

UNCTAD contribution to the UN SG Report on the Law of the Sea

30 January 2015

I. Maritime transport in the context of a Post-2015 Sustainable Development Agenda

Building on the achievements of the 1992 "Earth Summit" and the 2000 Millennium Development Goals (MDGs) and guided by the principles in the outcome document of the Rio + 20 Conference held in 2012 ("The Future We Want"), the international community is currently setting new grounds for a sustainable development agenda that would succeed to the MDGs.

Since 2012, intensive consultations have taken place with a view to a global Post-2015 Sustainable Development Agenda that effectively integrates the economic social and environmental aspects of development. The Agenda includes, in particular a set of Sustainable Development Goals (SDGs) as well as targets and measurable indicators of achievement. Throughout, special attention is being paid to the special needs of the least developed countries (LDCs), landlocked developing countries (LLDCs) and the small island developing States (SIDS).

In July 2014, the United Nations (UN) Intergovernmental Open Working Group (OWG) submitted proposals on the Post-2015 Agenda that included 17 goals and 169 targets. The proposed goals will be further considered and refined at the September 2015 UN Summit on Sustainable Development.

Freight transport, including maritime transport – which is the backbone of globalization and the driver of the global trade-led economic expansion – is critical to the successful implementation of the proposed SDGs. The relevance of maritime transport, including shipping, ports and related auxiliary services for the realization of the Post-2015 Development Agenda cannot be overemphasized. Maritime transport is of particular relevance when addressing poverty (goal 1); hunger, food security, nutrition and sustainable agriculture (Goal 2); access to affordable, reliable, sustainable and modern energy for all (Goal 7); sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all (Goal 8); infrastructure resilience building, inclusive and sustainable industrialization and innovation (Goal 9); inequality within and among countries (Goal 10); inclusive, safe, resilient and sustainable cities and human settlements (Goal 11); sustainable consumption and production patterns (Goal 12); climate change and its impacts (Goal 13); conservation and sustainability of oceans, seas and marine resources for sustainable development (Goal 14); protection, restoration and promotion of sustainable use of terrestrial ecosystems, sustainable management of forests, desertification, and land degradation and biodiversity loss (Goal 15); peace and inclusive societies for sustainable development, access to justice for all and the building of effective, accountable and inclusive institutions at all levels (Goal 16); and strengthening the means of implementation and revitalizing the global partnership for sustainable development (Goal 17).

While transport is increasingly recognized as a crucial component of sustainable development, the 7th session of the OWG recommended that the cross-sectoral nature of transport, including maritime transport was best served by integrating the sector in a range of SDGs.¹ In this context and to ensure that the objectives embedded in the proposed SDGs can be effectively met, high priority must be given to freight transport and maritime transport in particular given its strategic role in international trade and supply chains. Maritime transport-related considerations should be further integrated into the proposed SDGs and associated targets and indicators need to be further refined and articulated for greater clarity and impact.

In accordance with its mandate², UNCTAD, the UN system focal point for the integrated consideration of trade and development issues, carries out a wide range of research, technical assistance and consensus-building activities in the field of transport and trade logistics and its sustainable development, taking particular account of the needs of developing countries.

II. Areas of intervention and relevant activities in the field of maritime transport by UNCTAD in support of sustainable development

1. Climate change implications for maritime transport

UNCTAD, as part of its work on transport policy and legislation, has been working, 'ahead of the curve', on the implications of climate change for maritime transportation, since 2008. The particular focus of this work is on impacts and adaptation needs of seaports and other coastal transport infrastructure. Ports are likely to be affected directly and indirectly by climatic changes, such as rising sea levels, extreme weather events and rising temperatures, with broader implications for international trade and for the development prospects of the most vulnerable nations, in particular LDCs and SIDS. Given their strategic role as part of the globalized trading system, adapting ports in different parts of the world to the impacts of climate change/enhancing their climate-resilience is of considerable importance. UNCTAD's research and analytical work in the field as well as relevant consensus-building activities have significantly helped to raise awareness and advance the international debate. Important synergies are created through excellent inter-agency cooperation and through the establishment of a committed multidisciplinary network of experts. Most recently, UNCTAD's work was referred to in several chapters of the 5th Assessment Report of the IPCC WG II Report on Impacts and Adaptation (2014). Specific activities as well as some concrete follow-up are briefly listed below. For further details and documentation see <http://unctad.org/en/Pages/DTL/TTL/Legal/Climate-Change-and-Maritime-Transport.aspx>.

a) **Intergovernmental Expert Meeting on "Maritime Transport and the Climate Change Challenge" (2009)**. A summary of the proceedings of the meeting was submitted as part of

¹ See the recommendations of the Co-Chairs in "Co-Chairs Summary bullet points for OWG-7" available for downloading at https://sustainabledevelopment.un.org/content/documents/2958co-chairs%20summary%20bullet%20points_owg7%2020%20Jan.pdf.

