilateral maritime arrangements should be made in accordance with the benefit to be accrued by a state to meet their needs and necessities, eliminate or minimize difficulties and settle disputes between the two relevant countries. Thus, a state should clearly determine its maritime policies first, before initiating the process towards concluding bilateral maritime agreements. Needless to say, the terms of any such agreement must be negotiated and the end product must reflect a balancing of the maritime interests of the two states concerned. This may involve certain sacrifices as well as gains in terms of the unilateral position of a state, but in the final analysis the common maritime goals and objectives of the two states should be reasonably fulfilled.

#### **4.4 Bilateral Agreements between Turkey and Russia and Turkey and Ukraine regarding Recognition of Seafarers Certificates**

In the previous section of this Chapter the two bilateral maritime agreements that were discussed dealt with trade aspects. It is intended in the present discussion to address the issue of crewing as an important aspect of maritime policy. In the context of bilateral agreements, this issue will be examined through the bilateral agreement between Turkey and Russia, namely, the “Agreement between the Republic of Turkey and the Russian Federation on mutual recognition of certificates for crew members of seagoing vessels”.<sup>121</sup> A perusal of the agreement between Turkey and Ukraine, namely, the “Agreement between the Republic of Turkey and the Ukraine on mutual recognition of certificates for crew members of seagoing vessels”<sup>122</sup> indicates that both agreements are virtually identical. Indeed, all such bilateral agreements between Turkey and other states appear to be fairly uniform in terms of both substance and form. It is therefore sufficient for the purposes of the present discussion to examine and analyze only the Russian Agreement.

It is common ground that such agreements are developed in accordance with the “Guidance on Arrangements between parties to allow for recognition of certificates under STCW Regulation I/10”<sup>123</sup> issued by the IMO. This particular regulation was revised in the 1995 amendments to the STCW 1978 Convention.<sup>124</sup> The IMO document is an instrument *para-droit* pursuant to the STCW Convention. Bilateral agreements

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<sup>121</sup> Hereinafter referred to as the Russian Agreement the full text of which is reproduced in Annex 8 to this dissertation.

<sup>122</sup> Hereinafter referred to as the Ukraine Agreement the full text of which is reproduced in Annex 9 to this dissertation.

<sup>123</sup> Hereinafter referred to as IMO Guidance Document. See IMO Guidance on Arrangements between parties to allow for recognition of certificates under STCW Regulation I/10. (Ref. T2/4.2/MSC/Circ.950).

<sup>124</sup> The full and proper name of the Convention is International Convention on Standards of Training, Certification and Watchkeeping, 1978 as amended in 1995.

concerning the recognition of seafarers' certificates are therefore subject to the relevant provisions of this Convention.

The STCW Convention establishes the minimum standards for the training and performance of seafarers employed in vessels engaged in both international and domestic shipping. Through the 1995 amendments, the Convention specified the implementation of new requirements for the training and education of seafarers, apart from additional responsibilities for ship owners and operators. Regulation I/10 of the amended STCW Convention provides for bilateral agreements to be concluded between crew supplying states and flag states that require seafarers to man their ships. Such flag states must comply with the so-called recognition regime under Regulation I/10 which requires an endorsement procedure for the recognition of certificates of competency issued by other state Parties to the Convention. The endorsement is subject to the undertaking of a process of thorough enquiry including, where necessary, physical inspection of Maritime Education and Training (MET) institutions to ensure full and complete compliance with the Convention by the issuing state. Under the amended STCW Convention, which took effect on February 1, 2002, seafarers of states not in the IMO White List and not covered by bilateral agreements cannot be engaged to serve on ocean-going vessels.<sup>125</sup>

Recognition and endorsement of seafarers' certificates around the world are of major significance because the livelihoods of numerous seafarers depend on the recognition of their certificates for service under different flags and they overall advancement of their seafaring career path. States enter into bilateral agreements on recognition of certificates to facilitate the free movement of seafarers among flag states. Such agreements do not necessarily imply mutual movement of seafarers between ships

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<sup>125</sup> See *STCW White List expanded*. Retrieved August 2, 2007 from the World Wide Web: [http://www.imo.org/Newsroom/contents.asp?topic\\_id=67&doc\\_id=1026](http://www.imo.org/Newsroom/contents.asp?topic_id=67&doc_id=1026)

of their respective flags simply because in the current milieu, most of the flag states who take seafarers from crew supply states do not have sufficient seafarers themselves to take advantage of any reciprocal rights of movement provided by the agreements.

Against the above background, an attempt will be made to examine and analyse the Russian Agreement. In Article I the competent authorities of both countries are defined. Article II addresses the issue of the mutual recognition of certificates by endorsement of each administration and supplying of specimen copies of its national appropriate certificates. This Article provides for exchanging of copies of national certificates. In the view of this writer, through this device the proliferation of fraudulent certificates of competency can be prevented or at least minimized and endorsements cannot be issued to seafarers without detailed examination.

Article III requires administrations to administer and monitor the education, training and assessment of seafarers according to Regulation I/6 and to confirm maintenance of registers containing information on the status of certificates, endorsements and dispensations according to Regulation I/9 of STCW Convention. This Article also requires prompt responses to be given to enquiries by one Party regarding the verification of authenticity and validity of certificates issued by the other Party. In the opinion of this writer, this Article compels certificate-issuing parties to intensify their efforts to eliminate unlawful practices associated with certificates of competency or endorsements by confirming the authenticity and validity of certificates and endorsements.

Under first paragraph of Article IV, each Party must provide an opportunity to inspect procedures regarding standards of competence; the issue, endorsement, revalidation and revocation of certificates; record-keeping and; the communication and response process to requests for verification. In this paragraph, certificate-issuing Parties

are given the opportunity to investigate any incompetent act or omission that may pose a direct threat to the safety of human life because human error is a major cause of maritime casualties.<sup>126</sup> In this respect, safety standards can be improved with proper training and enhanced shipboard practices and arrangements which are possible by establishing standards of competence. These standards for seafarers involve education and training in management of emergency situations, personal surviving techniques, fire prevention and fire-fighting, the provisions of medical aid, and personal safety and social responsibilities.

The issue, endorsement, revalidation and revocation of certificates can be controlled by certificate-issuing Parties in order to be acquainted with any significant changes related to certificates. This is an important factor for controlling the validity of certificates issued by certificate-issuing Parties. Once the Maritime Administration is satisfied that the training and knowledge of the holder is adequate, and is in conformity with the Convention, it can issue the endorsement recognizing the certificate. Certificates of competency also need to be revalidated as proof of compliance of the requirements relating to continued proficiency and updating of knowledge.

Record-keeping involves maintaining a database for seafarers by the Administration to confirm authenticity of any document. The communication and response process to requests for verification is usually carried between a recognising state and issuing state for the purpose of taking anti-fraud measures and preventing forgeries of certificates. Certificate-issuing states exchange information with each other upon request, for verification of authenticity of certificates during PSC inspections in

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<sup>126</sup> “Role of Human Element in Maritime Casualties”, *Doc. MSC 65/15/1*, Annex 1, submitted by the United States to the 65<sup>th</sup> Session of the Maritime Safety Committee (MSC) of the IMO, 10 February, 1995. In this document “human error” is defined as “the acts or omissions of personnel which adversely affect the proper functioning of a particular system, or the successful performance of a particular task.”

accordance with bilateral agreements.<sup>127</sup> The communication of information among Parties is at the heart of the STCW Convention, especially since endorsements of recognition became mandatory from February 2002, but in practice, is still somewhat limited in some states.

According to the IMO Guidance Document referred to earlier “standards of medical fitness” should be stipulated in bilateral agreements dealing with mutual recognition of certificates. It is submitted that compliance with this requirement could be effectuated through relevant provisions in Article IV.

Another paragraph in Article IV requires each Party to authorize the other to access the results of quality standards assessment and notify the other state within ninety days, of any significant changes relating to training and certification arrangements in accordance with the Regulation I/8 of STCW Convention. Each certificate-issuing Party can access the results of quality standards assessment which covers the administration of the certification system, all training courses and programmes, examinations and assessments in order to assess the competency levels of training and certification.

Article V of the Agreement requires officers at the management level to acquire appropriate knowledge<sup>128</sup> of the maritime legislation of the recognizing Party regarding the functions they perform. The purpose and object of this provision is to provide seafarers at the management level to acquire adequate knowledge regarding maritime laws of the flag state in order to complete his duties and responsibilities successfully. A seafarer at the management level may be exposed in the event of accident where his lack

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<sup>127</sup> International Maritime Organization. (2002, November 14). Unlawful Practices Associated with Certificates of Competency. Sub-Committee on Standards of Training and Watchkeeping (STW 34/5). London: Author.

<sup>128</sup> “Appropriate knowledge” must mean knowledge sufficient for effectively carrying out the functions of the position.



of knowledge of some relevant law might be a contributing factor.<sup>129</sup> Article VI refers to the requirement for the notification by each Administration in cases of suspension, revocation and withdrawal of endorsements of certificates for disciplinary and other reasons. Such reasons include fraud, forgery and other unlawful practices associated with certificates which can cause hazards to maritime safety. Article VII requires the addresses of the administrations of Contracting Parties to be provided to each other for communication purposes. Article VIII provides for a five year validity period for the Agreement. Any renewal pursuant to this provision should follow the IMO guidelines regarding the STCW Convention.

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<sup>129</sup> See Proshanto K. Mukherjee, Selected aspects of the Recognition Regime of the STCW Convention. In *International Conference on Port and Maritime R & D and Technology*, Singapore, 10-12 September 2003, pp. 235-244.

