

ERF Policy Research Report

Liberalization of Transport Services in Egypt, Jordan and Morocco

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Forward

This report is part of the outcome of a pilot project on Promoting Trade in services in The MENA Region. Managed jointly by the Economic Research Forum (ERF) and the Organization for Economic Cooperation and Development (OECD), this pilot project emerged from an interest to promote regional cooperation in trade in services in the MENA region at a time when most of the world has been surging forward on a wave of accelerating exchanges while the MENA region has been falling behind.

The pilot project focused on a core group of four countries: Egypt, Jordan, Lebanon (for the banking sector only), and Morocco. In terms of sectors, the project covered on the following three sectors: telecommunication, transport and financial services. The project included qualitative research as well as a quantitative assessment through the computation of aggregate and modal Trade Restrictiveness Indices (TRIs).

One of the main contributions of this study is its collection of information not available from secondary sources, specifically the detailed questionnaires completed by government officials and country reports written by service specialists in the respective countries. The level of detail offered by this research strengthens the reliability of our TRI results and helps us to better understand the interactions between regulatory reforms, implementation and actual restrictiveness.

This project contributes a wealth of information and analysis on the current state of services trade in the MENA region. Specifically, the TRI and Tax Equivalent studies identify and analyze the levels of restriction in each sector and estimate their impact on economic performance.

The Economic Research Forum would like to thank the Project leader Raed Safadi. The ERF would also like to express appreciation for the efforts of Mohamed Ali Marouani, Novella Bottini and Laura Monro who have been responsible for the quantification of barriers to services trade and the development of Aggregate and Modal TRIs for the countries covered by sector. This team has also developed tax equivalents using alternative weighting methods and econometric specifications.

The Economic Research Forum would also like to acknowledge the considerable efforts of the researchers: Ahmed Farouk Ghoneim, Lahcen Achy, Marwan Kardoush and Jad Chaaban who conducted the country studies. They were responsible for the submission of sectoral questionnaires completed by government officials, statistical data, and the preparation of final country report. These sources served as the basis for the TRI computation.

Finally, The Economic Research Forum would like to express appreciation to the Sectoral specialist, Subidey Togan, who was responsible for drafting the final sectoral report on transport services.

The main conclusion of this project is that there have been significant regulatory reforms over the last decade in the selected service sectors of the four studied countries, but that a broad range of restrictions still remain. Banking, telecoms, and air services have been the subject of the most extensive reforms. The most significant change in these and other service sectors has been the lifting or softening of the constraints imposed on foreign equity participation. These regulatory reforms, however, have had varying degrees of impact on market structure depending on the countries and the sectors.

Preface

This report is about economic liberalization of maritime and road transportation services. It is made up of two papers emanating from work that began with the FEMISE project “Impact of Liberalization of Trade in Services: Banking, Telecommunications and Maritime Transport in Egypt, Morocco, Tunisia and Turkey” (FEM22-02). The study was later followed by an Economic Research Forum (ERF) project “Quantifying the Impact of Liberalization of Services and Network Industries within the Context of EU Integration in Turkey” (ERF Project No: ERF 03-TK-2002) as well as another entitled “Promoting Trade in Services in the MENA Region: A Pilot Project”.

The first paper in this report analyzes liberalization of the maritime freight transport sector in Egypt, Jordan and Morocco by studying the international regulatory regime and the regulatory regime in the EU. The paper discusses liberalization efforts in Egypt, Jordan and Morocco and presents the necessary international and EU rules and regulations to be implemented in these countries in order to improve the safety, security and efficiency of maritime transport operations as well as to develop efficient transport networks, without restricting market access and commercial presence.

The second paper presented in this report looks at road freight transport services in Egypt, Morocco and Jordan. Recognizing that in order to liberalize the sector countries have to remove the legal or administrative provisions restricting market access and commercial presence and that Egypt, Morocco and Jordan could aim for active convergence with the European Union (EU) road freight transport sector, the paper investigates the international and the EU rules and regulations in the road freight transportation sector, and discusses the liberalization efforts in these three MENA countries with an aim to highlight which international and EU rules and regulations could be implemented effectively to achieve greater liberalization of the sector.

Together these two papers reveal that considerable progress has been made with regards to liberalization efforts in maritime and road freight transportation services in Egypt, Jordan and Morocco since the 1990s. However much still remains to be done. When reforming both the maritime and road freight transport sectors the roles of government and the private sector in MENA countries need to be clearly specified, and public administrations should be encouraged to focus primarily on regulatory tasks and concede gradually all of the commercial activities to the private sector. Since maritime transportation is inherently international in character, and because hauliers move internationally there is an inherent need for harmonization and standardization of rules and regulations related to the international operations of these transportation sectors. This study outlines the importance of improved regulation and greater adherence to international regulations and conventions, and in particular to EU regulations, to strengthen the capacities of MENA maritime administrations, eliminate barriers to border crossing, and to increase private sector participation in upgrading and improving the infrastructure in the road transport sector, to mention but a few potential positive outcomes. This will provide simultaneous convergence of these regulations between MENA countries on the one hand and between them and the EU on the other.

Finally, I would like to express my thanks to Bernard Hoekman and Ismail Arslan of the World Bank for inviting me to get involved in the analysis of liberalization of services. I am also grateful to ERF for the financial support. This study's contents were shaped by the contributions and insights of the various collaborators I have been lucky to work with in recent years. It is my pleasant duty to acknowledge them here (in alphabetical order): Lahcen Achy, Sare Arıcanlı, Ahmed Ghoneim and Marwan Kardoosh.

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Liberalization of Maritime Freight Transport Services

High transport costs resulting from inefficiencies in transport services and poor transportation conditions are an obstacle to trade, and impede the realization of gains from trade liberalization. On the other hand efficient transportation services contribute to a country's ability to participate in global trade and enhance the economic development of the country. Empirical studies show that the elimination of inefficiencies in transport services and improvement of the transportation infrastructure can be achieved to a large extent by liberalizing the sector and implementing the required policy reforms.

In this paper we consider the liberalization of the maritime freight transport sector in Egypt, Jordan and Morocco. Since maritime transport is inherently international in character, and vessels on most voyages have to operate under the regulatory requirements of many jurisdictions, there is an inherent need for harmonization across countries. Harmonization is usually achieved by adopting and implementing the prevailing global rules and regulations and/or by adopting and implementing the rules and regulations of the major trading countries such as those of the European Union (EU). The adoption and implementation of global rules and regulations help the countries to improve the safety, security and efficiency of maritime transport operations as well as to develop efficient transport networks. On the other hand the adoption and implementation of EU rules and regulations are more challenging as these rules and regulations are in general much stricter than the global rules and regulations. Liberalization

further requires that any other legal or administrative provisions restricting market access and commercial presence in the country be removed.

The paper is structured as follows. After studying the international regulatory regime in section 1, we turn in section 2 to the study of the regulatory regime in the EU.¹ Next, we discuss the liberalization efforts in Egypt, Jordan and Morocco. Finally, section 4 concludes by highlighting which international and EU rules and regulations could be implemented effectively in Egypt, Morocco and Jordan.

1. International rules and regulations

Maritime transport services consist of three types of activities: (i) international maritime transport, that is, the actual transportation service performed once the commodity is on-board a ship in a country until the moment the vessel reaches the destination port of a different state; (ii) maritime auxiliary services, they are any activities related to cargo manipulation in ports and on ships; and (iii) port services, they are the activities related solely to ship management in ports.

Due to differences in commodity types as well as technological improvements in the shipping industry, international maritime freight transport has developed specialized branches. For instance, a clear distinction must be drawn between liner shipping and bulk shipping. Liner shipping including container ships is regular shipping with set schedules in different harbors published in advance. The capital-intensive character of liner

shipping, particularly container shipping, has led to a substantial degree of concentration. On the other hand, non-liner shipping carrying unpacked dry carriages or liquid cargoes is performed irregularly and is provided on a demand basis predominantly by specialized bulk carriers. Compared to liner shipping there is less concentration in bulk shipping, and there are a substantial number of small owners with fleets of one or two vessels. While non-liner tankers and bulk carriers dominate in terms of trade volume, liner vessels are far more significant in value terms since they tend to carry relatively high-value and low-volume cargoes.

A principle organizational feature of the liner sector is the ability of operators to enter into co-operative arrangements and agreements with the organization of "conferences". Closed conferences not only set freight rates, which apply to all members, but also allocate cargo quotas and restrict membership, while open conferences merely set the freight rates on a specific route. Conferences usually cause increases in shipping rates and establish market power for their members, thereby restricting the entry of newcomers and delaying improvement in the quality of shipping services. Furthermore, the prevalence of conferences has flowed directly from the exemptions they have enjoyed under the antitrust laws of the US, EU and many other countries. On the other hand the bulk traffic is organized as a spot market, and contracts are allocated on an extremely competitive basis. Hence, bulk shipping services and related freight rates respond to market developments and to supply and demand pressures.

Turning to the consideration of maritime auxiliary and port services, we note that seaports offer many different services. Seaport activities are divided into (i) infrastructure, (ii) services provided by ports which require the use of the infrastructure, and (iii) coordination between different activities performed at ports. Infrastructure consists of the infrastructure within ports (berths, quays, docks and storage yards) and the superstructure (sheds, fuel tanks, office buildings, cranes, van carriers, transtainers). Besides the provision of basic infrastructure for the transfer of goods between sea and land, ports provide numerous services, such as pilotage, towing, tying, cargo handling, freezing, administrative paperwork, permits, cleaning, refuse collection and repair

facilities to ships. Since there are many different activities being performed simultaneously within the limited space of port areas, there is a need for an agent to act as coordinator to ensure the proper use of common facilities, and to oversee safety of port facilities. In most seaports, these functions are performed by the port authority, which is usually public, although in some cases is a private organization.

There are mainly three organizational modes for seaports. Under the so-called 'landlord ports' system, the port authority owns and manages port infrastructure, and private firms provide the rest of port and maritime auxiliary services. Private firms are able to own superstructures and operate assets pertaining to infrastructure by concession or licensing. Under a 'tool ports' system, the port authority owns both infrastructure and superstructure, but private firms provide services by renting port assets through concessions or licenses. Finally, under the 'service ports' regime, the port authority owns assets and supplies services by directly hiring employees.

The shipping industry is controlled by a web of international regulations and practices, which following OECD (2001) can be classified under two broad headings: (i) regulations related to commercial operations and practices, and (ii) regulations related to rights and obligations of states and to safety and environmental regulations.

1.1 Regulations related to commercial operations and practices

Regulations related to commercial operations and practices include shipping-specific economic policy regulations, ship registration conditions, cargo reservation/cargo sharing provisions, cabotage laws, cargo liability regimes, national security measures, competition legislation, and seaport industry. These regulations reflect a more pragmatic rationale, aimed at giving effect to government policies, the achievement of economic or national objectives, and ensuring national participation or simply regulating commercial activities. While some regulations such as competition or anti-trust laws are intended to free up the market, the majority probably distort or interfere with the market to some degree.

In the case of liner shipping, the basic regulatory framework among OECD countries consists of "The Code of Liberalization of Current Invis-

ible Operations" (the Code) and "The Common Shipping Principles". The Code was formally adopted by the Council of the OECD in 1961. Under the Code, members are obliged to eliminate restrictions on current invisible transactions and transfers relating to maritime transport operations such as harbor services, repair, and chartering. According to Note 1 to Annex A of the Code, the provisions of maritime freights, including chartering, harbor expenses, and disbursements for fishing vessels, and all means of maritime transport including harbor services (bunkering and provisioning, maintenance, repairs, expenses for crews), and other items that have a direct or indirect bearing on international maritime transport, are intended to give residents of a member state the unrestricted opportunity to avail themselves of, and pay for, all services in connection with international maritime transport which are offered by residents of any other member state. As the shipping policy of the governments of the members is based on the principle of free circulation of shipping in international trade in free and fair competition, it follows that the freedom of transactions and transfers in connection with maritime transport should not be hampered by measures in exchange control; by legislative provisions in favor of the national flag; by arrangements made by governmental or semi-governmental organizations giving preferential treatment to national flag ships; by preferential shipping clauses in trade agreements; by the operation of import and export licensing systems so as to influence the flag of the carrying ship; or by discriminatory port regulations or taxation measures. The aim is to ensure that liberal and competitive commercial and shipping practices and procedures are followed in international trade, and normal commercial considerations alone will determine the method and flag of shipment. Thus, the Code generally obliges the OECD members to refrain from introducing and maintaining legislation or other measures in favor of national flag vessels within the OECD; and the OECD member States, by having subscribed to the Code, are generally obliged to eliminate barriers to free trade in maritime transport services.

"The Common Shipping Principles", adopted by the Council of OECD in 1987, lays down a common approach to international shipping policy and practices among OECD members based on the following principles: (i) the maintenance

of open trades and free competitive access to international shipping operations, (ii) coordinated response to external pressure, based on full consultations among member countries, (iii) the role and recognition of governmental involvement by member countries to preserve free competitive access and the provision of choice to the shippers, and (iv) a common approach to application of competition policy to the liner shipping sector. These principles were reviewed in the late 1990s and a modified version extending and adding to the 13 principles was formally adopted by the OECD Council in September 2000.² Principle 14 deals with maritime auxiliary services and provides that access to and use of these services shall be non-discriminatory. Principle 15 acknowledges the importance of international multimodal transport services involving a sea leg, and stipulates non-discriminatory treatment in access to and use of those services, as well as a free and fair competitive environment with regard to their provision. Finally, Principle 16 deals with measures related to safety, the environment and the prevention of substandard shipping.