² See in particular the Accra Accord (2008), at paras. 165,168 and the Doha Mandate at paras. 56(h) and (j).

UNCTAD's contribution to the 2009 Copenhagen UNFCCC Conference (http://unctad.org/en/Docs/dtltlb20091_en.pdf).

b) **Joint UNECE-UNCTAD workshop on "Climate change impacts and adaptation for international transport networks" (2010)**. A concrete follow-up includes the establishment of an intergovernmental UNECE Expert Group considering the subject in depth (2011-2013) and publishing its substantive final report, including policy recommendations, in 2014 ("[Climate Change Impacts and Adaptation for International Transport Networks](#)"). UNCTAD participated actively in the work of the Expert Group.

c) **Ad Hoc Expert Meeting on "Climate Change Impacts and Adaptation: a Challenge for Global Ports" (2011)**. See *Main Outcomes and Summary of Discussions of the Expert Meeting* (UNCTAD/DTL/TLB/2011/3) http://unctad.org/en/docs/dtltlb2011d3_en.pdf. As a concrete follow-up, a multidisciplinary academic paper co-authored by 15 experts was published in 2013. See Becker et. al, "A Note on Climate change adaptation for seaports: A challenge for global ports, a challenge for global society". *Climatic Change* (2013) doi:10.1007/s10584-013-0843-z

d) An **UNCTAD edited book on "Maritime Transport and the Climate Change challenge"**, co-published by the UN in May 2012 with Earthscan (Routledge/Taylor & Francis), one of the leading publishers in the field of environment and sustainability. The book is the first of its kind, adopting a multidisciplinary approach and providing detailed insight on a range of the potential implications of climate change for this key sector of global trade. It includes contributions from experts from academia, international organizations - such as the IMO, the UNFCCC secretariat, OECD, IEA and the World Bank - as well as the shipping and port industries.

e) The implications of climate change for maritime transport are also regularly considered in **Chapters 1 and 5 of the annual Review of Maritime Transport**. Chapter 1 considers, inter alia, operational and economic aspects of climate change mitigation, impacts and adaptation in ports. Chapter 5 focuses on regulatory developments under the auspices of the International Maritime Organization (IMO) aimed at reducing carbon emissions from international shipping (not at present covered under the Kyoto agreement).

f) The **third session of the Multi-year Expert Meeting on Transport, Trade Logistics and Trade Facilitation: "Small Island Developing States: Transport and Trade Logistics Challenges" (24-26 November 2014)**. The third session of the multi-year expert meeting focused on some of the particular transport and trade logistics challenges that SIDS face in connection with their remoteness and geographical location (cf. Doha Mandate, paragraph 56(j)). Improved access to global markets and enhanced trade competitiveness is particularly important for these countries, as is ensuring the resilience of critical transport infrastructure. With SIDS being completely dependent on ports and airports, climate change risks such as rising sea levels, increasing temperatures and more frequent and/or intense storms pose serious threats to vital transport infrastructure, services and operations. Understanding the underlying risk and vulnerabilities and developing adequate adaptation measures is of the essence.

g) Technical assistance project on "**Climate change impacts on coastal transport infrastructure in the Caribbean: enhancing the adaptive capacity of SIDS**". The aim of the project is to

enhance the understanding/technical knowledge among policy makers, transport planners and transport infrastructure managers in SIDS of climate change impacts on coastal transport infrastructure, services and operations and to strengthen their capacity to take effective adaptation response measures. Relevant activities are being carried out over the period 2014-2017.

h) **UNCTAD port-industry survey on climate variability and change** (designed in collaboration with global port industry associations and other experts). The survey aims to improve the understanding of weather and climate-related impacts on ports and to identify data availability and information needs, as well as determine current levels of resilience and preparedness among ports. Relevant information is urgently required for the purposes of risk-assessment and adaptation planning, including in particular for ports in developing regions. A substantive report is currently in preparation.

i) As part of its collaboration with intergovernmental and non-governmental organizations, UNCTAD also participates in the **PIANC Working Group on climate change adaptation for maritime and inland port and navigation infrastructure**, as well as the **UNEP/MAP Advisory Panel for the peer-review of the Regional Framework for Adaptation to Climate Change in coastal and marine areas in the Mediterranean**.