## **CHAPTER 5**

### **CONCLUSION**

It is said that trade is the life blood of a nation an overwhelmingly large proportion of which is seaborne. It is well documented in the literature of various disciplines that shipping is virtually as old as humankind itself. It is well established that the most rudimentary form of a vessel, that is, the floating log shaped by our innovative ancestors of pre-historic times to accommodate goods and persons, predates the cart and the wheel.

Shipping in the modern context is the primary instrument for the conduct of global trade. It is thus no coincidence that trading nations are compelled to place maritime policy at a relatively high position on their national agendas. Under the current law of the sea, entrenched in UNCLOS, even landlocked states have rights over the resources of the oceans and rights of sea uses in the high seas as well as their maritime zones. The maritime policies of a state function through national laws, in other words, policies need to be transformed into law in order for them to be effectuated in practical terms. However, since maritime matters are inherently international in character and shipping is recognizably a global business, national maritime laws need to be compatible with and reflect the international maritime regimes developed through cooperation among states with maritime interests.

In the quest for uniformity the international maritime community continuously deliberates on the development of international legal regimes. Sometimes multilateral

efforts are made through regional arrangements among states with common maritime interests based on geographical location, economic and social commonalities and with a view to establishing comity and good neighbourliness in the hope of enhancing their respective national maritime interests. In other instances states, irrespective of regional or global considerations, find it in their national interests to enter into bilateral relationships. There are multifarious reasons why states would choose bilateralism over regionalism in relation to particular maritime issues. In several instances, however, bilateral and regional interests may run into conflict and states would need to make policy choices.

In this dissertation an attempt has been made to examine the role of bilateralism in the development of national maritime policy and the impact and influence of bilateral maritime arrangements on regional interests. In particular, a number of bilateral agreements between Turkey and some of its neighbouring states have been analysed critically. Two such agreements, between Turkey and Greece and Turkey and Albania are on the subject of maritime trade while two other agreements between Turkey and Russia and Turkey and Ukraine deal with mutual recognition of seafarers' certificates for service on the respective flag state ships. The agreements have been reviewed in detail not only to extol their virtues but also to identify weaknesses and anomalies. Suggestions have been made on how these deficiencies might be rectified. In some instances lacunae in the agreements have been pointed out and a number of drafting and structural anomalies have been identified.

This work is the product of research undertaken to probe into the issue of bilateralism from the perspective of Turkey as a littoral state with significant maritime interests bordering largely on the Black Sea but also on the Mediterranean Sea. Turkey is a unique country in that it spreads over two continents and historically and geographically has, since time immemorial, been at the crossroads of political, cultural,

social and economic diversities. Given its strong maritime tradition, bilateral initiatives are important to the development of its national policies within the context of the immediate region where it is geographically located, as well as within the wider scope of the European Union of which it aspires to be a member. This writer has therefore felt its importance to examine some of the bilateral treaties in the maritime field which Turkey has concluded with some of its neighbouring states. Apart from the specific suggestions made in Chapter 4 relating to a detailed critical examination of the subject agreements, it is concluded that from the perspective of Turkey as well as its neighbouring countries, bilateral initiatives are crucial to the enhancement of the maritime interests of the countries concerned and therefore should be reviewed systematically from time to time with a view to bring about improvements.

The focus of bilateralism in this dissertation is not to downplay the importance of regionalism but to illustrate how, particularly in the context of Turkey; it fits into the scheme of regionalism. It is necessary to point out in this context that in the maritime field regional initiatives tend to focus mostly on marine environmental issues. This is understandable since pollution is a matter of common concern and largely predicated on the fact that the medium that carries pollutants in the marine environment is the sea which is inherently mobile and fluid. Another noteworthy point is that in the maritime context bilateralism is not limited to geographical location; even though in this dissertation the countries that have been discussed all belong to the same geographical region. What has not been explored in this work is the fact that there are numerous other maritime subject matters, particularly in the area of seaborne trade, regarding which beneficial bilateral arrangements can be entered into without consideration of geographical proximity of the parties.

It is further recommended that policy-makers at various levels continue to keep abreast of technical and socio-economic developments in the maritime field and

reformulate their maritime policies accordingly. While regional and international initiatives contribute towards uniformity in global maritime affairs, through bilateralism the goal of uniformity can also be enhanced. The positive role of bilateralism can therefore not be overemphasized in terms of the development of national maritime policy. It is submitted that this is not only true of the country chosen as the centrepiece of this research effort, but also for all countries of the world with maritime interests. As shipping has entered a new century and a new millennium, bilateral relationships in the maritime field will continue to grow and provide the necessary impetus for further economic and technological development as well as cooperation among countries with common and similar interests.

## BIBLIOGRAPHY

### BOOKS

- Aybak, T., (Ed.), *Politics of the Black Sea: Dynamics of Cooperation and Conflict*, London: I.B.Tauris & Company Limited, 2001.
- Baker, J.C., (Ed.), *Cooperative Monitoring in the South China Sea: Satellite Imagery, Confidence Building Measures, and the Spratly Island Disputes*, Westport: Greenwood Publishing Group Incorporated, 2002.
- Balkas, T., G. Dechev, R. Mihnea, o. Serbanescu and U. Unluata, *State of the Marine Environment in the Black Sea Region*. UNEP Regional Seas Reports and Studies No: 124. UNEP, 1990.
- Benoit, G., *Sustainable Future for the Mediterranean: The Blue Plan's Environment and Development Outlook*, London: Earthscan Publications, 2005.
- Boyle, Alan, Globalism and Regionalism in the Protection of the Marine Environment. In Davor Vidas (Ed.), *Protecting the Polar Marine Environment: Law & Policy for Pollution Prevention*, New York: Cambridge University Press, 2000.
- Boyle, Alan, E. and Birnie, Patricia, W., *International Law and the Environment*, Oxford: Oxford University Press, 2002.
- Chaturvedi, C.K., *Legal Control of Marine Pollution*, New Delhi: Deep & Deep Publications, 1981.
- Diebold, William, Jr., (Ed.), *Bilateralism, Multilateralism and Canada in U.S. Trade Policy*, Cambridge; Massachusetts: Ballinger Publishing Company, 1989.
- Ehlers, Peter, N., *Marine Issues: From a Scientific, Political and Legal Perspective*, The Hague; London; New York: Kluwer Law International, 1990.
- Ellis, Howard, S., *Bilateralism and the Future of International Trade*, New Jersey: Princeton University Press, 1945.

- Ethier, Wilfred, J., Regional Regionalism. In Lahiri, Sajal, *Regionalism and Globalization: Theory and Practice*, Florence, U.S.A: Routledge, 2001.
- Fitzmaurice, M., *International Legal Problems of the Environmental Protection of the Baltic Sea*, The Netherlands: Martinus Nijhoff/Graham & Trotman Dordrecht, 1992.
- Gold, Edgar, Chircop, Alde, and Kindred, Hugh, *Essentials of Canadian Law: Maritime Law*, Toronto: Irwin Law, 2003.
- Greenaway, D and Milner C., Multilateral trade reform, regionalism and developing countries. In Lahiri, Sajal, *Regionalism and Globalization: Theory and Practice* (pp.144-164). Florence, U.S.A: Routledge, 2001.
- Gupta, Joyeeta, Environmental Multilateralism Under Challenge. In Newman, Edward (Ed.), *Multilateralism Under Challenge* (pp.299-300). Tokyo: United Nations University Press, 2006.
- Hinkelman, Edward, G., *Dictionary of International Trade*. Novato, U.S.A: World Trade Press, 2002.
- Jansky, Libor, *Danube: Environmental Monitoring of an International River*, Tokyo: United Nations University Press, 2004.
- Kenwood, G., *Growth of the International Economy, 1820-2000: An Introductory Text*, London: Routledge, 1999.
- Krauss, Ellis, S., *Beyond Bilateralism: U.S.-Japan Relations in the New Asia-Pacific*, Palo Alto, U.S.A.: Stanford University Press, 2003.
- Krugman, P. R., "Is Bilateralism Bad?". In E. Helpman and A. Razin (eds.), *International Trade and Trade Policy*, Cambridge: MIT Press, 1991
- Kutting G., *Environment, Society and International Relations: Towards More Effective International Environmental Agreements*, London: Routledge, 2000.
- Malanczuk, P., *Akhehurst's Modern Introduction to International Law*, London: Routledge, 1997.

- Manoli, Panagiota, Microregionalism around the Black Sea. In S. Breslin (Ed.), *Microregionalism and World Order*, Gordonsville, U.S.A: Palgrave Macmillan, 2003.
- Mukherjee, P.K., *Maritime Legislation*, Malmö: WMU Publications, 2002.
- Nobuyuki, M., (Ed.), *Mankind and the Oceans*. Tokyo: United Nations University Press, 2005.
- Page, S., *Regionalism among Developing Countries*, New York: Palgrave Publishers, 2000.
- Peters, H.J., *The Maritime Transport Crisis*, Washington: The World Bank, 1993.
- Sampson, Gary, P., *Regionalism, Multilateralism, and Economic Integration: The Recent Experience*, New York: United Nations Publications, 2003.
- Schiff, Maurice W., *Regional Integration and Development*. Washington: World Bank Publications, 2003.
- Shuo, M., *Maritime Economics*, Malmö: World Maritime University Press, 2006.
- Simmons, Beth, A., From Unilateralism to Bilateralism: Challenges for the Multilateral Trade System. In Edward Newman (Ed.), *Multilateralism under Challenge* (pp.441-459), Tokyo: United Nations University Press, 2006.
- Smythe, Elizabeth, *Multilateralism or Bilateralism in the Negotiation of Trade-Related Investment Measures*, Orono, U.S.A: Canadian-American Centre, University of Maine, 1995.
- Stokke, S.O., Sub-regional Cooperation and Protection of the Arctic Marine Environment: The Barents Sea. In Davor Vidas (Ed.), *Protecting the Polar Marine Environment: Law & Policy for Pollution Prevention*, New York: Cambridge University Press, 2000.
- Stopford, M., *Maritime Economics*, London; New York: Routledge Taylor & Francis Group, 1997.
- Upriy K., *Transit Regime for Landlocked States: International Law and Development Perspectives*, Herndon, VA, USA: The World Bank, 2005.