The OECD is also involved in liberalization of maritime services on a regional basis. OECD members signed an "understanding on common shipping policy principles" in 1993 with the Republics of the Former Soviet Union and Central and Eastern European Countries, largely modeled on the "common shipping policy principles" discussed above. OECD members have begun a dialogue with the Dynamic Non Member Economies ("DNME", that is Argentina, Brazil, Chile, Hong Kong China, the Republic of Korea, Malaysia, Singapore, Chinese Taipei). This dialogue is aimed at the promotion of free access to international maritime trade, respect of the principle of free and fair competition on a commercial basis, the promotion of maritime safety, the protection of the marine environment, the need to prevent the operation of substandard vessels and to improve the training of sea-going personnel and the promotion of modern business technologies such as electronic data interchange.

An important category of barriers applied to international maritime transport has been the various cargo reservation schemes. These require that part of the cargo carried in trade with other states must be transported only by ships carrying the national-flag or interpreted as national by

other criteria. These policies have typically been justified by either security or economic concerns. Cargo reservation can be imposed either unilaterally, if ships flying national flags are given the exclusive right to transport a specified share of the cargo passing through the country's ports, through cargo sharing with trade partner countries on the basis of bilateral or multilateral agreements; or through a specific form of cargo reservation scheme. In the latter case the governments of two or more countries may decide to distribute cargo arising from their common trade, so that each national-flag fleet is granted a significant share. Ships belonging to other countries are allowed access to a small share, or, in some cases, no share at all.

It was mentioned above that a principle feature of the liner sector is the ability of operators to enter into cooperative arrangements and agreements. To counteract the anti-competitive actions of liner conferences at the multilateral level, the United Nations Convention on a Code of Conduct for Liner Conferences was adopted in 1974. The so-called UN Liner Code, which entered into force in 1983 by its ratification by more than 70 countries, applies only to liner conferences in trades between contracting states, and embraces a self-regulatory philosophy for "closed" conference shipping operations. The Code establishes a framework within which conferences should operate in trades between contracting states, and grants certain rights to those conferences, but at the same time it imposes certain obligations upon them, thereby protecting shipper interests. The Liner Code is best known for its cargo sharing formula of 40:40:20, which suggests that cargo between member countries be divided, with 40 percent of cargo being carried by vessels of the country of origin, 40 percent by vessels of the country of destination and 20 percent by cross-trading vessels. It should be noted that the 20 percent figure, and therefore the "40:40" is recommended only. However, two important qualifications need to be made about this provision. First, the provisions concern conference trades only, and not the totality of the liner trade. Second, it is for conferences themselves, not governments, to determine the allocation of the cargo shares between conference members. Governments have no part to play in that allocation. Countries opposing the Convention do so for a variety of reasons. It is stated that

cargo sharing leads to inefficiencies, reduced competition, reduction of shipper choice, and leads ultimately to higher freight rates. It is contended that shipper protection could be provided more efficiently through national legislation, and that ratification of this Convention would be inconsistent with OECD obligations and would run counter to existing competition legislation. Despite having been in force for more than 15 years, the Convention is of limited economic relevance, as the Convention has not been complied with by a large number of countries

The primary legal authority governing the activities of merchant ships is the state in which the ship is registered, the flag state. It is responsible for regulating all aspects of the commercial and operational performance of the ship. By registering in a particular country, the ship and its owner become subject to the laws of this flag state. That is, registration makes the ship an extension of national territory while it is at sea. Therefore, for ship owners the choice of register is a major issue which may have important consequences in terms of the (a) tax, applicable company law and financial law, (b) compliance with maritime safety conventions, (c) crewing and terms of employment, and (d) naval protection. Beside national registers, however, there are also open, or international, registers. International registers aim to offer terms that are favorable to an international ship owner.³ Furthermore, in some cases it is also possible for a ship owner to register a ship under two different flags. All of these alternatives to register a ship in one, or two, national registers or simply in an open register force ship owners to carefully weigh the relative advantages and disadvantages of each of the possibilities. In general, the restrictions that apply on ship registration set maximum allowable stakes in a ship permitted for foreign nationals/corporate bodies, or minimum levels that must be owned by domestic interest. Many also require that the person or organization owning that ship should have its principle place of business located within their country, or that certain senior management posts within the owning company be filled by nationals.

In an effort to reserve the largest possible share of the country's seaborne trade, foreign firms are sometimes restricted from entering, or operating in, the domestic market. Ships engaged in cabotage, referring to transportation of commodities

between ports of the same country, have been required to be manned by the country's own citizens, either wholly or majority owned by domestic nationals, built at domestic shipyards, or registered under the national flag. In return, owners operating ships on cabotage routes have not had to compete with foreign flag vessels.

Finally, it should be noted that relevant negotiations at the WTO in Geneva with respect to the opening of maritime transport service markets are as emphasized by the WTO Secretariat (2001) of significant relevance to shipping's fortunes. These negotiations proved to be very difficult because of the complex and diverse nature of the sector. The first issue negotiators had to deal with during the Uruguay Round was to decide which sub-sectors and activities could be covered in the schedule for maritime transport services. It was decided that negotiations should cover the three pillars: (i) international maritime transport, (ii) maritime auxiliary services, and (iii) access to and use of port services. The first pillar, international maritime transport, was recognized as being relatively liberal, although there were still some important aspects that needed to be addressed, such as national cargo reservation and unilateral retaliatory measures. During the Uruguay Round, considerable attention was given to the second pillar, maritime auxiliary services including cargo handling and storage services, and providing services to ships while in their berths. It was recognized that this was a sector with considerable scope for liberalization. The third pillar, access to and use of port services, covered all other services provided to ships while accessing and berthing in ports, for example towage.

During the Uruguay Round of multilateral trade negotiations there was considerable discussion as to whether multimodal transport should be added to the negotiations as a "fourth pillar". During negotiations in the specialized Negotiations Group on Maritime Transport Services (NGMTS), it was stressed that door-to-door services would play an increasing role in international shipping. The aim was to ensure that a multimodal transport operator should be able to rent or lease lorries, railway trucks, barges and related equipment for inland cargo transport, and operators should have access to, and use of, these facilities on reasonable and non-discriminatory terms and conditions. Hence it was argued that

multimodal transport should be considered a fourth pillar to the schedule. Other countries have pointed out, however, that multimodal transport involves regulatory regimes (such as road and rail transport) that go beyond the maritime transport sector, and as such it should not be incorporated into the schedules.

Negotiations on maritime transport services at the WTO aimed to improve commitments in international shipping, auxiliary services and access to and use of port facilities through elimination of restrictions within a fixed time scale. Although negotiations were scheduled to end in 1996, little progress has been achieved until now. Participants failed to agree on a package of commitments. Lately, the talks have resumed. As of 2007, some commitments exist in certain countries' schedules covering the three main areas of the maritime services.⁴

In the case of seaports, public budgets have been used until recently to finance the construction of most large infrastructure. Generally, public port authorities financed the costs of maintenance and repairs for infrastructure, and the port authority itself was financed with a combination of public funds and tariffs and fees exacted from private firms operating in the port. With the increase in private participation in the operation of seaports, the landlord port became the most desirable category, from an efficiency standpoint, for the operation of seaports, since it allows private enterprises and market forces to play a role in the supply of services while preventing monopolization of essential assets by private firms. Trujillo and Nombela (1999) and Clark et al. (2001) maintain that the type of economic regulation changes with the size of seaports. For small and large local ports that do not require more than a general cargo terminal it is possible to consider the introduction of some form of competition among those firms that are willing to operate in the port. Once the single operator is chosen, it is necessary to have some regulation over the charges that this firm imposes on port users, since otherwise it would enjoy a monopoly position. The regulatory authority could mainly use price-cap systems, or a rate-of-return type of regulation. On the other hand, in cases of larger seaports, one could introduce competition within the port. If a large port is divided into several independent terminals, it is possible to induce competition between operators

for the traffic that calls at the port. In such a case, regulation of prices is less of an issue. However, some form of supervision would be needed, since the parties could collude due their small numbers.⁵

1.2. Regulations related to safety and environment

The regulations on safety and environmental protection are generally based on U.N. conventions such as the UN Convention of the Law of the Sea of 1982 (UNCLOS). According to this convention, the flag state has primary legal responsibility for the ship in terms of regulating safety and environment, while the coastal state also has limited legal rights over any ship sailing in its waters. The limits of the rights of the coastal states to enforce their own laws are defined by dividing the sea into four "zones", each of which is treated differently from a legal point of view: (a) the territorial sea, which is the strip of water closest to the shore, (b) the contiguous zone, which is a strip of water to the seaward of the territorial sea, (c) the exclusive economic zone, which is a belt of sea extending up to 200 miles from the legally defined shoreline, and (d) the high sea, which nobody owns. On the high seas all vessels enjoy, in principle, freedom of navigation under the exclusive jurisdiction of their flag state (UNCLOS Articles 87, 89 and 92). While the high seas are free from sovereignty claims by individual nations, the intensity of state control over waters increases landwards. In the exclusive economic zone, the coastal state enjoys considerable sovereign exploration, exploitation, conservation and management rights, as stipulated in UNCLOS Articles 56 and 60. Despite the existence of sovereign exploitation and related jurisdictional rights of the coastal state in the exclusive economic zone, the freedom of navigation under Article 58 applies in this zone, albeit with a number of explicit and implicit restrictions. Article 3 stipulates that coastal states have the right to enforce international laws and their own laws on safe navigation and pollution in a territorial area, which has a maximum width of 12 nautical miles. The coastal states have limited powers to enforce customs, fiscal and immigration laws in the contiguous zone, and in the exclusive economic zone they have the power to enforce only the oil pollution regulations.

Since an international maritime transport service involves the movement of goods by vessel

from the port of one country to the port of another country, access to ports is an indispensable element of any international shipping service. Access includes the loading and unloading of cargo, the embarking and disembarking of passengers, the taking on board of fuel and supplies and even the possibility of conducting trade. As emphasized by Parameswaran (2004), it is a basic condition for the smooth operation of the international maritime transport industry that merchant vessels from all nations are permitted unhampered access to and efficient use of ports. The 1923 Geneva Ports Convention and the Statute annexed thereto secures freedom of communications by guaranteeing in the maritime ports, under the sovereignty and authority of the parties and for purposes of international trade, equality of treatment among the ships of all Contracting States, their cargoes and passengers.

The 'Paris Memorandum of Understanding (MOU) on Port State Control', adopted in 1982, aims at eliminating the operation of substandard ships through a harmonized system of port state control. Ships are selected for inspection according to the Paris MOU targeting system. Only internationally accepted conventions are enforced during port state control inspections. When serious deficiencies are found, the ship is detained. The captain is instructed to rectify the deficiencies before departure. On the other hand, flag states, which are not a party to conventions, receive no more favorable treatment. The results of each inspection are recorded in the central database, which is located in Saint Malo, France. Their periodically updated black-grey-white lists, which show the degree of riskiness of individual ships from different flag states, became one of the major indicators of safeness and environment-friendliness of national shipping fleets within the last decade.

International Maritime Organization (IMO) has adopted a comprehensive framework of detailed technical regulations, in the form of international conventions, which govern the safety of ships and protection of the marine environment. National governments, which form the membership of IMO, are required to implement and enforce these international rules, and ensure that the ships, which are registered under their national flags comply. The majority of IMO conventions fall into three main categories. The first group is concerned with maritime safety, the second

with the prevention of marine pollution, and the third with liability and compensation, especially in relation to damage caused by pollution. Outside these major groupings are a number of other conventions dealing with facilitation, tonnage measurement, unlawful acts against shipping and salvage.

The level of ratification and enforcement of IMO Conventions is generally very high in comparison with international rules adopted for shore-based industries. The principal responsibility for enforcing IMO regulations concerning ship safety and environmental protection rests with the flag states. Flag states enforce IMO requirements through inspections of ships conducted by a network of international surveyors. Much of this work is delegated to classification societies. However, flag state enforcement is supplemented by what is known as Port State Control, whereby officials in any country that a ship may visit can inspect foreign flag ships to ensure that they comply with international requirements.

Among the IMO conventions, the 'International Convention for the Safety of Life at Sea' (SOLAS), which entered into force in 1980, covers a wide range of measures to improve the safety of shipping. The provisions of the convention cover the design and stability of passenger and cargo ships, machinery and electrical installations, life protection, life-saving appliances, navigational safety, and the carriage of dangerous goods. In 1990, the 'International Safety Management Code' was incorporated into SOLAS Regulations. The Code requires shipping companies to develop, implement and maintain a Safety Management System that includes company safety, environmental policy and written procedures to ensure safe operation of ships and protection of the environment. The Code has been effectively enforced, as violation of the Code could result in detention of the vessel by port authorities, denial of permission for the ship to enter its intended port of call, as well as fines.