2. Ship-source pollution and environmental sustainability

Other relevant work with a focus on pollution and on environmental sustainability includes the following:

a) Liability and Compensation for Ship-Source Oil Pollution

In 2012, a substantive analytical report, entitled ***Liability and Compensation for Ship-Source Oil Pollution: An Overview of the International Legal Framework for Oil Pollution Damage from Tankers*** was published. The report was prepared with particular reference to the interests of coastal developing states, including SIDS, as their exposure to damage arising from ship-source oil pollution incidents poses a potentially significant economic threat. See http://unctad.org/en/PublicationsLibrary/dtltlb20114_en.pdf

b) Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS Convention)

UNCTAD consistently monitors relevant regulatory developments affecting transport and trade, including related implications for environmental sustainability. This includes for example the potential implications of the carriage of HNS substances. UNCTAD has participated in the 2010 Diplomatic Conference at which a Protocol to the 1996 HNS Convention was adopted. To raise awareness about the central features of the new legal instrument and to assist policymakers in assessing the merits of its ratification, an analytical overview of the 2010 HNS Protocol was provided in the Review of Maritime Transport 2010. The topic was further highlighted as part of

the discussions at the third session of UNCTAD's Multi-year Expert Meeting on Transport and Trade Facilitation, held in December 2010.

c) Energy costs and related implications for freight rates, climate change mitigation and environmental sustainability in transport

With some 80 per cent of global merchandise trade carried by sea and maritime transport being largely dependent on heavy fuel oil for propulsion, the implications of elevated oil prices on maritime transport costs are of considerable interest. However, few empirical studies on the subject have been carried out. A technical report by UNCTAD entitled "Oil Prices and Maritime Freight Rates: An Empirical Investigation" (UNCTAD/DTL/TLB/2009/2) was published in 2009, providing much-needed data to advance the understanding of oil prices as a determinant of maritime freight rates. See http://unctad.org/en/docs/dtltlb20092_en.pdf. The study has also served to assist in the work of an International Maritime Organization (IMO) Expert Group on Market Based Measures charged with assessing the feasibility and impact of different proposed market-based measures under consideration by the IMO's Marine Environment Protection Committee (see MEPC 61/INF.2).

3. Environmental sustainability in freight/maritime transport

Other relevant work pertaining to environmental sustainability in freight transport, in particular maritime transport, is also disseminated through the annual Review of Maritime Transport (RMT). The 2012 edition of the RMT included a ***special chapter on "Sustainable freight transport development and finance"*** which considered relevant developments and initiatives undertaken to promote sustainable freight transport along with a number of financial considerations that can determine the ability to implement a paradigm shift towards sustainable freight transport systems.

A number of consensus-building activities have also focused on sustainability in freight transport. These include, among others:

The third session of the UNCTAD Multi-Year Expert Meeting on Transport and Trade Facilitation held, in 2010, which focused ***on emerging challenges affecting maritime transportation***, in particular the growing momentum of sustainability imperatives.

The fourth session of the UNCTAD Multi-Year Expert Meeting, held in 2011, which focused on ***sustainable freight transport and finance***.

Another key event worth noting in this context was the panel discussion on ***"Paving the Way for Sustainable Freight Transport"*** held at UNCTAD XIII in Doha, Qatar, on 25 April 2012. Jointly organized with the Asian Development Bank (ADB), the event provided a high level platform for discussions and the sharing of public and private sector experiences on how best to enable a paradigm shift towards sustainable freight transport that are energy efficient, environmentally-friendly and climate resilient.

In terms of technical assistance and capacity building, relevant initiatives by UNCTAD include:

A technical assistance project on “***Building capacities of developing countries to shift towards sustainable freight transport***” through transport policy measures and creative financing mechanisms which is currently being implemented. Such transport policy measures and financing mechanisms should integrate and promote a balancing act between the three dimensions that underlie sustainable development namely, environmental, social and economic. Areas of focus include the development of new tools of finance such as private public partnerships (PPPs) models for sustainable transport development and new sources of finance such as climate finance instruments that could help developing countries face the challenge of investing in sustainable freight transport solutions.

Reinforcing cooperation with relevant agencies and institutions in this area, multilateral and development banks (such Asia Development Bank), as well as initiatives such as SLoCaT, Clean Air initiative to build on their respective areas of expertise and to create synergies.

Cooperating with academia in the field of maritime transport and sustainable shipping, including for example with the University of the South Pacific to cooperate in research and build technical assistance programmes that enable a transition to a low carbon sea transport and help improve shipping regional and inter-island connectivity