- Vallega, Adalberto, *Sustainable Ocean Governance: A geographical Perspective*. London: Routledge, 2000.
- Wallace, William, "Introduction: The Dynamics of European Integration". In W. Wallace (Ed.), *The Dynamics of European Integration*. London; New York: Pinter Publications, 1990.
- Weldes, J., *Constructing National Interests*. In European Journal of International Relations, 2/3, September, 1996 (pp. 275-318). In Scott Burchill, *National Interest in International Relations Theory*. Gordonsville, U.S.A: Palgrave Macmillan, 2005.
- Williams, P., *International Law and the Resolution of Central and East European Transboundary Environmental Disputes*, New York: Palgrave Publishers, 2000.
- Winters, Alan, J., Regionalism for Developing Countries: Assessing the costs and benefits. In Lahiri, Sajal, *Regionalism and Globalization: Theory and Practice* (pp.113-134). Florence, U.S.A: Routledge, 2001.

#### ARTICLES

- Alexander, Lewis M. *Regional Arrangements in the Oceans*. The American Journal of International Law, Vol. 71, No. 1. (Jan., 1977), pp. 84-109.
- Alexander, Lewis M. *Regionalism and the Law of the Sea: The Case of Semi-enclosed Seas*, Ocean Development & International Law Journal, Vol. 2, No. 2, 1974, pp. 151-186.
- Alexander, Lewis M. *Regionalism at Sea: Concept and Reality*, in Regionalization of the Law of the Sea, proceedings of the 11<sup>th</sup> Annual Conference of the Law of the Sea Institute.
- Boczek, Boleslaw A. *Global and Regional Approaches to the Protection and Preservation of the Marine Environment*, Case Western Reserve Journal International Law Vol. 16:39, 1984.
- Boczek, Boleslaw A. *International Protection of the Baltic Sea Environment Against Pollution: A Study in Marine Regionalism*. The American Journal of International Law, Vol. 72, No. 4. (Oct., 1978), pp. 782-814.

- Brubaker, Douglas. *Marine Pollution and International Law: Principles and Practice*. London: Belhaven Press, 1993. pp. 33-47, 92-98, 150-162.
- Brusendorff, Anne, C., *The Initiative in the HELCOM to improve Maritime Safety in the Baltic*. Unpublished paper presented at “Risk Management in the Maritime Sector: Challenges and Difficulties”, WMU Seminar, 2006.
- Chircop, E. Aldo, *Participation in Marine Regionalism: An Appraisal in a Meditterrenanen Context*, Ocean Yearbook 8, ed. Elisabeth Mann Borgese, Norton Ginsburg, and Joseph R. Morgan, Chicago: University of Chicago Press, 1989, pp.402-16.
- Fink, C., Mattoo A., & Neagu, I.C., *Trade in International Maritime Services: How much Does Policy Matter?*, The World Bank Economic Review, Vol. 16, No. 1, 81-108, 2002.
- Haas, Peter M., *Save the Seas: UNEP's Regional Seas Programme and the Coordination of Regional Pollution Control Efforts*. Marine Policy Yearbook. Chicago, Chicago University Press, 1991.
- [Johnston, Douglas, M.](#), (Ed.), [Regionalization of the law of the sea; proceedings](#); *Law of the Sea Institute. Conference*, 11., Honolulu, Hawaii, 14-17 Nov 1977, Cambridge, Mass. (USA): Ballinger Publishing Company, 1978.
- Mandelson, Peter, *Bilateral Agreements in EU trade policy*, London School of Economics, SPEECH/06/574, 2006.
- McConnell, M.L. and Gold Edgar, *The Modern Law of the Sea: Framework for the Protection and Preservation of the Marine Environment*. In the Case Western Reserve Journal of International Law 83, 1991.
- Mukherjee, P.K., Selected aspects of the Recognition Regime of the STCW Convention. In *International Conference on Port and Maritime R & D and Technology*, Singapore, 10-12 September 2003, pp. 235-244.
- Obando-Rojas, B., Badigannavar, V., Lane, T., Bloor, M., Maguire, M. (2001) ‘A study on fraudulent practices associated with certificates of competency and endorsements’, Main Report. Report commissioned by the International Maritime Organization (IMO), Pub 483/01, ISBN 92-801-5124-X.

Knetcht, Robert, W., A Commentary on the Institutional and Political Aspects of Regional Ocean Governance, *Ocean and Coastal Management*, Vol.24, 1994, pp.39-50

Rosario, Michael, F., Special Assistant to Executive Director Transport Institute Washington D.C., The Bilateral Agreement: A policy Option Reconsidered. In Shipping Nationalism and the Future of the United States Liner Industry, *The UNCTAD Code and Bilateralism*, U.S.A: Times Press Educational Publishing, 1984.

Xu, Jingjing, The Spectrum of the legal regime governing ship-source oil pollution and its economic implications. *The Journal of International Maritime Law*, 2006, 12 JIML, 402-419.

#### *IMO COMMITTEE PAPERS*

International Maritime Organization. (2000, May 30). Guidance on Arrangements between parties to allow for recognition of certificates under STCW Regulation I/10. (Ref. T2/4.2/MSC/Circ.950). London: Author.

International Maritime Organization. (2002, November 14). Unlawful Practices Associated with Certificates of Competency. Sub-Committee on Standards of Training and Watchkeeping (STW 34/5). London: Author.

International Maritime Organization. (2006, March 7). Training and Watchkeeping, Unlawful Practices Associated with Certificates of Competency: submitted by the United Kingdom (MSC 81/14/2). London: Author.

“Role of Human Element in Maritime Casualties”, *Doc. MSC 65/15/1*, Annex 1, submitted by the United States to the 65<sup>th</sup> Session of the Maritime Safety Committee (MSC) of the IMO, 10 February, 1995.

#### *TREATY INSTRUMENTS*

##### *Conventions*

International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978. (MARPOL 73/78).

International Convention for the Safety of Life at Sea, 1974. (SOLAS 1974).

International Convention on Standards of Training, Certification and Watchkeeping, 1978, as amended in 1995 (STCW 1978, 1995).

The Convention on the Protection of the Black Sea against Pollution, 1992 (Bucharest Convention).

The Convention on the Protection of the Marine Environment of the Baltic Sea Area, 1992 (Helsinki Convention).

The Convention for the Protection of the Mediterranean Sea against Pollution, 1976 (Barcelona Convention).

United Nations Convention on the Law of the Sea, 1982 (UNCLOS).

#### *Agreements*

Agreement between the Republic of Turkey and the Hellenic Republic on Maritime Transport.

Maritime Agreement between the Government of the Republic of Turkey and the Government of the Republic of Albania.

Agreement between the Republic of Turkey and the Russian Federation on mutual recognition of certificates for crew members of seagoing vessels.

Agreement between the Republic of Turkey and the Ukraine on mutual recognition of certificates for crew members of seagoing vessels.

#### *ELECTRONIC SOURCES*

Agreement on Maritime Transport between the European Community and its Member States, of the one part, and the Government of the People's Republic of China of the other part. Retrieved June 14, 2007 from the World Wide Web: <http://www.official-documents.gov.uk/document/cm66/6621/6621.pdf>.

- Association of South East Asian Nations: Establishment, objectives and fundamental principles. Retrieved May 30, 2007 from the World Wide Web: <http://www.aseansec.org/64.htm> and see also the Web Page: [http://nti.org/e\\_research/official\\_docs/inventory/pdfs/asean.pdf](http://nti.org/e_research/official_docs/inventory/pdfs/asean.pdf)
- Caribbean Community: Objectives of the Community. Retrieved May 30, 2007 from the World Wide Web: <http://www.caricom.org/jsp/community/objectives.jsp?menu=community>
- Doha World Trade Organization Ministerial 2001: Ministerial Declaration. WT/MIN(01)/DEC/1. 20 November 2001. Retrieved June 12, 2007 from the World Wide Web: [http://www.wto.org/English/thewto\\_e/minist\\_e/min01\\_e/mindecl\\_e.htm](http://www.wto.org/English/thewto_e/minist_e/min01_e/mindecl_e.htm)
- European Union: The History of the European Union. Retrieved May 30, 2007 from the World Wide Web: [http://europa.eu/abc/history/index\\_en.htm](http://europa.eu/abc/history/index_en.htm).
- Helsinki Commission: About HELCOM. Retrieved June 1, 2007 from the World Wide Web: [http://www.helcom.fi/helcom/en\\_GB/aboutus/](http://www.helcom.fi/helcom/en_GB/aboutus/)
- Helsinki Commission, Ad hoc Task Force for the HELCOM Baltic Sea Action Plan, Fourth Meeting, Helsinki, Finland, 6-7 February 2007. Retrieved June 10, 2007 from the World Wide Web: <http://sea.helcom.fi/dps/docs/documents/Ad%20hoc%20Task%20Force%20for%20HELCOM%20BSAP/HELCOM%20BSAP%20TASK%20FORCE%204%202007/3-26-BSPA.pdf>
- Hongbin Zhang (2005). *Maritime Negotiations in the WTO: An analysis of the Doha Round*. Unpublished master's thesis, Erasmus University, Rotterdam, Netherlands. Retrieved June 12, 2007 from the World Wide Web: [http://www.maritimeeconomics.com/downloads/Thesis\\_ZhangH.pdf](http://www.maritimeeconomics.com/downloads/Thesis_ZhangH.pdf)
- Maritime Transport: Short Sea Shipping. Retrieved June 19, 2007 from the World Wide Web: [http://ec.europa.eu/transport/maritime/sssi/index\\_en.htm](http://ec.europa.eu/transport/maritime/sssi/index_en.htm)
- Menon, J. (2006). *Bilateral Trade Agreements and the World Trading System*. ADB Institute Discussion Paper No: 57, 2006, p.5. Retrieved June 13, 2007 from the World Wide Web: [http://www.adbi.org/files/dp57\\_bta\\_wts.pdf](http://www.adbi.org/files/dp57_bta_wts.pdf)

Merriam Webster Dictionary the term “*littoral*”. Retrieved May 31, 2007 from the World Wide Web: <http://mw1.merriam-webster.com/dictionary/littoral>.