The IMO has recently adopted comprehensive maritime security measures at the 'Conference of Contracting Governments to the International Convention for the Safety of Life at Sea'. The Conference, held at the end of 2002, adopted a number of amendments to the 1974 SOLAS, the most far-reaching of which enshrines the new 'International Ship and Port Facility Security Code' (ISPS Code). The Code contains detailed security-

related requirements for Governments, port authorities and shipping companies in a mandatory section, together with a series of guidelines about how to meet these requirements in a second, non-mandatory section. The Conference also adopted a series of resolutions designed to add weight to the amendments, encourage the application of the measures to ships and port facilities not covered by the Code and to pave the way for future work on the subject.

The 'International Convention for the Prevention of Pollution from Ships' (MARPOL), adopted in 1973, deals with all forms of marine pollution except the disposal of land generated waste. It covers such matters as the definition of violation, special rules on the inspection of ships, enforcement, and reports on incidents involving harmful substances. It should be noted that most oil tankers are currently of "single hull" design. In such vessels, oil in the cargo tanks is separated from the seawater only by a bottom and a side plate. Should this plate be damaged as a result of collision or stranding, the contents of the cargo tanks risk spilling into the sea and causing serious pollution. An effective way of avoiding this risk is to surround the cargo tanks with a second internal plate at a sufficient distance from the external plate. This design, known as a "double hull", protects cargo tanks against damage and thus reduces the risk of pollution. Following the Exxon Valdez accident in 1989, the United States unilaterally imposed double hull requirements on both new and existing oil tankers, set according to vessel age limits and according to deadlines for the phasing out of single-hull oil tankers. Faced with unilateral action on the part of the Americans to impose double hull requirements on both new and existing oil tankers during the 1990s, the IMO established double hull standards in 1992 through the International Convention for the Prevention of Pollution from Ships (MARPOL). This Convention requires all oil tankers with a deadweight tonnage (DWT) of 600 ton or more, delivered as from July 1996, to be constructed with a double hull or an equivalent design. Therefore, no single hull tankers of this size have been constructed since this date. The International Convention requires that single hull tankers with a deadweight tonnage of 20,000 tons or more, and delivered before July 6, 1996, comply with the double-hull standards at the latest by the time they are 25 or 30 years old,

depending on whether or not they have segregated ballast tanks.

It has long been recognized that limitations on the draught to which a ship may be loaded make a significant contribution to her safety. These limits are set in the form of freeboards. In the 1966 'International Convention on Load Lines', adopted by IMO in 1996, provisions are made determining the freeboard of tankers by subdivision and damage stability calculations. The regulations take into account the potential hazards present in different zones and different seasons. The technical annex contains several additional safety measures concerning doors, freeing ports, hatchways and other items. The main purpose of these measures is to ensure the watertight integrity of ships' hulls below the freeboard deck. All assigned load lines must be marked mid-ship on each side of the ship, together with the deck line.

The 1978 'International Convention on Standards of Training, Certification and Watchkeeping for Seafarers' was the first to establish basic requirements on training, certification and watchkeeping for seafarers on an international level. The Convention prescribes minimum standards relating to training, certification and watchkeeping for seafarers which countries are obliged to meet or exceed.

Because of the unique character of seafaring, most maritime countries have special laws and regulations on seafarers. On the other hand, the ILO has adopted over 60 maritime labor standards during the past 75 years. The standards adopted specifically on seafarers cover a multitude of questions including minimum age of entry to employment, recruitment and replacement, medical examination, articles of agreement, repatriation, holidays with pay, social security, hours of work and rest periods, crew accommodation, identity documents, occupational safety and health, welfare at sea and in ports, continuity of employment, vocational training and certificates of competency. Among the ILO conventions, one of the most important international labor agreements is ILO Convention N. 147. According to this Convention, board ships must be similar to those required by ILO standards regarding safety and health, social security, and living and working conditions of seafarers. Additionally, ILO Convention 180, adopted in 1996, aims to promote the health and safety of workers, improve maritime safety and protect the

marine environment. The Convention establishes limits on seafarers' hours of work or rest on board ship, requiring a maximum of 14 hours work per day and 72 hours per week for seafarers on board ship, with minimum rest periods of 10 hours daily and 77 hours weekly.

2. EU rules and regulations

EU maritime transport legislation aims to apply the EC Treaty's principle of free movement of services to the EU's sea transport industry and its compliance with competition rules. Thus, it aims to improve the functioning of the internal market in maritime services by promoting safe, efficient, environmentally sound and user-friendly maritime transport services. The maritime transport acquis relates to market liberalization, technical and safety standards, security, social standards, and state aid control in the context of the internal maritime transport market.

The main international rules that regulate commercial operations and practices, and safety at sea have been transposed into the Community law, ensuring that they have legal force and uniform application throughout the Member States.⁶ In this context we note that almost all EU-15 Member States subscribe to OECD's "Code of Liberalization of Current Invisible Operations" and "Common Shipping Principles".⁷ Furthermore, the EU countries have ratified the UN Convention on the Law of the Sea (UNCLOS), and they have joined the 1973 MARPOL Convention, amended in 1978, the 1974 SOLAS Convention, and the LOAD LINES conventions. The EU-15 countries have also subscribed to the "Paris Memorandum of Understanding on Port State Control", "International Convention on Standards of Training, Certification and Watchkeeping for Seafarers", and the ILO conventions including Convention N.147 and Convention 180. Finally, it should be emphasized that most of the EU-15 countries are party to the 1923 Geneva Ports Convention and the Statue annexed thereto. Regarding the United Nations Convention on a Code of Conduct for Liner Conferences we note that the Community is not a party to the Code, since the Code by providing for the allotment of freight on the basis of national shares was held to be contrary to the Treaty of Rome. In 1979 Regulation (EEC) No 954/79 had been adopted, requiring Member States to enter

a reservation while ratifying the Convention, according to which Member States had to open the national share granted under the Code to all ship owners established in the Community. On 25 September 2006 the Council adopted the Regulation (EC) No 1419/2006 repealing Regulation (EEC) No 4056/86 laying down detailed rules for the application of Articles 85 and 86 of the EC Treaty to maritime transport. With the adoption of this regulation, shipping conferences will become unlawful on trades to/from ports of the Community at the end of a transitional period expiring on 18 October 2008. This implies that at that time Member States which are party to the Code will no longer be able to fulfil their obligations thereof, namely the one to ensure that their national shipping lines have the right to be members of conferences serving their foreign trade. Those Member States will therefore have to withdraw from the Code of Conduct, and Member States that are not party to the Code will no longer be able to ratify it or to accede to it.

When considering the EU rules and regulations on maritime transport services we note that real progress toward the realization of a common maritime transport services market free of restrictions was achieved in the EU during 1980s and 1990s. The 1986 maritime package consisting of a bundle of four EC Regulations enabled the freedom to provide services to the maritime transport sector. These four regulations are the basic regulations related to commercial operations and practices in the EU. Council Regulation (EEC) No 4055/86 gives Member State nationals (and non-Community shipping companies using ships registered in a Member State and controlled by Member State nationals) the right to carry passengers or goods by sea between any port of a Member State and any port or off-shore installation of another Member State or of a non-Community country. On the other hand Regulation 4056/86, which has been repealed by Regulation (EC) No 1419/2006, implements the EC competition rules within certain fields of maritime transport. Council Regulation (EEC) No 4057/86, which entered into force on June 1, 1987, enables the EC to apply compensatory duties in order to protect ship owners in Member States from unfair pricing practices on the part of non-Community ship owners. Concerned with anti-dumping in maritime transport, 4057/86 was adopted in order to respond to unfair

pricing practices by non-Member State ship owners engaged in international cargo liner shipping. Finally, we note that in cases where a non-Member State seeks to impose cargo sharing arrangements on Member States in liquid or dry bulk trades, the Council shall take the appropriate action, in accordance with Regulation (EEC) N° 4058/86, to safeguard free access to cargoes in ocean trades for shipping companies of Member States or by ships registered in a Member State.

It has been a common practice in the majority of nations around the world to reserve at least a major part of the transport of goods and passengers between national ports to domestic fleets. In the EC, the southern Member States have been reluctant to open up this sector to service suppliers from other EC Member States. On the other hand northern Member States have insisted on easing national cabotage laws. A milestone in the process of liberalizing cabotage trades within EC Member States has been achieved through adoption of the Council Regulation (EEC) No 3577/92. It implements the freedom to provide services to the national maritime transport of EU Member states, and provides for the progressive liberalization of cabotage restrictions. The Regulation liberalizes maritime cabotage in the countries where that economic sector was reserved for nationals. Accordingly, freedom to operate between two ports in the same Member State is offered to all Community shipowners, not only to national shipowners.

Regarding ship registration conditions, we note that the conditions vary among the EU countries. In Germany, registration in the German Ship Register is reserved to vessels that are owned by nationals of an EU Member State or by companies having their place of business in an EU Member State, and the registration is a precondition for the right to fly the German flag. In Sweden, however, a ship is entitled to fly the Swedish flag if it is more than half-owned by a Swedish national or a Swedish legal entity. The Swedish national maritime administration may grant the right to fly the Swedish flag to other ships whose operation is essentially under Swedish control, and whose owner has his permanent residence in Sweden.

It is noteworthy that the Commission has taken steps regarding port policy as well. In 2001, the Commission adopted the Communication "Reinforcing Quality Service in Sea Ports: A Key

for European Transport". The cornerstone of this Communication was a proposal for a directive concerning market access to port services the principles and objectives of which were confirmed by the 'White Paper on Transport'. After almost three years of inter-institutional legislative process, at the end of the Conciliation procedure, the European Parliament rejected the compromise text. The Commission, believing it necessary in the interests of operators, authorities and consumers to introduce specific and clear rules on access to the port services market, decided to bring forward a new proposal. The objective of the proposal is to ensure freedom to provide port services or carry out "self-handling" at sea ports for EU providers of port services, subject to certain objectives and relevant constraints such as space or capacity available at the ports; the development policy of the port; maritime traffic security or safety requirements at certain ports; protection of the environment; and "public service requirements".⁸

Turning to EU regulations on safety at sea we note that the EU has authorized twelve classification societies to carry out inspection, survey and certification of ships via Commission Decision 2002/221/EC. On the other hand Council Directive 95/21/EC, passed in June 1995, aims to improve maritime safety in Community waters by banning substandard shipping. The Directive applies to all merchant shipping and crews using a seaport of a Member State, an offshore terminal or anchored off such a port or installation. Member States are obliged to establish and maintain national maritime administrations for the inspection of ships in their ports and in the waters under their jurisdiction. Each Member State is obliged to inspect at least 25 percent of the ships flying other countries' flags that enter its ports. Vessels that have already been inspected within the previous six months are exempt. Additionally, enhanced controls must be carried out on all oil tankers scheduled for phasing out within five years, all bulk carriers older than 12 years of age, passenger ships, gas and chemical tankers over ten years old (counting from the date of construction represented on the ship's safety certificates). An obligation is placed on the Member States to ensure that any deficiencies revealed in the course of the inspection are rectified, and conditions warranting detention of the ship are laid down.

On the other hand Council Directive 93/75,

signed on September 13, 1993, establishes minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods. Carriers must declare the loading of such goods in accordance with international regulations. This directive defines the information that the operator must supply to the relevant authorities of the Member States for which the vessel is bound or which it is leaving, and the action to be taken in the event of an accident. That Directive was repealed, however, by Directive 2002/59/EC, which establishes a Community vessel traffic monitoring and information system. The main objective of the new system is to enhance the safety and efficiency of maritime traffic, to improve the response of authorities to incidents, accidents or potentially dangerous situations at sea, including search and rescue operations, and to contribute to a better prevention and detection of pollution by ships. Applicable to ships of 300 gross tonnage and upward, the directive lists the information to be provided by operators, agents or masters of ship seeking to use Community ports. It also requires that all ships calling at a Member state port be fitted, in accordance with a set timetable, with an AIS (identification of ships system) meeting IMO standards, and a voyage data recorder system. In addition, the directive sets out rules on the notification of dangerous or polluting goods onboard ships, on the monitoring of hazardous ships and intervention in the event of incidents and accidents at sea. When conducting any marine casualty or incident investigation, Member states are required to comply with the provisions of the relevant IMO code.

Regarding the regulations on environment we note that Council Regulation (EC) No 2978/94 of November 1994 governs the implementation of IMO Resolution A.747 (18) on the application of tonnage measurement of ballast spaces in segregated ballast oil tankers. The regulation aims to encourage the use of oil tankers fitted with segregated ballast capacity by requiring the Community's port and pilotage authorities either to apply the recommendations of Resolution A.747(18) or to permit a system of rebates on dues, such as that provided for therein. Resolution A.747(18) invites governments to advise port authorities to apply, to all tankers with segregated ballast tanks, the recommendation of deducting the segregated ballast tank tonnage from the gross tonnage wher-

ever their dues are based on the latter, and to advise pilotage authorities to act in accordance with the same recommendation. Recent environmental catastrophes caused by oil spills in European waters have put the oil tanker sector under intense scrutiny. After the November, 2002 sinking of the single hull oil tanker *Prestige*, the EU adopted straightforward measures such as banning from entry into EU ports, and offshore terminals under the jurisdiction of the EU Member States, single hull tankers carrying heavy grades of oil, and accelerating the phasing out of single hull oil tankers calling at EU ports altogether. Regulation (EC) No 417/2002 aims to reduce the risk of accidental oil pollution in European waters by speeding up the phasing-in of double hulls. The Regulation applies to all tankers of 5,000 tonnes deadweight or above entering or leaving a port or offshore terminal or anchoring in an area under the jurisdiction of a Member State, irrespective of their flag.

Directive 2000/59/EC on port reception facilities for ship-generated waste and cargo residues seeks to reduce the discharges from ships using ports in the Community of ship-generated waste and cargo residues into the sea especially illegal discharges. By improving the availability and use of port reception facilities for ship-generated waste and cargo residues, the Community hopes to enhance the protection of the marine environment. Member states must ensure the availability of port reception facilities adequate to meet the needs of ships using the port. Costs will be born by ships, and the system must provide no incentive for ships to discharge at sea. On the other hand, the purpose of Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements is to incorporate international standards for ship-source pollution into Community law and to ensure that persons responsible for discharges are subject to adequate penalties, in order to improve maritime safety and to enhance protection of the marine environment from pollution by ships.

Regulation (EC) 782/2003 prohibits organotin compounds on ships flying the flag, or operating under the authority, of a Member State and on ships sailing to or from Member State ports. The purpose of the regulation is to reduce or eliminate the adverse effects of organotin compounds on the marine environment and human health in general.

Finally, we note that Council Directive 1999/63/EC of June, 1999, concerning the agreement on the organization of working time of seafarers, was largely inspired by ILO Convention 180. The current directive is intended to put into effect the European Agreement, concluded in 1998 between the trade-union and employers' organizations of the maritime transport sector, concerning the working time of seafarers. The agreement, comprised in an annex to the directive, applies to seafarers on board every seagoing ship, whether publicly or privately owned, which is registered in the territory of a Member State and is ordinarily engaged in commercial maritime operations. Hours of work and rest are laid down as follows: (i) the maximum hours of work must not exceed 14 hours in any 24-hour period or 72 hours in any seven-day period, and the minimum hours of rest must not be less than 10 hours in any 24-hour period or 77 hours in any seven-day period. Hours of rest may not be divided into more than two periods, one of which must be at least six hours in length, and the interval between consecutive periods of rest must not exceed 14 hours. Musters, fire-fighting and lifeboat drills, and drills prescribed by national laws and international instruments must be conducted in a manner that minimizes the disturbance of rest periods. Provision is to be made for a compensatory rest period if a seafarer's normal period of rest is disturbed by call-outs. Seafarers are entitled to be paid annual leave of at least four weeks, or a proportion thereof for periods of employment of less than one year. The minimum period of paid leave may not be replaced by an allowance in lieu. Seafarers under the age of 18 are not permitted to work at night. In addition, no person under 16 years of age is allowed to work on a ship. All seafarers must possess a certificate attesting to their fitness for the work for which they are employed, and have regular health assessments.

Lately, the EU, in order to guarantee safe, secure and clean maritime goods transport, has set up, under Regulation (EC) N° 1406/2002 of June 2002, the 'European Maritime Safety Agency'. Its main objective is to provide technical and scientific assistance to the European Commission and Member States with the proper development and implementation of EU legislation on maritime safety, pollution by ships and security on board ships.

3. Liberalization efforts in Egypt, Jordan and Morocco

In Egypt and Morocco the vast majority of trade is seaborne, especially in Morocco where this accounts for 98 percent of the total. The share amounts to 85-90 percent in Egypt. It is only about 35 percent in Jordan.⁹ Hence, the elimination of inefficiencies in transport services and improvement of the transportation infrastructure in those countries are of prime importance for enhancing their economic development.

3.1. Developments in maritime transportation

Table 1 shows the data on freight carried by sea for Egypt, Jordan and Morocco over the period 2003-2006. The table shows that the average annual growth rate of freight carried by sea in Egypt is 3.2 percent, in Morocco 6.2 percent and in Jordan 0.1 percent.

Table 1.1
Freight carried by sea (1000t)

	2003	2004	2005	2006
Egypt	57,449	33,935	42,069	59,550
Morocco	56,140	61,503	67,515	66,823
Jordan	17,847	21,036	20,430	18,078

Source: Euro-Mediterranean Statistics 2007, Eurostat

According to UNCTAD data (2007), Egyptian merchant fleet in 2006 accounted for a total of 1142 thousand gross registered tons (GRT) divided into 203 thousand GRT for oil tankers, 448 thousand GRT for bulk carriers, 286 thousand GRT for general cargo, 48 thousand GRT for container ships, and 157 thousand GRT for others. Following another classification which is the deadweight tons (DWT), Egyptian merchant fleet in 2006 accounted for a total of 1646 thousand DWT divided into 345 thousand DWT for oil tankers, 778 thousand DWT for bulk carriers, 332 thousand DWT for general cargo, 58 thousand DWT for container ships, and 133 thousand DWT for others.¹⁰ On the other hand, Moroccan merchant fleet accounted for a total of 527 thousand GRT divided into 78 thousand GRT for oil tankers, 55 thousand GRT for general cargo, 86 thousand GRT for container

ships, and 308 thousand GRT for others. In terms of DWT, Moroccan merchant fleet accounted for a total of 365 thousand DWT divided into 113 thousand DWT for oil tankers, 41 thousand DWT for general cargo, 90 thousand DWT for container ships, and 121 thousand DWT for others. Finally, the Jordanian merchant fleet accounted for a total of 386 thousand GRT divided into 139 thousand GRT for oil tankers, 32 thousand GRT for bulk carriers, 113 thousand GRT for general cargo, 26 thousand GRT for container ships, and 76 thousand GRT for others. In terms of DWT, Jordanian merchant fleet accounted for a total of 543 thousand DWT divided into 293 thousand DWT for oil tankers, 53 thousand DWT for bulk carriers, 144 thousand DWT for general cargo, 34 thousand DWT for container ships, and 19 thousand DWT for others. Major characteristics of the merchant fleets in the three countries are their low capacity as a result of their small number and old age of the vessels. In fact 76 percent of the Egyptian fleet ships are more than 15 years old, and the average ages of Jordanian and Moroccan fleets are 23.5 and 22 years respectively.

Egypt has a number of major ports, most of them state-owned, with a total annual cargo handling capacity of 73 million tons. The five most important international maritime ports with respect to the amount of traffic are Alexandria, Dekhila, Damietta, Port Said, and El Sokhna. They are all state owned landlord ports except Ain Sokhna which is a privately owned landlord port. Regarding the Suez Canal we note that the canal accounting for nearly 10 percent of Egypt's total external current account is operated by the state-owned Suez Canal Authority, which also sets the fees for passing the canal. On the other hand Morocco has some 26 ports among which 11 are devoted to international trade operations. The five most important maritime ports are the ports of Casablanca, Jorf Lasfar, Mohamedia, Laayoune and Safi. The port of Casablanca stands as the major port in Morocco with almost 36.4 percent of total traffic in 2005, followed by the ports of Jorf Lasfar and Mohamedia with 19.5 and 15.4 percent, respectively of total traffic. The market share of Casablanca stands at 48 percent for the dry products, and it is even higher as far as containerized trade is concerned. More than 86 percent of containers are loaded or unloaded in the port of Casablanca. Ports of Mohamedia and Jorf Lasfar are mainly

allocated to liquid bulk shipping. On the other hand, ports of Laayoune and Safi are almost entirely devoted to loading of phosphates exports. Finally, more than 80 percent of roll-on roll-off vessels operate through the port of Tangier. These ports are all state owned tool ports except the port of Casablanca, which is a publicly owned landlord port. Finally, concerning Jordan we note that its only access by sea is through Aqaba, situated at the top of the Gulf of Aqaba, where it has a mere 13 kilometers of shoreline along the Red Sea. The main port in Aqaba has 12 berths, the container port has nine and the industrial port has four.

3.2. The role of the state and the regulator

Until the 1980's the maritime sector in Egypt was fully owned and controlled by the public sector. Thereafter the Government of Egypt changed its policy towards maritime transport by placing more emphasis on market forces. On the other hand, in Morocco the main piece of the legal framework, to which maritime transport activity is subject, was introduced during the French colonial rule in 1919, and is called 'Maritime Code'. Implementation decrees of the 'Maritime Code' have been issued in 1962. In 1999 the Government launched the reform program of transport services, with the principal aims of updating the legislative and institutional framework, opening up the management of the infrastructure to competition and private operators, and developing competitive transport markets. In Jordan the Ministry of Transport in recent years has also pursued a policy of gradual liberalization of the sector. It is trying to retain the role of regulation and monitoring, leaving service provision and operation to the private sector.

The administrative authority in charge of the maritime shipping in Egypt is the department of 'Maritime Transport Sector' within the Ministry of Transport established in 1989. The department, responsible for implementing the maritime policy, ensures that carriers comply with the legal framework in place and regulates issues related to maritime security, prevention of pollution, and technical control of vessels. Its aim is to encourage competition and private sector participation in operations and services. While the administrative authority in charge of the maritime shipping in Morocco is the 'Merchant Navy Administration' for carriers and the 'National Agency for Ports' for

ports, the administrative authority in charge of the maritime shipping in Jordan is the 'Jordan Maritime Authority' established in 2002. In the three countries the regulators are not institutionally independent. Although the Moroccan 'National Agency for Ports' is theoretically independent, it is under the administrative authority of the Ministry of Transport. While the Egyptian and the Moroccan regulators are financed from licenses and other fees as well as from the state budgets, the Jordanian regulator is financed entirely from licenses and other fees, and it has financial and administrative autonomy.

3.3. Liberalization

The maritime transport sector in Egypt is governed by a number of general and specific laws and regulations introduced during the 1990's. Law 1 of 1998 amending Law 12 of 1964 allowed private-sector participation in the maritime transport activities, and ship maintenance sector, and Law 22 of 1998 amending Law 1 of 1996 permitted the Egyptian private sector to establish and operate private ports. While Ministerial Decree 3 of 1993, 19 of 1995 and 30 of 1996 permitted private sector companies to participate in cargo handling in major ports in Egypt, Ministerial Decree 31 of 1994 set standard charge policies for both national and foreign ships. As a result of the new legislation private ownership and foreign ownership in the provision of services through commercial establishment is allowed for existing operators and new entrants in the cases of international shipping, cabotage, cargo handling, storage and warehousing, freight forwarding, and maintenance and repair of vessels. In those cases no limits are placed on the shares of private and foreign equity in total equity for existing operators and new entrants. But private ownership and foreign ownership in the provision of 'pilotage, towing and tying' services through commercial establishment is not allowed for existing operators and new entrants. Furthermore, there are no policy restrictions to new entry by any firm and entry by firms with foreign participation in international shipping, cabotage, cargo handling, storage and warehousing, freight forwarding, and maintenance and repair of vessels. Restrictions are present to new entry by any firm and entry by firms with foreign participation in the case of 'pilotage, towing and tying' because of safety and national security reasons. Finally,

regarding restrictions on cross border supply imposed on foreign shipping companies we note that in Egypt there are no restrictions on international shipping and cabotage.

In Morocco private ownership in the provision of services through commercial establishment is currently allowed for existing operators and new entrants in the cases of international shipping, cabotage, cargo handling, storage and warehousing, freight forwarding, 'pilotage, towing and tying', and maintenance and repair of vessels. In those cases share of maximum private equity in total equity has not been specified. On the other hand foreign ownership in the provision of services through commercial establishment is allowed for existing operators in the cases of international shipping, freight forwarding, and maintenance and repair of vessels. Foreign ownership in the provision of services through commercial establishment is allowed for new entrants in the cases of international shipping, cargo handling, storage and warehousing, freight forwarding, 'pilotage, towing and tying', and maintenance and repair of vessels. In the case of international shipping the share of maximum foreign equity permitted in total equity is 25 percent for both existing operators and new entrants, but no limit has been specified for the share of foreign equity in total equity in the cases of freight forwarding and maintenance and repair of vessels. There are policy restrictions to new entry by any firm and entry by firms with foreign participation in international shipping, cabotage, cargo handling, storage and warehousing, and 'pilotage, towing and tying'. The reasons for the restrictions include, in the case of international shipping, the use of the outdated legal framework of 1919 and the fact that the protection of national vessels is considered an important component of national security; in the case of cabotage, the fact that cabotage is not developed in Morocco, and that the transport of petroleum products is reserved to national flag carriers; in the case of cargo handling and storage and warehousing the granting of monopoly rights to the public operator until 2006; and in the case of 'pilotage, towing, and tying' the prevalence of monopoly of the merchant navy department for security reasons. There are no restrictions to new entry by any firm or entry by firms with foreign participation in the cases of freight forwarding, and maintenance and repair of vessels.