Mitropoulos, Efthimios, Secretary-General of the International Maritime Organization (2005). *International Shipping-Carrier of World Trade*. World Maritime Day 2005. Retrieved June 12, 2007 from the World Wide Web: [http://www.imo.org/includes/blastDataOnly.asp/data\\_id%3D12878/message%28E%29.pdf](http://www.imo.org/includes/blastDataOnly.asp/data_id%3D12878/message%28E%29.pdf)

North Atlantic Treaty Organisation: What is NATO?”. Retrieved May 31, 2007 from the World Wide Web: <http://www.nato.int/nato-welcome/index.html>

Organization for Economic Cooperation and Development. Retrieved May 31, 2007 from the World Wide Web: [http://www.oecd.org/home/0,2987,en\\_2649\\_201185\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/home/0,2987,en_2649_201185_1_1_1_1_1,00.html)

Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC): Aims and Objectives of REMPEC”. Retrieved June 2, 2007 from the World Wide Web: <http://www.repmec.org/about.asp?id=1&lang=en>

Regional Organization for the protection of the Marine Environment-Kuwait. Retrieved June 20, 2007 from the World Wide Web: <http://www.ropme.com/>.

Smith, Vincent H., Sumner, Daniel A. & Rosson, C. Parr (2002), *Bilateral and Multilateral Trade Agreements*. Retrieved May 30, 2007 from the World Wide Web: [http://www.farmfoundation.org/2002\\_farm\\_bill/vsmith.pdf](http://www.farmfoundation.org/2002_farm_bill/vsmith.pdf).

STCW White List expanded. Retrieved August 2, 2007 from the World Wide Web: [http://www.imo.org/Newsroom/contents.asp?topic\\_id=67&doc\\_id=1026](http://www.imo.org/Newsroom/contents.asp?topic_id=67&doc_id=1026)

U.S. Customs and Border Protection: Container Security Initiative”. Retrieved June 14, 2007 from the World Wide Web: [http://www.cbp.gov/linkhandler/cgov/border\\_security/international\\_activities/csi/csi\\_strategic\\_plan.ctt/csi\\_strategic\\_plan.pdf](http://www.cbp.gov/linkhandler/cgov/border_security/international_activities/csi/csi_strategic_plan.ctt/csi_strategic_plan.pdf)

Wikipedia The Free Encyclopedia: Mediterranean. Retrieved June 1, 2007 from the World Wide Web: <http://en.wikipedia.org/wiki/Mediterranean>.

## ANNEX 1

### THE BALTIC SEA MAP



Source: <http://worldatlas.com/aatlas/infopage/balticsea.htm>

## ANNEX 2

### THE MEDITERRANEAN SEA MAP



Source: <http://worldatlas.com/aatlas/infopage/medsea.htm>



## ANNEX 3

### THE PERSIAN GULF MAP



Source: <http://worldatlas.com/aatlas/infopage/persiangulf.htm>

## ANNEX 4

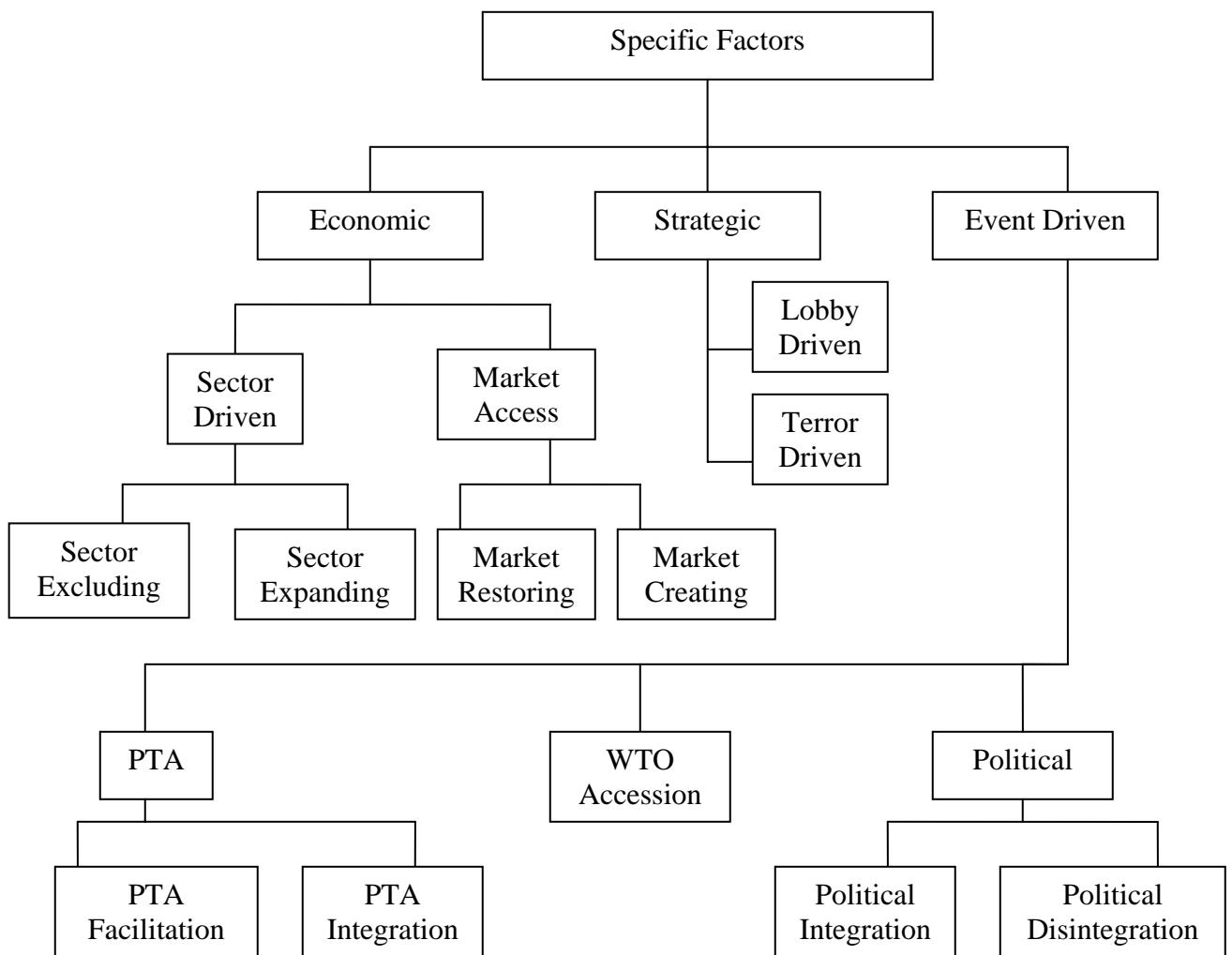
### THE BLACK SEA MAP



Source: <http://worldatlas.com/aatlas/infopage/blacksea.htm>

## ANNEX 5

### THE DIFFERENT MOTIVATIONS FOR FORMING BTAS: SPECIFIC FACTORS



Source: Menon, J. (2006). *Bilateral Trade Agreements and the World Trading System*. ADB Institute Discussion Paper No: 57, 2006, p.5. Retrieved June 13, 2007 from the World Wide Web: [http://www.adbi.org/files/dp57\\_bta\\_wts.pdf](http://www.adbi.org/files/dp57_bta_wts.pdf)

**ANNEX 6**

**AGREEMENT BETWEEN**

**THE REPUBLIC OF TURKEY AND THE HELLENIC**

**REPUBLIC**

**ON MARITIME TRANSPORTATION**

The Republic of Turkey and the Hellenic Republic, hereinafter called the Parties;

Desiring to develop the relations between the Parties, particularly with a view to strengthen their cooperation in the maritime field and thus contribute to the development of international shipping on the basis of the principles of freedom of merchant navigation and to encourage the promotion of bilateral commercial links between those concerned,

Noting the importance of the maritime safety and the protection of the marine environment in accordance with the relevant international conventions,

Bearing in mind the principles laid down in international law and particularly in international shipping conventions to which both Parties are members,

Have agreed as follows:

**Article I**  
**Definitions**

For the purpose of this Agreement;

1. The term “vessel of the Party” shall mean any vessel that is registered in the Shipping Register of either Party and flying its flag.