In Jordan, which aims to establish itself as a multi-purpose regional transport service center and as a transport hub for the region, private ownership in the provision of services through commercial establishment is allowed for existing operators in the cases of international shipping, cargo handling, storage and warehousing, freight forwarding, 'pilotage, towing and tying', and maintenance and repair of vessels. In those cases the share of private equity in total equity is allowed to reach a maximum of 100 percent in the cases of freight forwarding, 'pilotage, towing and tying', and maintenance and repair of vessels, 95 percent in the cases of international shipping and 'storage and warehousing', and 50 percent in the case of cargo handling. On the other hand foreign ownership in the provision of services through commercial establishment is allowed for existing operators in the cases of international shipping, cargo handling, storage and warehousing, freight forwarding, 'pilotage, towing and tying', and maintenance and repair of vessels. In those cases no maximum amounts for the shares of foreign equity in total equity have been specified. Furthermore, there are no policy restrictions to new entry by any firm in international shipping, storage and warehousing, and freight forwarding, but there are restrictions in the cases of cargo handling, and 'pilotage, towing and tying'. On the other hand there are also policy restrictions to new entry by firms with foreign participation in the cases of international shipping, cargo handling, storage and warehousing, freight forwarding, 'pilotage, towing, and tying', and maintenance and repair of vessels.

3.4. Regulations related to commercial operations and practices

Since maritime transport is inherently international in character, and Egyptian, Moroccan and Jordanian vessels on most voyages have to operate under the regulatory requirements of many jurisdictions, there is an inherent need for harmonization across countries.

Among the international rules and regulations enhancing competition the important ones include OECD's 'Code of Liberalization of Current Invisible Operations' and 'Common Shipping Principles'. But Egypt, Morocco and Jordan are not members of the OECD and as such they are not party to OECD's 'Code of Liberalization of Cur-

rent Invisible Operations” and “Common Shipping Principles”. On the other hand Egypt, Morocco and Jordan are party to the United Nations Convention on a Code of Conduct for Liner Conferences. As a result cargo sharing on a 40-40-20 basis takes place under bilateral agreements with a number of countries. Furthermore, in Egypt government or public sector cargo may only be transported by state-owned or Egyptian-owned vessels or by foreign flagged vessels chartered by the supplier or importer. Similarly, maritime traffic for certain products in Morocco is partially reserved to Moroccan vessels, and in particular 40 percent of a list of imported and 30 percent of exported products are reserved to Moroccan vessels. The regulations in Morocco also stipulate that public entities should exclusively rely on national vessels for their international maritime shipping operations.

In Egypt, Morocco and Jordan agreements between transport carriers such as conferences do not benefit from exemptions to competition law. In Egypt both open and closed conference agreements are allowed. In Egypt and Jordan regulatory agencies do not monitor conferences’ activities, and as a result tariffs established by carrier agreements are not required to be notified to the regulatory authorities. In Morocco only open conference agreements are allowed, and regulatory authority monitors the conferences’ activities. Tariffs established by carrier agreements are to be notified to the authorities.

Regarding cabotage we note that in Egypt vessels hoisting the Egyptian flag and holding coastal navigation licenses are to be given priority over coastal transport for transit containers in Egyptian ports by Ministerial decree No. 132/2003, and vessels hoisting a foreign flag shall only be permitted to transport containers along the coastal waters of Egyptian ports in case their load exceeds the capacity of Egyptian vessels and for a temporary period. On the other hand, in Morocco cabotage is reserved to national flag carriers because of national security reasons, and in Jordan cabotage is not open for neither private nor foreign ownership.

Natural and judicial persons intending to exercise maritime transport works and works related thereto have to acquire a license in Egypt, Morocco and Jordan. In Egypt the license is acquired from the Ministry of Transport after submit-

ting evidence of membership in the Chamber of Navigation and paying a license fee. Licenses are granted through discretionary decisions and they cannot be sold in the market. For cross-border service provision by foreign suppliers no license is required, but in those cases the foreign supplier has to nominate a local agent. On the other hand in Morocco licenses are awarded through competitive tenders in the cases of cargo handling, storage and warehousing, and ‘pilotage, towing and tying’. Licenses are granted on first come, first serve basis in the case of international shipping. Licenses, once granted, cannot be sold in the market as in Egypt. But for cross-border service provision by foreign suppliers no license is required as in the case of Egypt, and in those cases the foreign supplier has to nominate a local agent. In Jordan licenses are granted through competitive tenders in the cases of cargo handling, and ‘pilotage, towing and tying’. In other cases the economic units have to pay a license fee amounting to about 250 Jordanian Dinars annually.

For shipping companies registered in Egypt only 5 percent of the crew may be foreign nationals, and the chairman of the company and the majority of the board of directors must be Egyptian nationals. But for companies providing auxiliary services, foreign nationals on the board of directors may exceed 50 percent, and companies established in the free zones are exempt from nationality requirements of the ship owner and the crew. A vessel or fleet in order to fly the national flag has to be at least 51 percent nationally owned. On the other hand in Morocco liner shippers have to comply with rather strict regulations. At least three quarters of their crew need be hired among Moroccan nationals. However, ship-owners of Moroccan vessels registered in Tangier, that operate under the Moroccan flag are not subjected to any restriction. The process of authorization put in place by the Merchant Navy Department stimulated the use of vessels under the Moroccan flag. Maritime Commercial Code stipulates that regular shipping line services established in Morocco must use Moroccan-flag vessels exclusively, and a ship whose owners wish to fly the Moroccan flag must meet the following requirements: (a) the ship must have its port of registry in Morocco, (b) the ship must engage in sailing activities that use Moroccan ports, (c) in the case of a ship whose owners are natural persons, the ship must

be 75 percent owned by Moroccan nationals, (d) in the case of a ship whose owner is an enterprise, a majority of the members of the board of directors, as well as the president, must be Moroccan nationals, (e) the ship must be operated by Moroccan crew, and (f) the ship must be less than 21 years old, as measured from the date the ship was first put into service. In spite of requirements (c) and (d), ships owned by foreign nationals may fly the Moroccan flag, provided that Tangier is the port of registry and that, if the owner is a natural person, the owner is domiciled in Morocco, or if the owner is an enterprise, the owner has its headquarters in Tangier. Furthermore we note that the non liner shipping market is open to foreign carriers, but only Moroccan liners that own at least one vessel are allowed to charter foreign vessels. This provision restricts free competition and stands as an indirect form of traffic reservation. It implies that foreign shippers have to rely on the Moroccan liners' services as intermediaries in order to charter foreign vessels, and leads to extra costs. According to the Merchant Navy Department, the objective of this provision is to encourage Moroccan shippers to use Moroccan liners' capacities instead of vessels under foreign flags.

Regarding multilateral trade negotiations we note that in the Uruguay Round Egypt has made specific commitments in international maritime transport, but not Morocco. Jordan when joining the WTO in 2000 made commitments in international maritime transport. The specific commitments made by Egypt and Jordan are shown in Table 2. Regarding the ILO conventions we note that ILO Convention 147 has been ratified by Egypt, Morocco and Jordan, and that ILO Convention 180 has been ratified only by Morocco. Finally, it should be emphasized that the transport sector was among the areas of cooperation under the Neighborhood Policy Actions signed by Egypt, Morocco and Jordan with the EU.

Turning to ports we note that in Egypt ports are owned and run largely by the state owned Port Authorities and the Suez Canal Authority, which, until recently, have provided all services and facilities connected with ports. During the 1990's a number of port services were opened to the private sector and private companies were allowed to be involved in the establishment of specialized ports. The private sector participated in the establishment of new commercial ports and docks on a

build-own-operate-transfer basis. Currently pilotage, towing, tug assistance, navigation aids, berthing, waste disposal, and anchorage are mandatory for ships entering the port, and access to service is discriminatory for foreign carriers as opposed to domestic ones in the cases of pilotage, towing, and navigation aids, and non-discriminatory in the cases of tug assistance, berthing, waste disposal, and anchorage. Finally, regarding the Suez Canal we note that there are plans to enlarge the canal to make it navigable for Very Large Crude Carriers (VLCC) by 2010 and Ultra Large Crude Carriers (ULCC) between 2010 and 2015.¹¹

In Morocco ports until recently were publicly owned and operated under the effective monopoly of the 'National Port Operations Office' (ODEP), or directly administered by the 'Ports and Maritime Public Domain Department', or by the 'Department of Casablanca and Mohamedia Ports'. The last two departments were within the Ministry of Basic Infrastructure and Transport, which acted as the public authority in charge of ports. In order to improve the efficiency of the port system, Morocco decided to engage in a reform process. The law No. 15-2002 was adopted in 2005, and entered into effect in December 2006. It separated the responsibilities of commercial operations in ports and regulation of ports by creating two entities to substitute the ODEP. The first entity, 'National Agency for Ports', is an independent regulatory agency in charge of port regulation. The second entity, 'Port Operations Corporation' (Marsa Maroc), is in charge of port management and service supply in competition with other private sector companies. Marsa Maroc is expected to open its capital to private participation in a later stage in accordance with the port reform agenda. As far as port services are concerned pilotage, towing, tug assistance, navigation aids, berthing, waste disposal, and anchorage are mandatory for ships entering the ports, and access to service is not discriminatory for foreign carriers as opposed to domestic ones in the cases of pilotage, towing, tug assistance, navigation aids, berthing, waste disposal, and anchorage. Morocco plans to extend its port capacity, encourage greater private sector participation in port commercial activities, reduce port transit costs, and strengthen the competitiveness of the national shipping lines. As part of its reform program, Morocco launched a 12 billion dirham (\$1.37 billion) construction of the Tangier

international new port “Tangier Mediterranean”. Located on the Strait of Gibraltar, 35 km east of Tangiers and 15 km from Europe, the Tangier-Med project is a 500 km² Special Economic Zone at the crossroads of major shipping lanes. The project includes a multi-purpose harbor, several customs free zones, and modern transport and service infrastructure.

In Jordan the container terminal and the industrial terminal are privately owned landlord ports, while oil terminal and main ports are state owned landlord ports and the passenger terminal is a state owned service port. Recently, the government has announced plans to relocate the port of Aqaba further south in hopes of increasing its capacity and optimizing use of the country’s 27 kilometers of shoreline for tourism, port services, and natural coral preservation. It is noteworthy that in 2005, the government embarked on a joint venture with AP Møller-Maersk of Denmark. This collaboration is vital for increasing container facilities. Regarding port services we note that berthing, waste disposal, and anchorage are mandatory for ships entering the ports, and access to service is not discriminatory for foreign carriers as opposed to domestic ones in the cases of pilotage, towing, tug assistance, navigation aids, berthing, waste disposal, and anchorage.

According to Euromed (2005) the container terminals in the MENA countries are operating at relatively low levels of efficiency due to insufficient availability of handling equipment, the sub-optimal use of stacking areas and the long dwell times of containers, where dwell times refer to the time that container units/cargoes remain in the port between vessel discharge and leaving or between entering and vessel loading. In Aqaba dwell times are about 15 days, which is a relatively high figure. While dwell times in Alexandria are about 10 days, the dwell times in the privately owned Ain Sokna in Egypt are 4-5 days. The relatively high dwell time figures in Aqaba and Alexandria are a result of not only infrastructure deficiency, but also the result of the sub-optimal statutory, regulatory, procedural and documentation frameworks used within the ports. It is clear that there is a need to improve this situation and to reduce container dwell times. These terminals would operate much more efficiently within their existing configuration provided investments are made in equipment, improvements are introduced to

stacking and handling procedures, and dwell times are shortened.

3.5. Regulations related to safety and environment

Egypt, Morocco and Jordan have signed the United Nations Convention on the Law of the Sea (UNCLOS). The three countries are members of the IMO. They have joined the International Convention for “Safety Of Life At Sea” (SOLAS 1974), International Convention for Prevention of Pollution from Ships (MARPOL), and the International Convention on “Load Lines 1966”. Egypt and Jordan are party to SOLAS Protocol 1988 and Load Lines Protocol 1988, and Egypt and Morocco are party to SOLAS Protocol 1978. Thus, Egypt, Morocco and Jordan have adopted some of the basic IMO conventions relating to maritime safety, security and environmental protection. However, other conventions that have a bearing on safety, security and protection of the environment have not been adopted by several MENA countries, and a number of protocols introduced as modifications or addendums to these basic conventions have not been ratified by several countries.

According to 2005-2007 statistics under the Paris Memorandum of Understanding (MoU) on Port State Control, Egypt appears on the black list while Morocco appears in the “grey list”. The percentage of Egyptian flag vessels detained was 12.5 percent, while the percentage of Moroccan flag vessels detained was 8.3 percent. Finally, regarding the ILO Conventions N. 147 and N. 180 we note that Conventions N. 147 has been ratified by Egypt, Jordan and Morocco, but Convention N. 180 has been ratified only by Morocco.

4. Conclusion

Consideration of liberalization efforts in maritime freight transportation services in Egypt, Morocco and Jordan reveal that considerable progress has been achieved in these countries since the 1990s. But much remains to be done.

Liberalization in the maritime freight transportation sector requires that any legal or administrative provisions restricting market access be removed, and that privatization in the sector be encouraged. Furthermore, since maritime transportation is inherently international in character, there is an inherent need for harmonization of rules and regulations in the maritime transportation sector.

Table 1.2
Specific commitments by Egypt and Jordan in maritime transport services

Mode of supply	Market access				National treatment			
	1	2	3	4	1	2	3	4
Cross border								
Consumption abroad								
Commercial presence								
Presence of natural								
Egypt								
International maritime transport	—	■	○	○	—	■	■	■
Supporting services for maritime transport	—	—	○	○	—	—	■	■
Jordan								
International maritime transport	■	■	■	○	○	■	■	○
Supporting services for maritime transport	○	○	○	○	○	○	○	○
Rental services for seagoing vessels with operator	■	■	■	○	○	■	■	■
Maintenance and repair of vessels	■	■	○	○	○	■	■	■

Note: Commitments: □ full; ○ partial; ■ none; — not in the schedule

When reforming the maritime freight transport sector the roles of government and private sector in MENA countries need to be clearly specified, and public administrations should be encouraged to focus primarily on regulatory tasks and concede gradually all of the commercial activities to the private sector.

As regulators of the maritime freight transportation sectors, public administrations could ease the restrictions imposed through bilateral cargo access regulations for liner traffic, unilateral cargo reservations schemes which stipulate that a certain share of traffic be reserved for national flag carriers, requirements on international companies to enter into joint ventures with domestic carriers, restrictions on the use of shipping agents, and limitations on the right of establishment. These are all measures that MENA countries could achieve by unilateral actions. But the EU could also contribute through the Action Plans within the context of the ENP to the removal of various legal and administrative provisions restricting competition and market access in MENA countries through technical assistance programs. Furthermore, the EU could contribute to achieve further privatization in the sector.

Regarding port reform we note that MENA countries could increase the efficiency of ports considerably by liberalizing the ports and making use of international and EU experiences in this

field. The international experiences suggest that there are several approaches through which port reform can be undertaken namely (i) decentralization of port management (ii) commercialization of ports, and (iii) introduction of private management in ports. As stressed by Euromed (2005) decentralization of port management includes separating the task of port regulation from the task of port management, and encouraging the decentralization of the task of port management from the national level to the local level; the commercialization of ports includes injecting momentum into the competitive spirit of the port, by allowing/increasing the participation of the private sector in the provision of port services and operations; and the introduction of private management in ports includes seeking an advanced and sophisticated degree of private sector involvement in ports, with even a transfer of accountability from the public sector to the private sector. The international experience reveals that the landlord model, which advocates introduction of private management in ports, should be sought as the primary consideration or option, given that it is widely common at the international level and has made huge successes. In this process the EU could again be helpful through the Action Plans although the EU itself has until now not fully achieved or completed the port reform.

Turning to international rules and regulations

in the maritime transport sector, we note that these regulations, classified under regulations related to commercial operations and practices and those related to safety and environment, are quite comprehensive. Some of these rules and regulations have already been adopted by Egypt, Morocco and Jordan, but further efforts are needed. To promote free access to international maritime trade, respect the principle of free and fair competition on a commercial basis, promote maritime safety, protect marine environment, prevent the operation of substandard vessels, and improve the training of sea-going personnel, agreements could be signed with the OECD countries similar to “understanding on common shipping policy principles” signed between the OECD countries and the Republics of the Former Soviet Union and Central and Eastern European Countries, modeled on the “common shipping policy principles”.

Regarding the international rules and regulations related to safety and environment we note these regulations are needed since the discharging of hazardous waste, oil spills, or collisions would impose high external costs, and that the preservation and protection of the Mediterranean Sea is a must. MENA countries intending to liberalize their maritime freight sectors have to adopt and strictly implement these rules and regulations. But presently there are several IMO conventions that have not been adopted so far by Egypt, Morocco and Jordan, although such conventions have a bearing on maritime safety, security and environment, and in cases where three countries are party to the conventions studies reveal that effective implementation of these conventions needs to be improved.¹² Hence, MENA countries should be encouraged to sign and ratify these conventions. In addition, MENA countries should be encouraged to ensure the proper implementation of the IMO conventions. Here again, the EU through its Action Plans could be helpful in strengthening the capacities of MENA maritime administrations in terms of staff, know-how and funds availability. As emphasized by EuroMed (2005) MENA countries could start to gradually approximate their transport legislation with the European regulations governing maritime safety, security and environment protection. Although the EU maritime regulations are stricter than the international regulations, such a convergence of regulations would ensure that MENA vessels would be in confor-

mance with the EU regulations, and consequently would not be detained at EU ports when these latter regulations come into in force.

Notes

1. The first two sections are based largely on Togan (2007).
2. See OECD (2000).
3. Panamanian and Liberian registries are among the most popular open registries since the early 1920s.
4. For an extensive discussion of maritime transport services in the WTO see B. Parameswaran (2004).
5. On the Argentinian experience on privatization of ports and waterways see Estache et al. (1999)
6. See Commission of the European Communities (2006).
7. France has lodged reservation to OECD’s “Code of Liberalization of Current Invisible Operations” regarding liberalization of maritime freights, including chartering, harbor expenses, and disbursements for fishing vessels. On the other hand, regarding the “Common Shipping Principles” we note that Greece did not commit itself to accepting Principles 14 and 15, regarding auxiliary services and international multi-modal transport.
8. Self-handling refers to a situation in which an undertaking (a self-handler), which normally could buy port services, provides for itself, using its own land-based personnel (or its seafaring crew for cargo handling operations and passenger services for an authorized regular shipping service carried out in the context of short sea shipping and motorways of the seas operations) and its own equipment, one or more categories of port services in accordance with the criteria set out in the Directive. On the other hand public service requirement refers to a requirement adopted by a competent authority in order to secure adequate provision of certain categories of port services.
9. See Mueller-Jentsch (2002).
10. Gross Register Tonnage (GRT) represents the total internal volume of a vessel, with some exemptions for non-productive spaces such as crew quarters. On the other hand deadweight tons (DWT) is the displacement at any loaded condition minus the lightship weight, where

lightship weight measures the actual weight of the ship with no fuel, passengers, cargo, water, etc. on board.

11. VLCC vessels refer to carriers with 160,000 – 319,999 DWT, and ULCC vessels to those with 320,000 – 549,999 DWT.
12. See Achy et al. (2005).

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Liberalization of Road Freight Transport Services

Goods need to be moved domestically and internationally freely, reliably and efficiently, while minimizing the impact on safety, the environment and other transport users. Since lack of accessibility or poor road conditions are barriers to trade of agricultural and industrial goods, and hinder the development efforts in countries, efficient freight transport is essential to prosperity in those countries. Such systems give the countries competitive edge in moving goods economically, and empirical studies show that the elimination of inefficiencies and improvement of road transportation infrastructure can be achieved by liberalizing the sector.

In this paper we consider the road freight transport services in Egypt, Morocco and Jordan. Observing that barriers to trade in the sector are regulatory in nature, that countries in general often have little interest in each other's regulatory regimes or have little confidence in their quality, and that they are in general reluctant to modify their own regulatory regimes, we note that the achievement of liberalization in the road freight transportation sector is not an easy task. In order to liberalize the sector countries have to remove the legal or administrative provisions restricting market access and commercial presence. In addition the countries have to adopt and implement the global rules and regulations in order to decrease the compliance costs.¹ Such measures could improve the safety, security and efficiency of transport operations as well as the development of efficient transport networks. In addition Egypt, Morocco and Jordan could aim for active

convergence with the European Union (EU) road freight transport sector *acquis*, which has much stricter rules and regulations than the global rules and regulations. These are the issues analyzed in the paper, which is structured as follows. While section 1 considers the international and the EU rules and regulations in the road freight transportation sector, section 2 discusses the liberalization efforts in Egypt, Morocco and Jordan. Finally, section 3 concludes by highlighting which international and EU rules and regulations could be implemented effectively in Egypt, Morocco and Jordan.

1. Road freight transport services

The road freight industry is geared to distribution, logistics and basic physical transport. It is divided into two segments. While the first segment consists of a large number of small firms providing basic transport services, the second segment incorporates a limited number of major hauliers providing more sophisticated logistics services. Firms in the first segment compete mainly on price, and barriers to entry into the sector are low because in general little start-up capital is needed. This segment of the sector is competitive as it has small economies of scale with low entry and exit costs. On the other hand firms in the second segment compete both on price and on range and quality of services. Here, economies of scale are important, and increasing use is being made of information and communications technologies such as electronic data transfers and tracking systems

as they enable hauliers to provide better quality services to a much wider range of destinations thanks to improved productivity.

The regulation of issues such as market access and prices has been motivated by concerns that competition could cause instability and lead to bankruptcies in the sector in a large number of countries. The main rationales for regulating the road freight business relate to road safety, the environment and infrastructure congestion. There are two broad categories of regulations: regulations on traffic and vehicles and regulations on the operation of the market. The first category includes the vehicle standards, highway codes, labor regulations, regulations on social conditions, regulations on the carriage of hazardous substances and traffic restrictions. The second category covers mainly market access conditions and price regulations.

The vehicle regulations concern the regulations on how motor vehicles should be manufactured. They are numerous and apply to a great many technical points such as fittings, roadworthiness tests, and to the specific characteristics of the vehicles. The United Nations Economic Commission for Europe (UNECE) set up a Working Party on the Construction of Vehicles (Working Party 29 (WP29)) in 1953 and agreed upon its first regulation in 1958. The 1958 UNECE Agreement and Regulations under it set out the technical norms with which road vehicles must comply. The scheme was such that if, for example, a German factory would get approval from the German government to manufacture vehicles of a design, other European states would grant mutual recognition to the type approval.² The job of WP29 was to ensure that the grounds for type approvals in different states converged sufficiently to make mutual recognition acceptable. Recently the European Commission helped to develop new standards. Once the Commission decides on a standard that can be agreed among the experts in its member states, then a member state is delegated to take it to WP29. In this way the European Commission uses WP29 to attempt to globalize a direction for standards.

1.1. International regulations

Historically, the transport sector had many regulations with respect to entering and exiting the market.³ In most countries, a license or permit is

required to set up a new road freight company, as is registration. In many cases, the operation can start only once approval is obtained, and in many countries criteria other than technical requirements such as financial soundness, moral soundness and public safety requirements are taken into consideration in deciding on the entry of new operators.

The study of international road transport in Europe and its neighboring countries requires consideration of the European Conference of Ministers of Transport (ECMT), which is an inter-governmental organization established by a Protocol signed in 1953. It is a forum in which Ministers responsible for transport, and more specifically the inland transport sector, can co-operate on policy. ECMT's role primarily consists of (i) helping to create an integrated transport system throughout the enlarged Europe that is economically and technically efficient, meets the highest possible safety and environmental standards and takes full account of the social dimension, and (ii) helping to build a bridge between the EU and the rest of the continent at a political level. ECMT recommends, that delays at borders be identified, targets for reductions of these times be set, and that Member States should work towards further harmonization and simplification of procedures at borders in order to improve the efficiency of the sector.⁴

According to the rules accepted by the international community individual transport operations may be undertaken without authorization in any ECMT Member country.⁵ But the vast bulk of European international transport, outside the EU, is still subject to authorization. Transport operations other than individual transport operations, to or from countries that do not belong to the EU, require an international transport license of which there are two distinct types: (i) the "bilateral" license, which may be used both for transport on own account and for transport for hire or reward, and (ii) the ECMT multilateral license, only available for transport for hire or reward.⁶

The purpose of bilateral agreements is to ensure the right balance of traffic between transport operators from the two countries. The agreements also establish the authorized annual number of journeys. The contracting states exchange blank licenses, which each issues to its transporters on behalf of the other. Bilateral licenses cover the activity of both own account transport operations

and public transport operations. Moreover, these licenses are the only ones to which own-account operators are entitled for carriage outside the EU. Bilateral licenses cover the major part of transport between two countries when one of them is not an EU Member. Bilateral licenses can be valid for one journey, and thus for a return journey undertaken within a given time (a maximum of 3 months from the date of issue), or for a period of one year and an indeterminate number of journeys. Moreover, it may turn out that the foreign issuing country only makes a certain license valid for transit, whereas others make them valid for both the return journey and/or transit. The bilateral licenses, granted according to the principle of reciprocity, present the apparent advantage for the issuing countries of enabling them to control the flow of traffic and, in principle, of producing a certain balance of national operators.

On the other hand a quota for multilateral permits was put in place in 1974 to the benefit of undertakings engaged in regular carriage for hire or reward between ECMT Member States.⁷ Since 1st January 1999, States have been able to trade in a traditional license in exchange for two "green" lorry licenses or four "greener and safe" licenses. These licenses are valid for one year but each country is entitled to transform part of its quota into short-term licenses valid for thirty days. The ECMT licenses, when they do not contain qualifications, may be used for all public road haulage operations, including transit but excluding carriage within a country, on all infrastructures connecting ECMT Member countries that subscribe to the system. Lastly, it should be observed that these licenses, owing to their limited number, only cover a small part of the trade between the countries concerned even if they do have an essential role, especially with respect to the crossing of certain countries, which is a serious limitation for bilateral quotas.

According to the Final Resolution of the XX-VIth Congress of the International Road Transport Union held at Marrakesh on March 20, 1998 there are different types of barriers to cross border trade. The first of these barriers is the blocking of roads and motorways as a result of political conflicts.⁸ These problems are in general very complex. Although the resolution of them is important, as it represents a prerequisite for enabling any kind of border crossings to be made,

we abstract from consideration of these problems and turn to the consideration of the second type of barriers to border crossing. These barriers are considered under the headings of standardization of documents required at the customs, customs declaration and clearance procedures, and infrastructure and equipment at border points.