This term shall not include;

- a) warships and auxiliary ships of the Naval Forces,
  - b) fishing vessels,
  - c) vessels conducting hydrographic, oceanographic and scientific researches,
  - d) vessels performing exclusively administrative or state functions,
2. The term “member of the crew” shall mean the master and any person employed on board a vessel, in duties and services connected with the running of the vessel, included in the crew list and holding a proper identity document.
3. The term “international maritime transport” shall mean any transport by a vessel, except when the vessel is operated solely between the ports situated in the territory of a Party.
4. The term “cabotage” shall mean transport of goods and passengers between the ports of one of the Parties. The term “cabotage” includes any transport of goods which although accompanied by a through bill of lading and no matter what their origin or destination is, are transshipped directly or indirectly at the ports of either of the Parties in order to be carried to another port of the same Party. The same provision shall apply in the case of the passengers even if they carry thorough tickets.

## **Article II**

### **Scope of the Agreement**

1. The Parties shall base the development of their relations in the maritime field on the principles of free and fair competition, freedom of navigation and avoidance of any action that could adversely affect international maritime transport and trade. The principle of non-discrimination will apply to international maritime transport activities of natural persons and legal entities operating ships under flag of one Party in the territory of the other Party.
2. The provisions of this Agreement:
- a) shall not apply to ports not open to the entry of foreign vessels,
  - b) shall not affect the national regulations concerning entry and stay of foreigners,
  - c) shall not apply to activities reserved by the national legislation of each of the Parties for their national flag vessels or enterprises and organizations, including,

- in particular, cabotage, sea fishing, pilotage, towage, salvage and maritime assistance,
- d) shall not apply to immigration and the transportation of immigrants.

3. Commercial vessels carrying hazardous waste are subject to the provisions of the relevant international conventions.

### **Article III**

#### **Competent Authorities**

For the implementation of this Agreement, the Competent Authorities of the Parties are:

- In the Republic of Turkey, Prime Ministry Undersecretariat for Maritime Affairs
- In the Hellenic Republic, the Ministry of Merchant Marine.

In case of any changes concerning the names or functions of the Competent Authorities, the Parties shall make notifications through diplomatic channels.

### **Article IV**

#### **Measures Related to Implementation**

The Parties have agreed to authorize their respective Competent Authorities to take the following measures for the implementation of this Agreement, within the limits of their ability and without prejudice to their international obligations:

- a) To hold consultations in order to ensure full implementation of this Agreement.
- b) To promote contacts and cooperation between their shipping and related enterprises as well as organizations.
- c) To eliminate any difficulties which may prevent the development of maritime traffic as well as maritime relations.

- d) To facilitate the transportation of commercial goods through sea and services provided at the ports.
- e) To exchange information with a view to strengthening cooperation between their merchant fleets.
- f) To seek possibilities of cooperation in the relevant international fora.
- g) To intensify exchange of information on maritime education, culture and technology.
- h) To encourage cooperation in various other maritime fields in the shipping industry.

## **Article V**

### **Principles Concerning the Cooperation**

1. The Parties have agreed to follow the principles of free and fair competition in international maritime transport, in particular:
  - (a) To ensure the unrestricted access of vessels of the Republic of Turkey and the Hellenic Republic in the sea transport of goods and passengers between the ports of the Parties as well as between their ports and those of third countries.
  - (b) To cooperate between themselves in the elimination of obstacles which might hamper the development of sea trade between the ports of the Parties.
  - (c) To abstain from measures which may prevent the participation of the vessels of the Parties in the sea trade between the ports of the Parties and those of third countries.
  - (d) To remove any unilateral restriction in respect of the international maritime transport of goods and passengers which are reserved in whole or in part to the vessels of the Parties.
  - (e) To abstain from implementing any cargo sharing arrangement.
2. The provisions of paragraph 1 of this Article shall not affect the right of vessels of third countries to participate in the sea trade between ports of the Parties.
3. Nothing in this Article shall prevent the Parties to take the appropriate steps for ensuring the free participation of their merchant fleets in international trade on a commercially competitive basis.

**Article VI**  
**Treatment to be Accorded to Vessels at Ports**

1. Each Party shall accord to the vessels of the other Contracting Party the same treatment as it accords to its own vessels engaged in international maritime transport in respect of free access to ports, allocation of berths and full use of port facilities, loading and unloading cargoes, transshipment, embarking and disembarking of passengers, payment of any dues and charges, use of services intended for navigation.
2. Subject to any Article of this Agreement otherwise providing, the Parties shall grant to each other a treatment same to that of the most favoured nation in all other matters relating to shipping. However, this provision shall not apply to advantages resulting from participation of each Party to an Economic Integration Agreement of any kind.
3. The Parties shall make every effort, within the limits of their legislation and port regulations, as well as of their obligation under international law, to facilitate maritime traffic and expedite necessary procedures in their ports, and to simplify, as much as possible, other port formalities such as customs, sanitary and police controls.
4. The vessels of each of the Parties when calling at a port of the other Party for discharging part of their cargo, may, after complying with the laws and regulations of this country, keep aboard the part of their cargo which is destined for another port, either in the same or another country, or transfer it to another vessel without payment of any extra duties, apart from those levied in similar cases by the other Party on its vessels. In the same way, vessels of each of the Parties may call at one or more ports of the other Party for loading all or part of their cargo destined for foreign ports, without payment of dues other than those levied in similar cases by the other Contracting Party on its vessels.

**Article VII**  
**Documents of the Vessels**

1. The documents certifying the nationality of vessels, as well as any other ship's documents, issued or recognized by one of the Parties in accordance with its legislation, shall be recognized by the other Party.
2. The documents of a vessel of a Party, particularly those required for navigational and environmental safety, shall be recognized by the competent authority of the other



Party, provided that those documents are issued in accordance with the relevant international conventions to which both Parties are members.

3. The vessels of each of the Parties bearing Tonnage Measurement Certificates, issued in accordance with the 1969 International Convention on Tonnage Measurement of Ships shall not be subject to re-measuring of tonnage in the ports of the other Party.

The Tonnage Certificates of vessels below 24 meters issued in accordance with national legislation will be mutually recognized. Especially for environment friendly oil tankers with segregated ballast tanks (SBT), the port's and pilotage fees shall be reduced:

- a) by deducting the capacity of the SBT spaces from the total gross tonnage of the vessel, in accordance with IMO Resolution [A 747(18)], or
  - b) by making a discount in proportion to the percentage which the capacity of the SBT spaces represents in the total gross tonnage of the vessel.
4. Apart from a forced sale resulting from a decision of the Courts, the vessels of either of the two Parties can not be registered in the Register of the other Party without presentation of a certificate issued by the competent authorities from which the vessels originate, stating that the vessels have been written off the Register of this Party.

### **Article VIII**

#### **Seamen's Identity Documents**

1. Each of the Parties shall recognize the identity documents duly issued by the competent authorities of the other Party for members of the crew who are nationals of this Party and grant the holders of such documents the rights referred to in Articles IX and X of this Agreement, on the conditions stipulated therein. These Documents are:
  - In the case of the Republic of Turkey "Seamen's book-Gemiadamı cüzdanı" or the Turkish passport.
  - In the case of the Hellenic Republic the "Greek Seaman's book" or the Greek passport.
2. The provisions of Articles IX and X shall apply correspondingly to any person who is not a national of either of the Parties but possesses necessary identity document in conformity with the provisions of the relevant international conventions.

**Article IX**  
**Rights and Obligations in the Port of Call**

1. Members of the Crew of the vessels of one of the Parties holding the identity documents specified in article VIII of this Agreement, are allowed to stay for temporary shore leave without visas during the stay of the vessels in the ports of the other Party, provided that their names are included in the crew list submitted to the competent port authorities by the masters in accordance with the regulations in force in these ports.
2. The crew members shall be subject to regular frontier and customs controls when going ashore and returning to the vessels.

**Article X**  
**Rights of Transit of Crew Members**

1. Holders of identity documents specified in Article VIII of this Agreement are permitted to enter the territory of the other Party as passengers, or leave it for any other country where admission is guaranteed by any means of transport, for the purpose of joining their vessel or transferring to another vessel, passing transit to join their vessel in another country or for repatriation or in case of emergency or for any other purpose approved by the authorities of this Party.
2. In any of the cases specified in this Article, crew members must have necessary visas of the other Party, which shall be granted by the competent authorities within the shortest possible time.
3. If a crew member holding the identity documents specified in article VIII, is disembarked at a port of the other Party for health reasons or for other reasons recognized as valid by the competent authorities, the latter shall give the necessary authorization for the person concerned to remain in its territory in the event of his hospitalization and to return to his country of origin or proceed to another port of embarkation by any means of transport.

**Article XI**  
**Exceptions to the Rights of Crew Members**

1. Without prejudice to the provisions of Articles IX and X of this Agreement, the national regulations of the Parties with respect to entry, stay and departure of foreigners shall remain in force in the territories of the Parties.
2. Each Party reserves the right to deny entry to and/or stay in its territory to any person possessing the identity documents specified in Article VIII whom considers undesirable.
3. The provisions of Articles IX and X of this Agreement are also applied to persons on board the vessels of the Parties who are neither crew members nor included in the crew list, but engaged in duties related to services or the work of the vessel during her voyage and included in a special list.

**Article XII**  
**Judicial Prosecution of a Crew Member**

1. In connection with any crime or offense committed on board a vessel of one of the Parties while the vessel is within the territorial waters of the other Party, the relevant authorities of this Party shall not instigate judicial prosecution without the consent of the competent diplomatic or consular officers of the state whose flag the vessel carries, unless;
  - a) The master of the vessel asks for the prosecution of the perpetrator; or
  - b) The consequences of the crime or offence extend to the territory of this Party; or
  - c) The crime or offence disturbs the peace or the public order and security of this Party; or
  - d) The instigation of criminal proceedings is necessary for the suppression of illicit drug trafficking, or
  - e) The crime or offence is committed against any person other than a member of the crew of that vessel.
2. The provisions of paragraph 1 of this Article shall not affect the right of the relevant authorities of the Parties to exercise any inspection or any investigation concerning the enforcement of the laws and regulations.

3. Within the limits of their respective national legislation, each Party shall take necessary measures to avoid the detention of vessels of the other Party in exercising penal, civil or disciplinary jurisdiction, as much as possible. If detention is deemed necessary, each Party shall try to limit the detention period or they shall permit the vessel to depart on the condition of the submission of a written guarantee by the other Party.

### **Article XIII Civil Proceedings**

The judicial and/or administrative authorities of either of the Parties shall not undertake any civil proceedings between crew members, related to a contract of employment of a crew member of a vessel, of the other Party, unless they are so required by the competent diplomatic or consular officials of the state whose flag the vessel flies.

### **Article XIV Assistance For Vessels in Distress**

1. If a vessel of one of the two Parties is stranded or grounded, or suffers an accident or any other imminent danger within the territorial waters of the other Party:
  - a) The vessel, its crew and passengers shall be granted, at any time, assistance and the same treatment which is accorded to its national vessels.
  - b) The cargo and articles unloaded or saved from the vessel specified in this Article, provided they are not delivered for use or consumption in the territory of the other Party, shall not be liable to any customs duties.
  - c) The vessel so stranded or wrecked as well as all in its parts, debris or accessories and all appliances, rigging, provisions and goods salvaged, including those jettisoned by such vessels or by vessels in distress, or the proceeds thereof if sold, as well as all documents found aboard the stranded or wrecked vessel or belonging to it, shall be delivered to the owner or his representatives when claimed by them.
2. The provisions of this Article do not affect the rights of one of the Parties or those authorized by this Party, to ask from the other Party, or from those authorized by this second Party, the corresponding compensation for any actions taken for the salvage of the vessel or any assistance provided to the vessel and the cargo.

**Article XV**  
**Obligations Under Other International Agreements**

The provisions of this Agreement do not affect the rights and obligations of the Parties, stemming from international conventions and agreements related to maritime matters.

**Article XVI**  
**Settlement of Disputes**

1. Any difference that may arise from the application or interpretation of the provisions of this Agreement shall be settled through diplomatic channels.
2. If divergences persist, a meeting may be convened upon the request of one of the Parties with a view to discuss existing issues. The date and venue of such meetings will be determined accordingly.
3. If a European Union regulation enacted after the entry into force alters the obligations or application of this Agreement, the two Parties shall hold bilateral consultations to review the issue in the shortest time possible.

**Article XIX**  
**Final Clauses**

1. The Parties shall promptly notify each other of the completion of their respective ratification procedures for this Agreement through diplomatic channels. This Agreement will enter into force thirty days after the receipt of the last notification.
2. This Agreement will be valid for an indefinite period of time after entering into force.
3. Each Party shall have the right to denounce this Agreement by a written notification. Denunciation of this Agreement will be effective twelve months after the receipt of such a notification by the other Party through diplomatic channels.

Done in duplicate in Athens, on the .../02/2000, in the Turkish, Greek and English languages. All three texts are equally authentic. In case of divergence of interpretation, the English text shall prevail.

**For the Government  
of the Republic of Turkey**

**For the Government  
of the Hellenic Republic**

## **ANNEX 7**

# **MARITIME AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF TURKEY AND THE GOVERNMENT OF THE REPUBLIC OF ALBANIA**

The Government of the Republic of Turkey and the Government of the Republic of Albania, hereinafter referred to as the Contracting Parties or Parties,

Desiring to develop the relations and to strengthen the cooperation between the Contracting Parties in the maritime field, with a view to contributing to the development of commercial relations between them,

Noting the importance of the maritime safety and the protection of the marine environment in accordance with the relevant international conventions.

Have agreed as follows:

### **Article I Definitions**

For the purpose of this Agreement;

5. The term “vessel of the Contracting Party” shall mean any vessel that is registered in the Shipping Register of that Contracting Party and that flies its flag in compliance with its national laws and regulations.

This term shall not include;

- e) warships and auxiliary ships of the Naval Forces,
- f) fishing vessels,
- g) vessels conducting hydrographic, oceanographic and scientific research,
- h) vessels performing exclusively administrative or state functions,
- i) vessels carrying hazardous waste.

6. The term “crew member” shall mean the master and any person employed on board a vessel, in duties and services connected with the running of the vessel, included in the crew list and holding a proper identity document.
7. The term “international maritime transport” shall mean any transport by a vessel, except when the vessel is operated solely between the ports situated in the territory of a Contracting Party.
8. The term “cabotage” shall mean transport of goods and passengers between the ports of one of the Contracting Parties. The term “cabotage” includes any transport of goods, which although they are accompanied by a thorough bill of lading no matter of their origin or destination is, are transhipped directly or indirectly at the ports of either of the Contracting Parties in order to be carried to another port of the same Contracting Party. The same provisions shall apply in the case of the passengers even if they carry thorough tickets.

## **Article II**

### **Scope of the Agreement**

3. The purpose of this Agreement is establishing and developing maritime relations between the Parties, with a view of enhancing safety in navigation and the prevention of marine pollution; promoting technical and educational cooperation and encouraging joint ventures in all maritime areas.
4. This Agreement replaces the “Covenant for Maritime Transportation and Navigation between the Republic of Turkey and the Socialist Popular Republic of Albania” concluded in Tirana on April 22, 1987. The validity of the said Covenant will cease at the entry into force of this Agreement.
5. The Contracting Parties shall base the development of their relations in the maritime field on the principles of free and fair competition.
6. The provisions of this Agreement;
  - e) shall not apply to ports not open to the entry of foreign vessels,
  - f) shall not affect the national regulations concerning entry and stay of foreigners,
  - g) shall not apply to activities reserved by each of the Contracting Parties for their national flag vessels or enterprises and organizations, including in particular cabotage, sea fishing, pilotage, towage, salvage and maritime assistance.



### **Article III**

#### **Competent Authorities**

For the implementation of this Agreement, the Competent Authorities of the Contracting Parties are:

- In the Republic of Turkey, “Prime Ministry Undersecretariat for Maritime Affairs”
- In the Republic of Albania,  
“.....”

In case of any changes concerning the names or functions of the Competent Authorities, the Contracting Parties shall make necessary notifications through diplomatic channels.

### **Article IV**

#### **Measures Related to Implementation**

The Contracting Parties have agreed to authorize their respective Competent Authorities to take the following measures for the implementation of this Agreement, in cooperation with the other relevant authorities of the Party, within the limits of their ability and without prejudice to their international obligations:

- i) To hold consultations in order to make necessary arrangements in line with their national legislation to ensure full implementation of this Agreement,
- j) To promote contacts and exchange of information between the shipping industries of the Republic of Turkey and the Republic of Albania,
- k) To cooperate in the fields of ship construction, shiprepair and shipbreaking, and promote joint ventures between their relevant industries of the Parties in these areas.
- l) To establish technical cooperation, cooperation in education and exchange of trainees in maritime matters.
- m) To facilitate the transportation of commercial goods through sea and services provided at the ports,
- n) To establish cooperation in the relevant international fora.

**Article V**  
**Principles Governing International Maritime Transport**

5. The Contracting Parties have agreed to follow the principles of free and fair competition in international maritime transport, to abstain from measures which may hamper the development of the international maritime transport and to seek removal any unilateral restrictions in respect of the international maritime transport of goods and passengers which are reserved in whole or in part for the vessels of the Contracting Parties.
6. The provisions of this Agreement shall not affect the right of vessels of third countries to participate in the sea trade between ports of the Contracting Parties.
7. Nothing in this Agreement shall prevent the Contracting Parties to take the appropriate steps for ensuring the free participation of their merchant fleets in international trade on a commercially competitive basis.

**Article VI**  
**Treatment to be Accorded to Vessels at Ports**

5. Each Contracting Party shall accord to the vessels of the other Contracting Party the same treatment as it accords to its own vessels engaged in international maritime transport in respect of free access to ports, allocation of berths and full use of port facilities, loading and unloading cargoes, transshipment, embarking and disembarking of passengers, payment of any dues and charges and use of services intended for navigation.
6. The Contracting Parties shall make an effort, within the limit of their legislation and port regulations, as well as of their obligations under international law, to facilitate and expedite necessary procedures in their ports, and to simplify, as much as possible, other port formalities such as customs, sanitary and police controls.
7. The vessels of each of the Contracting Parties, when calling at a port of the other Party for discharging part of their cargo, may, after complying with the laws and regulations of this country, keep aboard the part of their cargo which is destined for another port, either in the same or another country, or transfer it to another vessel without payment of any extra duties, apart from those levied in similar cases by the other Contracting Party on its vessels. In the same way, vessels of each of the Contracting Parties may call at one or more ports of the other Party for loading all or part of their cargo destined for foreign ports, without payment of dues other than

those levied in similar cases by the other Contracting Party on its vessels.