Regarding the level of standardization of documents we note that the use of the single administrative document by customs authorities facilitates trade. It constitutes a standard form that can be commonly shared by all involved border authorities, thereby enabling significant time savings to be made in crossing the borders and clearing cargo.⁹ On the other hand for automation and computerization of customs declaration and clearance procedures a large number of countries make use of Information Technology (IT) packages. But as long as these packages do not support the implementation of modern risk management techniques and they are not linked to the overall port management systems, they do not allow Electronic Data Interchange (EDI) interaction to be made with the services providers and economic operators such as the freight forwarders and customs. As a result the actual rate of inspections at the customs continues to be much higher than the rate in the countries where these facilities are used.¹⁰ When different parties involved in the process of clearing cargo could be connected through IT and EDI, then full automation of customs declarations, cargo manifests, drawings illustrating cargo distribution on board ships, cargo invoices, certificates for payment of taxes and duties, and certificates issued by the monitoring authorities could be achieved. Furthermore, the infrastructure and equipment at border points may often be insufficient or in need of upgrading. The main issues here are the lack or underdevelopment of offices for the inspection and control agents, laboratories, warehouses, road approaches to the border, border gates, vehicle parking areas, reliable electricity and power sources, and reliable telecommunications services. Elimination of all these shortfalls would improve the efficiency of customs services and procedures, and decrease substantially the barriers to trade in road freight services. According to WTO Secretariat (2001) the annual cost of these barriers has amounted to 1 to 7 percent of total transport costs in Western Europe and between 8 to 29 percent of total transport costs in Central and Eastern Europe.

Because hauliers move internationally, there is a strong need to standardize those aspects of national road freight transportation rules and regulations that are related to the international operation of hauliers. These rules and regulations are developed beside the ECMT through the European Neighborhood Policy, and the United Nations Economic Commission for Europe (UNECE). Finally, the World Trade Organization (WTO) commitments, and the services negotiations at the WTO provide an important forum for the liberalization of road transport services.

The European Neighborhood Policy (ENP) identifies priorities such as transport and customs, and works on Action Plans with partner countries in order to improve issues such as international transport. Action Plans in transport focus on improving competition, efficiency, security, safety, promoting changes in structure of policy, developing modern regulatory structures, and promoting interoperability. This includes institutional reform, removal of non-physical barriers such as simplification of customs procedures, and promoting interoperable satellite radio navigation systems. Specifically with respect to road transport, issues include designing and implementing a Regional Road Safety Master Plan on licensing, infrastructure, safety checks, upgrading road networks, and replacing bilateral agreements with comprehensive multilateral agreements. The application of relevant safety and environmental issues need to be taken into consideration while implementing transport regulations.

On the other hand UNECE Inland Transport Committee, since its creation in 1947, has been working towards the facilitation of international transport while improving its safety and environmental performance. There are by now 56 international agreements and conventions, which provide the international legal and technical framework for the development of international transport in the UNECE region. These international legal instruments, some of which are applied also by countries outside the UNECE region, address a wide array of transport issues which fall under the responsibility of governments and which have an impact on international transport. This includes coherent international infrastructure networks, uniform and simplified border-crossing procedures and uniform rules and regulations aimed at ensuring a high level of efficiency, safety and environmental

protection in transport. Some of the important international conventions that have an impact on facilitating the crossing of borders include the Convention on Customs Containers, the Convention on Harmonizing the Frontier Control of Goods, the Convention on Customs Pool Container, the Convention on the International Carriage of Dangerous Goods by Road and the Agreement on the International Carriage of Perishable Foodstuffs.

UNECE produced also the TIR Convention, which came into force in 1978.¹¹ The most recent provisions entered into force on February 17, 1999.¹² The TIR customs transit procedure permits the international carriage of goods, as long as a road leg is involved, in international journeys from a customs office of departure to a customs office of arrival, through as many countries as necessary, without any intermediate frontier control of the goods carried. This facilitation of international goods transport requires a number of measures to be fulfilled and applied by customs authorities and transport operators. They include the use of customs-approved vehicles and containers, the use of the TIR Carnet as an international customs document, the provision of an international TIR guarantee and the mutual recognition of customs control measures in the countries involved.

Finally, it should be noted that the negotiations at the WTO in Geneva are of significant relevance to road freight transport's fortunes. Although the WTO document W/120 identifies five subcategories under road services (passenger, freight, rental, maintenance and supporting services), many countries have given commitments using the more detailed CPC classification, which distinguishes 25 types of road transportation services. The freight transportation is distinguished into seven types consisting of road transport services of freight by refrigerator vehicles, road transport services of freight by tank trucks or semi-trailers, road transport services of containerized freight by trucks equipped with a container chassis, road transport services of freight by man- or animal-drawn vehicles, moving services of household and office furniture and other goods, road transport services of letters and parcels, and other road transport services of freight.

In the case of freight transportation 25 countries according to WTO Secretariat (2001) have given commitments within the context of WTO multilateral negotiations. Table 1 shows the mar-

ket access commitments by modes of supply. The first of these modes, mode 1 or cross-border supply, applies when service suppliers resident in one country provide services in another country without either supplier or buyer/consumer moving to the physical location of the other. Mode 2, consumption abroad, refers to a consumer resident in one country moving to the location of the supplier(s) to consume a service. Mode 3, commercial presence, refers to legal persons (firms) moving to the location of consumers to sell services locally through the establishment of a foreign affiliate or branch. The fourth mode of supply, mode 4 or movement of natural persons, refers to a process through which individuals (temporarily) move to the country of the consumer to provide the service.

The table reveals that for freight transportation the most liberalized mode is mode 2, where full commitments have been given in four fifths of cases. In the case of mode 4 all countries preferred to remain unbound except as indicated in the horizontal commitments. In more than three quarters of cases there are no commitments in the case of mode 1. Only five Members have taken full commitments for mode 1 and there are two cases of partial commitments. Mode 3 is evenly split between full commitments and partial commitments. Restrictions listed are typically economic needs tests, foreign ownership restrictions, incorporation required, nationality of the board of directors, citizenship requirement, authorization required but not extended to foreign-registered vehicles, emergency safeguards on the number of services suppliers, services operations and services output, and limitations on the use of leased vehicles. Only two Members have undertaken no commitments for this mode.

In the case of national treatment for freight transportation we note that there are few specific restrictions: requirement of establishment in the country concerned to provide cabotage services, prior approval, cargoes confined to containerized cargoes to be exported or imported, and requirement on established entities to use vehicles with national registration.¹³ Finally, the MFN exemptions have an important bearing on the extent of the commitments undertaken.¹⁴ Out of the 25 countries having given commitments on freight transportation, ten also have one or more MFN exemptions regarding cargoes. Five members

including the EU have felt it necessary to lodge separate exemptions for preferential fiscal treatment on VAT, vehicle tax and income tax. In other instances the preferential tax treatment has been combined with cargo-sharing provisions in a single derogation, either by mentioning the preferential tax treatment specifically or by referring more generally to the operating conditions. The cargo-sharing provisions are mainly bilateral, although there are cases where they are regional or both bilateral and regional. In six cases they are unilateral and in five of those cases they are based on reciprocity. In nearly all cases they cover all countries and existing and future agreements, although sometimes accompanied by a detailed list of beneficiaries.

As far as auxiliary road transport activities are concerned, rental services of commercial freight vehicles with operators have been offered by only a few Members but with nearly no restrictions. Finally, supporting services for road transport covering bus station services/highways, bridges and tunnel operation services, and parking services have attracted very few commitments.

1.2. EU rules and regulations

In Europe liberalization of the road freight transportation sector was possible only with the single market reform in 1993. As the main objective in the EU is to create a single open market with freedom of establishment and freedom to provide services through liberalization, the main concerns were market access, competition, and the harmonization of legislation. Therefore, EU regulations aim to ease entry into the market, and liberalize the prices and supply of transport. Attention is being paid to moving toward a functionally homogeneous transportation system that can take safety, efficiency, social conditions, and environmental factors into account. Thus, the objective of the EU road transport policy is to create a competitive, safe and efficient transport system with minimal environmental effects. But, in the EU non-EU firms in general do not have the same rights as the EU firms. In the case of foreign firms a number of limitations apply. For example, cabotage in the EU was fully liberalized only in July 1998, but it applies only to EU member states and excludes non-member countries. Finally, we note that although state ownership is becoming a relatively minor phenomenon, there are nevertheless

Table 2.1
Analysis of commitments made by members on road transport services
(Number of full, partial and non-commitments by subsector and by mode of supply)

Market access (Number of members with commitments)	Cross-border supply			Consumption abroad			Commercial Presence			Presence of natural persons		
	F	P	N	F	P	N	F	P	N	F	P	N
Urban and suburban regular transportation CPC 71211	8	0	9	13	0	4	9	7	1	0	17	0
Urban and suburban special transportation CPC 71212	8	0	9	13	0	4	10	6	1	0	17	0
Interurban special transportation CPC 71213	11	1	13	21	0	4	13	11	2[1]	0	25	0
Interurban special transportation CPC 71214	8	0	10	14	0	4	11	6	1	0	18	0
Other scheduled passenger transportation CPC 71219	8	0	9	13	0	4	11	5	1	0	17	0
Taxi services CPC 71221	9	0	12	17	0	4	12	8	1	0	21	0
Rental services of passenger cars with operator CPC 71222	9	0	15	20	0	4	12	11	1	0	24	0
Rental services of buses & coaches with operator CPC 71223	10	1	14	21	0	4	15	9	1	0	25	0
Passenger transportation by man- or animal- drawn vehicle CPC 71224	8	0	13	17	0	4	12	8	1	0	21	0
Other non scheduled passenger transportation CPC 71229	8	0	12	16	0	4	12	7	1	0	20	0
Transportation of frozen or refrigerated goods CPC 71231	5	2	20	22	0	5	14	12	2[2]	0	27	0
Transportation of bulk liquids and gases CPC 71232	5	2	17	20	0	4	12	11	2[3]	0	24	0
Transportation of containerized freight CPC 71233	5	2	19	21	0	5	12	13	2[4]	0	27	0
Transportation of furniture CPC 71234	5	2	19	21	0	5	14	11	2[5]	0	26	0
Mail transportation CPC 71235	4	1	15	16	0	4	10	9	2[6]	0	20	0
Freight transportation by man- or animal- drawn vehicle CPC 71236	5	1	15	17	0	4	9	10	2[7]	0	21	0
Transportation of other freight CPC 71239	5	1	17	19	0	4	11	10	3	0	23	0
Rental services of commercial freight vehicles with operator CPC 7124	7	1	1	9	0	0	8	0	1	0	9	0
Maintenance and repair of motor vehicles	9	0	13	21	0	1	16	3	3	0	22	0

Table 2.1: Continued

Market access (Number of members with commitments)	Cross-border supply			Consumption abroad			Commercial Presence			Presence of natural persons		
	F	P	N	F	P	N	F	P	N	F	P	N
CPC 6112 Repair services not elsewhere classified of motor vehicles, trailers and semi-trailers on a fee or contract basis	7	0	1312*	19	0	1	15	2	3	0	20	0
CPC 8867 Bus station services	4	0	1	5	0	0	4	0	1	0	5	0
CPC 7441 Highway, bridge and tunnel operation services	4	0	1	5	0	0	4	0	1	0	5	0
CPC 7442 Parking services	4	0	1	5	0	0	4	0	1	0	5	0
CPC 7443 Other supporting services for road transport	4	0	1	5	0	0	4	0	1	0	5	0
CPC 7449												

F: Full commitment (indicated by “none” in the market access column).
P: Partial commitment (limitation recorded in the market access column of the schedule).

[1] EU counted twice as a specific restriction by a member state appears in another column
[2] - [7] Idem

several countries with state-controlled companies operating in the road freight haulage sector. Often they are subsidiaries of state-owned companies in other sectors, such as the railways or post office and they concentrate on only a few activities.

The main international rules that regulate commercial operations and practices, and safety have been transposed into the Community law, ensuring that they have legal force and uniform application throughout the Member States. EU countries have been founding members of the United Nations Economic Commission for Europe (UNECE) and European Conference of Ministers of Transport (ECMT). Thus, the EU is party to the rules and regulations developed by ECMT as well as to various UNECE conventions and agreements. In this context it should be emphasized that the EU is party to the Convention on Harmonizing the Frontier Control of Goods, the Convention on Customs Pool Container, the Convention on the International Carriage of Dangerous Goods by Road, the Agreement on the International Carriage of Perishable Foodstuffs, and the TIR Convention.