## **Article VII**

### **Documents of the Vessels**

4. The documents certifying the nationality of vessels, as well as any other ships documents, issued or recognized by one of the Contracting Parties for its own vessels in accordance with its legislation, shall be recognized by the other Contracting Party.
5. The documents on board a vessel of a Contracting Party, particularly those required for navigational and environmental safety, shall be recognized by the competent authority of the other Contracting Party, provided that those documents are issued in accordance with the relevant international conventions to which both Contracting Parties are members.
6. The vessels of each of the Contracting parties bearing Tonnage Measurement Certificates issued in accordance with the 1969 International Convention on Tonnage Measurement of Ships shall not be subject to re-measuring of tonnage in the ports of the other Contracting Party. The Tonnage Certificates of vessels below 24 meters issued in accordance with national legislation will be mutually recognized.

For environment friendly oil tankers with segregated ballast tanks (SBT), the ports and pilotage fees shall be reduced by;

- c) deducting the capacity of the SBT spaces from the total gross tonnage of the vessel in accordance with IMO Resolution [A 747(18)], or
  - d) making a discount in proportion to the percentage which the capacity of the SBT spaces represents in the total gross tonnage of the vessel.
8. Apart from a forced sale resulting from a decision of the Courts, the vessels of either of the two Contracting Parties can not be registered in the Register of the other Party without presentation of a certificate issued by the competent authorities from which the vessels originate stating that the vessels have been written off the Register of this Party.

**Article VIII**  
**Seamen's Identity Documents**

3. Each Contracting Party shall recognize the seamen's identity documents duly issued by the competent authorities of the other Contracting Party for crew members who are nationals of this Contracting Party and grant the holders of such documents the rights referred to in Articles IX and X of this Agreement, on the conditions stipulated therein. These Documents are:

- In the case of the Republic of Turkey "Seamen's book-Gemiadamı cüzdanı"
- In the case of the Republic of Albania "....."

4. The provisions of Articles IX and X of the present Agreement shall, as far as possible, apply to crew members of the vessels of the Contracting Parties who are not a national of either of the Republic of Turkey or a national of the Republic of Albania and possesses an identity document in conformity with the provisions of the relevant international conventions.

**Article IX**  
**Rights and Obligations in the Port of Call**

3. Crew members of the vessels of one of the Contracting Parties holding the seamen's identity documents specified in article VIII of this Agreement, are allowed to stay for temporary shore leave without visas during the stay of the vessel in the ports of the other Contracting Party, provided that their names are included in the crew list submitted to the competent port authorities by the masters in accordance with the regulations in force in that port.
4. Crew members shall be subject to regular frontier and customs controls when going ashore and returning to the vessels.

**Article X**  
**Rights of Transit of Crew Members**

4. Holders of identity documents specified in article VIII of this Agreement are permitted to enter the territory of the other Contracting Party as passengers, or leave it for any other country where admission is guaranteed by any means of transport, for the purpose of joining their vessel or transferring to another vessel, passing transit to

join their vessel in another country or for repatriation or in case of emergency or for any other purpose approved by the authorities of this Contracting Party.

5. In any of the cases specified in this Article, crew members must have necessary visas of the other Contracting Party, which shall be granted by the competent authorities within the shortest possible time. These seamen should also have financial means to cover the travel expenses.
6. If a crew member holding the identity documents specified in article VIII, is disembarked at a port of the other Contracting Party for health reasons, or for other reasons recognized as valid by the relevant authorities of this Party, the latter shall give the necessary authorization for the person concerned to remain in its territory in the event of his hospitalization and to return to his country of origin or proceed to another port of embarkation by any means of transport.

#### **Article XI**

#### **Exceptions to the Rights of Crew Members**

4. Without prejudice to the provisions of Articles VIII and IX of this Agreement, the national regulations of the Contracting Parties with respect to entry, stay and departure of foreigners shall remain in force in the territories of the Contracting Parties.
5. Each Contracting Party reserve the right to deny entry to and/or stay in its territory to any person possessing the seamen's identity documents specified in Article VIII whom considers undesirable.
6. The provisions of Articles VIII and IX of this Agreement are also applied to persons on board the vessels of the Contracting Parties who are not neither crew members nor included in the crew list, but engaged in duties related to services or the work of the vessel during her voyage and included in a special list.

#### **Article XII**

#### **Judicial Prosecution of a Crew Member**

4. In connection with any crime or offense committed on board a vessel of one of the Contracting Parties while the vessel is within the territorial waters of the other Contracting Party, the relevant authorities of this Contracting Party shall not instigate judicial prosecution without the consent of the competent diplomatic or consular officers of the state whose flag the vessel carries, unless;

- f) The master of the vessel asks for the prosecution of the perpetrator; or
  - g) The consequences of the crime or offense extend to the territory of this Contracting Party; or
  - h) The crime or offense disturbs the peace or the public order of this Contracting Party; or
  - i) The instigation of criminal proceedings is necessary for the suppression of illicit trafficking in narcotic drugs or psychotropic substances; or
  - j) The crime or offense is committed against any person other than a crew member of that vessel.
5. The provisions of paragraph 1 of this Article shall not affect the right of the relevant authorities of the Contracting Parties to exercise any inspection or any investigation and concerning the enforcement of the laws and regulations.
6. Within the limits of their respective national legislation, each Contracting Party shall take necessary measures to avoid the detention of vessels of the other Contracting Party in exercising penal, civil or disciplinary jurisdiction, as much as possible. If detention is deemed necessary, each Contracting Party shall try to limit the detention period or they shall permit the vessel to depart on the condition of the submission of a written guarantee by the other Contracting Party.

### **Article XIII**

#### **Civil Proceedings**

The judicial and/or administrative authorities of either of the Contracting Parties shall not undertake any civil proceedings between crew members or related to a contract employment of a crew member of a vessel of the other Contracting Party, unless they are so required by the competent diplomatic or consular officials of the state whose flag the vessel flies.

### **Article XIV**

#### **Vessels in Distress**

3. If a vessel of one Contracting Parties is stranded or grounded, or suffers an accident or any other imminent danger within the territorial waters of the other Contracting Party:
- a) The vessel, its crew and passengers shall be granted, at any time, assistance and the same treatment which is accorded to its national vessels.

- b) The cargo and articles unloaded or saved from the vessel specified in this Article, provided they are not delivered for use or consumption in the territory of the other Contracting Party, shall not be liable to any customs duties.
  - c) The vessel so stranded or wrecked as well as all in its parts, debris or accessories and all appliances, rigging, provisions and goods salvaged, including those jettisoned by such vessels or by vessels in distress, or the proceeds thereof if sold, as well as all documents found aboard the stranded or wrecked vessel or belonging to it, shall be delivered to owner or his representatives when claimed by them.
4. The provisions of this Article do not affect the rights of one of the Contracting Parties or those authorized by this Party to ask from the other Party or from those authorized by this second Party, the corresponding compensation for any actions taken for the salvage of the vessel or any assistance provided to the vessel and cargo.

#### **Article XV**

##### **Transfer of Income and Other Receipts of Shipping Companies**

1. Each Contracting Parties shall grant the shipping companies of the other Party the rights to use for the purpose of making payments, income and other receipts realized within the territory of the first Contracting Party and deriving from maritime transport.
2. Each Contracting Party shall grant the same companies the right to transfer such incomes and other receipts, after deduction of all payments mentioned above to the territory of the Contracting Party according to laws and regulations of that Party.
3. Each Contracting Party shall facilitate such transfers.

#### **Article XVI**

##### **Protection of the Marine Environment**

1. The vessels of each Contracting Party shall take all necessary measures to prevent environmental damage within the territory of the other Contracting Party.
2. Vessels of each Contracting Party, in the territory of the other Contracting Party, shall be liable, according to the latter Contracting Party's legislation in force in the field of environmental protection.

3. In case of a marine pollution caused by a vessel of one of the Contracting Parties in the territory of the other Contracting Party, the polluting vessel will be responsible according
4. to the legislation of that Contracting Party and relevant international conventions.

## **Article XVII**

### **Obligations Under Other International Agreements**

The provisions of this Agreement do not affect the rights and obligations of the Contracting Parties, stemming from international conventions and agreements to which they are parties to.

## **Article XVIII**

### **Settlement of Disputes**

4. Any difference that may arise from the application or interpretation of the provisions of this Agreement shall be settled between the Competent Authorities of the Contracting Parties.
5. If divergences persist, a meeting may be convened upon the request of one of the Contracting Parties with a view to discuss existing issues. The date and venue of such meetings will be determined accordingly.
6. If an Agreement between Turkey and European Union or a European Union regulation enacted after the entry into force alters the obligations or application of this Agreement the Contracting Parties shall hold bilateral consultations to review the issue in the shortest time possible.

## **Article XIX**

### **Final Clauses**

4. The Contracting Parties shall promptly notify each other of the completion of their respective ratification procedures for this Agreement through diplomatic channels. This Agreement will enter into force thirty days after the receipt of the last notification.
5. This Agreement will be valid for an indefinite period of time after entering into force.



6. Each Contracting Party shall have the right to denounce this Agreement by a written notification. Denunciation of this Agreement will be effective twelve months after the receipt of such notification by the other Contracting Party.

The Undersigned, duly empowered, have signed the present Agreement.

Done in ....., on ...../...../2005.

This text was prepared in two copies and in three languages, Turkish, Albanian and English, the three texts being equally authentic. In case of divergences the English text shall prevail.

**For the Government  
of the Republic of Turkey**

**For the Government  
of the Republic of Albania**

**ANNEX 8**

**AGREEMENT BETWEEN THE UNDERSECRETARIAT  
FOR MARITIME AFFAIRS, PRIME MINISTRY OF THE  
REPUBLIC OF TURKEY AND THE MINISTRY OF  
TRANSPORT OF THE RUSSIAN FEDERATION ON  
MUTUAL RECOGNITION OF CERTIFICATES FOR  
CREW MEMBERS OF SEAGOING VESSELS**

The Undersecretariat for Maritime Affairs, Prime Ministry of the Republic of Turkey and the Ministry of Transport of the Russian Federation hereinafter referred to as Parties in accordance with the requirements of Regulation I/10 of the International Convention on Standards of Training, Certification and Watch-keeping for Seafarers 1978, as amended in 1995 (hereinafter referred to as the Convention) including the related provisions of the Seafarer's Training, Certification and Watch-keeping Code (STCW Code), have agreed without prejudice to national laws of either Part, as follows:

**ARTICLE I**

In this Agreement the term "Turkish Administration" means the "Undersecretariat for Maritime Affairs, Prime Ministry of the Republic of Turkey"

The term "Administration of the Russian Federation" means the "the Ministry of Transport of the Russian Federation".

## ARTICLE II

The Administration of the Turkish Administration and the Russian Federation are certificate-issuing parties whose national certificates are to be mutually recognized by endorsement. Each Administration provides endorsements to attest its recognition.

A precondition for the Administrations to provide endorsement of certificates is confirmation by the Maritime Safety Committee of the International Maritime Organization (IMO) that full and complete effect is given by the Administrations to the provisions of the Convention.

On request by one Party the other Party will supply specimen copies of its national appropriate certificates with corresponding endorsements issued to officers in accordance with Regulations II/1, II/2, II/3, III/1, III/2, III/3, IV/2 and V/4, paragraphs 1 and 2 and alternative certificates, if any, issued in accordance with Regulation VII/2 of the Convention.

## ARTICLE III

The Administrations of both Parties assure that the education, training and assessment of competence of seafarers are administered and monitored in their respective countries in accordance with the provisions of Regulation I/6 of the Convention, confirm maintenance of registers of certificates, endorsements, also confirm that information on the status of certificates, endorsements and dispensations can be obtained according to Regulation I/9 of the Convention on request by the Administration of the other Party in the process of recognition of a certificate produced to it by a seafarer. The Administrations of both Parties undertake to respond promptly to requests for verification of authenticity and validity of certificates issued by them.

The Administrations of both Parties assure that those in their country who are responsible for such training and assessment are appropriately qualified for the type and level of training and assessment involved in accordance with the provisions of Regulation I/6 of the Convention.

## ARTICLE IV

The Administration of each Party in accordance with subparagraph 1 of paragraph 1 of Regulation I/10 of the Convention on the written request of the Administration of the

other Party provides an opportunity to undertake inspections of their facilities including related procedures concerning;

- Standards of competence;
- The issue, endorsement, revalidation and revocation of certificates;
- Record-keeping and;
- Communication and response process to requests for verification.

The Administration of each party will give the Administration of the other Party access to the results of quality standards assessment in accordance with Regulation I/8 of the Convention.

The Administration of each Party within ninety days will notify the Administration of the other Party of any significant changes in the arrangements for training and certification provided in compliance with the Convention.

#### ARTICLE V

The Administration of a Party recognizing certificates issued by the other Party shall establish measures to ensure that officers at management level, to whom endorsements of recognition are issued, acquire an appropriate knowledge of the maritime legislation of the recognizing Party relevant to the functions they are permitted to perform.

#### ARTICLE VI

Should it become necessary for the Administration of one of the Parties to suspend, revoke, or otherwise withdraw its endorsement of recognition of a certificate issued by the Administration of the other Party for disciplinary or other reasons the Administration of that Party will notify the Administration of the other party on the circumstances.

#### ARTICLE VII

All communications arising from this Agreement shall be made to the following addresses:

General Directorate for Maritime Transport Under-secretariat for Maritime Affairs Ankara/TURKEY	Ministry of Transport of the Russian Federation. Safety Navigation Department Moscow/Russian Federation
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Any changes in the contact addresses are to be communicated to the party without delay.

#### ARTICLE VIII

This Agreement shall enter into force on the date of signature by both Parties and shall be valid for a period of five years.

The validity of this Agreement shall automatically be extended thereafter for successive five-year periods if neither of the Parties notifies the other Party on its intention to terminate the Agreement not later than twelve months prior to the expiration of a successive term of the Agreement.

Done at Moscow on 25 February 2004 in duplicate, each copy in Turkish, Russian and English languages, all texts being equally authentic.

For the Under-secretariat for Maritime Affairs, Prime Ministry of the Republic of Turkey	For the Ministry of Transport of the Russian Federation
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**ANNEX 9**

**AGREEMENT BETWEEN THE PRIMA MINISTRY  
UNDERSECRETARIAT FOR MARITIME AFFAIRS, OF  
THE REPUBLIC OF TURKEY AND THE MINISTRY OF  
TRANSPORT OF UKRAINE ON MUTUAL RECOGNITION  
OF CERTIFICATES UNDER THE TERMS OF THE  
INTERNATIONAL CONVENTION ON STANDARDS OF  
TRAINING, CERTIFICATION AND WATCHKEEPING  
FOR SEAFARERS 1978, AS AMENDED IN 1995**

The Prime Ministry Undersecretariat for Maritime Affairs of the Republic of Turkey and the Ministry of Transport of Ukraine hereinafter referred to as Parties pursuant to the requirements of Regulation I/10 of the International Convention on Standards of Training, Certification and Watch-keeping for Seafarers 1978, as amended in 1995 (hereinafter referred to as the Convention) including the related provisions of the Seafarer's Training, Certification and Watch-keeping Code (STCW Code), have agreed without prejudice to national laws of either Part, as follows:

**ARTICLE I**

In this Agreement the term "Turkish Administration" means the "The Prime Ministry Undersecretariat for Maritime Affairs of the Republic of Turkey"

The term "Administration of Ukraine" means the "the Ministry of Transport of the Ukraine".

## ARTICLE II

The Administration of the Turkish Administration and the Ukraine are certificate-issuing parties whose national certificates are to be mutually recognized by endorsement each Administration provides endorsements to attest its recognition.

A precondition for the Administrations to provide endorsement of certificates is confirmation by the Maritime Safety Committee of the International Maritime Organization (IMO) that full and complete effect is given by the Administrations to the provisions of the Convention.

On request by one Party the other Party will supply specimen copies of its national appropriate certificates with corresponding endorsements issued to officers in accordance with Regulations II/1, II/2, II/3, III/1, III/2, III/3, IV/2 and V/4, paragraphs 1 and 2 and alternative certificates, if any, issued in accordance with Regulation VII/2 of the Convention.

## ARTICLE III

The Administrations of both Parties assure that the education, training and assessment of competence of seafarers are administered and monitored in their respective countries in accordance with the provisions of Regulation I/6 of the Convention, confirm maintenance of registers of certificates, endorsements, also confirm that information on the status of certificates, endorsements and dispensations can be obtained according to Regulation I/9 of the Convention on request by the Administration of the other Party in the process of recognition of a certificate produced to it by a seafarer. The Administrations of both Parties undertake to respond promptly to requests for verification of authenticity and validity of certificates issued by them.

The Administrations of both Parties assure that those in their country who are responsible for such training and assessment are appropriately qualified for the type and level of training and assessment involved in accordance with the provisions of Regulation I/6 of the Convention.

## ARTICLE IV

The Administration of each Party in accordance with subparagraph 1 of paragraph 1 of Regulation I/10 of the Convention on the written request of the Administration of the

other Party provides an opportunity to undertake inspections of their facilities including related procedures concerning;

- Standards of competence;
- The issue, endorsement, revalidation and revocation of certificates;
- Record-keeping and;
- Communication and response process to requests for verification.

The Administration of each party will give the Administration of the other Party access to the results of quality standards assessment in accordance with Regulation I/8 of the Convention.

The Administration of each Party within ninety days will notify the Administration of the other Party of any significant changes in the arrangements for training and certification provided in compliance with the Convention.

#### ARTICLE V

The Administration of a Party recognizing certificates issued by the other Party shall establish measures to ensure that officers at management level, to whom endorsements of recognition are issued, acquire an appropriate knowledge of the maritime legislation of the recognizing Party relevant to the functions they are permitted to perform.

#### ARTICLE VI

Should it become necessary for the Administration of one of the Parties to suspend, revoke, or otherwise withdraw its endorsement of recognition of a certificate issued by the Administration of the other Party for disciplinary or other reasons the Administration of that Party will notify the Administration of the other party on the circumstances.

#### ARTICLE VII

All communications arising from this Agreement shall be made to the following addresses:



General Directorate for Maritime Transport Under-secretariat for Maritime Affairs Ankara/TURKEY	Ministry of Transport of Ukraine Inspectorate for Training and Certification of Seafarers Kiev/Ukraine
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Any changes in the contact addresses are to be communicated to the party without delay.

#### ARTICLE VIII

This Agreement shall enter into force on the date of signature by both Parties and shall be valid for a period of five years.

The validity of this Agreement shall automatically be extended thereafter for successive five-year periods if neither of the Parties notifies the other Party on its intention to terminate the Agreement not later than twelve months prior to the expiration of a successive term of the Agreement.

Done at Moscow on 25 February 2004 in duplicate, each copy in Turkish, Ukrainian and English languages, all texts being equally authentic.

On behalf of the Prime Ministry Undersecretariat for Maritime Affairs, of the Republic of Turkey	On behalf of the Ministry of Transport of Ukraine
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