Turning to WTO services commitments made

by the EU shown in Table 2, we note that for ‘cross border’ supply (mode 1) no commitments have been made in the case of passenger transportation, freight transportation, storage and warehouse services, and other transport services; and no limitations have been placed in the cases maintenance and repair of road transport equipment, freight transport agency/freight forwarding services, and pre-shipment inspection. While in the case of consumption abroad (mode 2) no limitations have been placed, different restrictions have been placed for ‘commercial presence’ (mode 3) on ‘market access’ in the cases of passenger transportation and freight transportation. No limitations for ‘commercial presence’ (mode 3) have been placed on maintenance and repair of road transport equipment, services auxiliary to all modes of transport, and other transport services. Finally, mode 4 (movement of personnel) for all cases does not diverge from the pattern ‘unbound except as indicated in the horizontal commitments’

1.2.1. Market access and competition

Market access for goods and passengers are based on Article 71 of the Treaty. Historically, the liber-

alization of road transport sector in the EU started with the 1985 White Paper that stressed the importance of freedom to provide services and outlined the Community Common Transport Policy. Three important guidelines were accepted: having a free market by 1992, increasing bilateral as well as Community quotas, and eliminating distortions to competition. Infrastructure development, decreasing border controls and bureaucracy, and improving safety by the end of 1992 were also outlined as goals in the 1985 White Paper. A regulation was adopted in 1988, which stated that all quantitative restrictions, Community and bilateral quotas were abolished starting on January 1, 1993. The international transport of goods between Member States was liberalized with Council Regulation 881/92. According to the regulation a road transport operator that works among at least two Member States must obtain a Community license, which gives the operator the right to access to the whole market with no quantitative restrictions. The conditions to obtain this license are set forth in the same regulation. It should be noted that own account transport and small vehicles of less than 3.5 tons do not require such a license.¹⁵

The process of liberalization took even longer for road cabotage where a non-resident carrier holding a Community License can transport goods, on 'a temporary basis', from two points that are in a Member State. This was fully liberalized for freight transport in 1993 with Council Regulation 3118/93. Liberalization on 'a temporary basis' means that it is not continuously carried out. Council Regulation 3916/90 put forth measures that are to be taken in the event of a crisis in the market in the carriage of goods by road. With the implementation of deregulation measures the road haulage market in the EU has become very competitive, integrated, and efficient. The cabotage regime was extended to the EFTA countries on 1 July 1994 with the exception of Austria, which joined on 1 January 1997, and Switzerland. Following their accession to the EU on 1 May 2004 restrictions have been lifted for hauliers from Cyprus, Malta and Slovenia as well. But the other new member states will be able to enjoy the right to cabotage services after a transitional period.¹⁶ Lately, Directive 2006/1/EC has laid down the conditions for hiring vehicles for international road transport. Two conditions were stated. The vehicle must be registered in the same Member

State as the road haulage transportation company that is hiring it, and the driver driving the vehicle must be an employee of the company.

According to the Regulation (EC) No 484/2002 amending the Council Regulations No 881/92 and No 3118/93 every driver from a non-EU country driving an EU operator's vehicle while carrying out cross-border haulage activities within the Union must carry the correct driver attestation. It is a uniform document certifying that the driver of a vehicle carrying out road haulage operations between Member States is lawfully employed by the Community transport operator concerned in the Member State in which the operator is established, or lawfully placed at the disposal of that operator. This document enables inspecting officers in all the Member States to check the employment status of drivers carrying out transport operations between Member States in Community vehicles and with a Community license, thereby helping the authorities to combat effectively the use of irregularly employed drivers and the resulting distortions of competition.

The harmonization of rules regarding access to the profession is outlined in Directive 96/26/EC based on Article 75 of the Treaty. Being a road haulage operator requires, according to the Directive, good repute in the exercise of business, minimum financial standing, and professional competence. This involved a policy that replaces quantitative licensing with qualitative criteria for allowing access to the road transport market. Given that road haulage undertakings are subject to numerous rules which affect the safety of other road users, an operative who is certified as professionally competent is one who is familiar with all these rules and is also able to manage a company. Good repute means that entrepreneurs who have few scruples about disregarding the law may be excluded from the occupation, while good financial standing ensures that they have the capital required to continue managing the undertaking and maintaining the vehicles, so that any practice that might endanger safety is prevented. The directive requires that each Member State must accept the documents issued by another Member State stating that these conditions are fulfilled. The scope of this Directive excludes the operators of vehicles with a laden weight below 3.5 tons. Regular checks at least every five years ensure that undertakings continue to satisfy these three criteria. The

Table 2.2
Specific commitments by European communities in road transportation services

Mode of supply	Market access				National treatment			
	1	2	3	4	1	2	3	4
Cross border								
Consumption abroad								
Commercial presence								
Presence of natural								
Road transport services								
Passenger transportation (CPC 71213 + 7122)	□	■	○	□	□	■	□	□
Freight transportation (CPC 7123)	□	■	○	□	□	■	□	□
Maintenance and repair of road transport equipment (CPC 6112)	■	■	■	□	■	■	■	□
Services auxiliary to all modes of transport								
Storage and warehouse services (CPC 742) (other than in ports)	□	■	■	□	□	■	■	□
Freight transport agency/freight forwarding services (CPC 748)	■	■	■	□	■	■	■	□
Pre-shipment inspection (CPC 749)	■	■	■	□	■	■	■	□
Other transport services								
Land transport, provision of combined transport service	□	■	■	□	□	■	■	□

Note: Commitments: □ full; ○ partial; ■ none; — not in the schedule

criteria are justified as they halt the proliferation of unscrupulous firms seeking to gain market share by skimping on safety; achieve greater harmonization of standards between Member States, particularly as regards levels of financial standing required and the standard of professional competence expected; facilitate the establishment in other Member States and the mutual recognition of professional status; and improve the overall professional standing and quality of road transport. The Directive 96/26/EC was later amended by Directive 98/76/EC.

It should be noted that access to the transport market not only requires looking at services and access to infrastructure, but also involves the development of traffic control systems such as the road traffic control. Only by establishing non discriminatory access to infrastructure can the goal of increasing efficiency and competition be met, and the non discriminatory access must be appli-

cable to all current and potential service providers, as grandfather rights used by incumbents can play a devastating role on increasing competition. The traffic control systems are not just an aspect of safety but are integral to properly allocating infrastructure capacity, and also play a crucial role in the relationship between operation and infrastructure. Finally, we note that the EU countries have been using the single administrative document (SAD) for almost two decades. Furthermore, the Information Technology packages in use in the EU support the implementation of modern risk management techniques, they are linked to the overall port management systems, and they allow Electronic Data Interchange interaction to be made with the services providers and economic operators such as the freight forwarders and customs. In addition, the infrastructure and equipment at border points are on the whole sufficient.

1.2.2. Prices and fiscal conditions

Road transportation is projected to continue to increase, and there is universal recognition that it is not possible to increase the road supply in relation with the forecasted increases in traffic unless financing issues are solved. Newberry (2002) stresses that the road network is a scarce resource, and that additional use of road network should be rationed with higher prices. The principle of taxation also requires that economic units should pay more as one uses the road network to a greater extent.

The Common Transport Policy based on the principle of 'sustainable mobility', where 'sustainable mobility' refers to maximizing efficiency in terms of energy, time, and distance, while internalizing external costs of infrastructure, environment, operation, upkeep, congestion, and accidents. The system of 'sustainable mobility' and internalizing the average variable costs required the development of a new approach to fiscal issues, and the Green Paper of December 1995 put forth taxation as one of the important solutions to this problem.¹⁷ The Green paper stated that internalizing costs would improve traffic, safety, environment, and remove distortions in competition. On the other hand, the White Paper of 1998 emphasized a range of issues including the need to manage transport capacity more efficiently, to finance transport infrastructure, and the need to improve the efficiency of the transport sector by means of institutional reform involving deregulation and privatization.¹⁸

According to the objective of 'sustainable mobility' outlined in the Common Transport Policy, the EU maintains that charges for infrastructure should reflect the marginal social cost. Hence, users should incur both internal costs such as fuel, driver's time, and wear and tear as well as the external costs consisting of operating, infrastructure, congestion, environmental, and accident costs.

It is emphasized that transport is the main cause of 50 percent of nitrogen oxide emissions, which forms nitric acid and leads to acid rain. Internalizing such costs not only aids in improving traffic conditions, but is also environmentally sound as it will reduce emissions. When considering external costs we must also look at the combination of noise, air pollution, congestion delays, and aesthetic factors. Estimates show that if the external costs of road transport were internalized,

it would increase operating costs as emphasized by Button (2002) by about 20-33 percent. Therefore the 1998 White Paper sets out to internalize the externalized costs with a step-by-step approach, where the objective was to harmonize the charges in transport across all Member States, where individuals would participate in funding the road systems and cover the marginal social costs. The aim here is that harmonization due to liberalization will also be in accord with social aspects, safety measures, and environmental concerns. Furthermore, it should be noted that the aim of internalizing costs is not to increase the cost of transport, but to make sure that costs are apportioned properly while external costs are incurred across all transport modes to avoid distortions of competition. It is also important to state that while the internalization is based on marginal social cost, a multi-tier charging system should be designed to incorporate taxes based on factors such as emissions. Given the projected continued dominance of road transport, one has to consider also besides pricing other options such as making the mode of transport more environmentally friendly through initiatives that will encourage the use of less harmful fuels, and adopting cleaner technologies.

The Directive 1999/62/EC (Eurovignette Directive) based on Article 71 and article 93 of the EC Treaty sets forth the rules for harmonizing requirements on heavy goods vehicles taxes for use on infrastructure. The Directive covers vehicle taxes, tolls and user charges imposed on vehicles intended for the carriage of goods by road and having a maximum permissible gross laden weight of not less than 12 tons. By the 2006 revision, this threshold will fall by the year 2012 to 3.5 tons. According to the directive tolls should be levied according to the distance traveled and type of the vehicle, and user charges should relate to the duration of the usage of the infrastructure. Tolls and user charges may vary according to congestion and vehicle emission class. As a general rule, distance-based tolls and time-based user charges shall not be applied on the same stretch road. Both tolls and user charges can only be imposed on users of motorways or multi-lane roads similar to motorways as well as on users of bridges, tunnels and mountain passes. National tolls and charges should be non-discriminatory, and should be easy for the motorist to understand, so as to avoid unnecessary hold-ups and problems at toll booths.

Mandatory checks at the EU's internal borders should also be avoided. The Directive 2006/38/EC amending the Directive 1999/62/EC establishes a new Community framework for charging for the use of road infrastructure. The Directive lays down rules for the application by Member States of tolls or user charges on roads, including roads on the trans-European road network and roads in mountainous regions, and the Directive will apply from 2012 onwards to vehicles weighing between 3.5 and 12 tons. According to the Directive Member States are able to differentiate tolls according to a vehicle's emission category ("EURO" classification) and the level of damage it causes to roads, the place, the time and the amount of congestion.¹⁹ Hence, this makes it possible to tackle the problems of traffic congestion, including damage to the environment, on the basis of the "user pays" and "polluter pays" principles.²⁰

1.2.3. Harmonization of social conditions, technical conditions, and safety

With liberalization and the creation of a free market, certain social, technical, and safety conditions need to be harmonized in the EU in order to be able to have 'sustainable mobility'. Harmonization of social conditions includes the harmonization of maximum working times, installing necessary technical components, and eliminating controls on frontiers.

Regulation 561/2006 is on harmonizing certain social legislation with respect to road transport. Its aims are to improve road safety by limiting driving times, improve working conditions, and harmonize the conditions across Member countries. It sets out the rules for maximum daily and fortnightly driving times, daily and weekly minimum rest periods for road haulage as well as for passenger transport vehicles.²¹ It also stipulates that a digital tachograph be fitted in all new vehicles that go into service for the first time, starting May 1, 2006. This has a very wide ranging scope, where it includes national as well as international transport, long as well as short distance, own account transport as well as for hire, and employees as well as those who are self employed. On the other hand, Council Regulation 3821/85 concerns the recording equipment in road transport; primarily the analogue tachograph, which records, driving time, breaks, and rests. Council Regulation (EC) 2135/98, amending the regulation, requires the

use of the fully digital tachograph, which is more reliable and which includes a printer for road side inspections. Directive 2006/22/EC lays down the minimum conditions for implementation of Regulation 3821/85 regarding the amount of road side inspections of driving time, rest period, breaks and checks at the premises of undertakings. Finally, Directive 2002/15 regarding the working time of those persons performing road transport activities, sets forth the minimum requirements for working time in order to improve road safety as well as the health of workers, and Directive 2002/15 defines working time, place of work, night work, and maximum working week.²²

Council Regulation 4060/89 is on eliminating controls at the frontiers. It states that controls on weights and dimensions be done on a sample basis. Council Regulation 3912/92 extends the scope of Regulation 4060/89 to those vehicles and vessels registered in third countries. Controls on vehicles registered in third countries must be done at the external frontier of the Community.

Harmonization of technical conditions dealing with issues such as tread depth of tires, installation of speed limitation devices, maximum authorized weights and dimensions, roadworthiness tests for vehicles, technical roadside inspection, and registration documents for vehicles, concerns interoperability, safety and environmental issues. Council Directive 89/459 sets forth the conditions with respect to the tread depth of tires in certain categories of motor vehicles and their trailers, where the minimum tread depth in main grooves must be 1.6 mm in vehicle categories M1, N1, O1, and O2.²³ On the other hand Council Directive 92/6 with environmental and safety concerns at hand regarding heavy goods vehicles and buses, puts forth the necessary installation and use of speed limitation for M2, M3, N2, and N3 categories of vehicles. The directive further stipulates that M2 and M3 vehicles can have a maximum speed of 100 km/h, and N2, N3 vehicles can have a speed limit of 90 km/h. The directive was later amended by Directive 2002/85/EC. Council Directive 96/53, which was later amended by Directive 2002/7/EC, puts forth the maximum dimensions that are authorized for M2, M3, N2, and N3 categories of vehicles in national and international traffic, as well as the maximum authorized weights in international traffic.²⁴ On the other hand Council Directive 96/96 states that Member

States must conduct periodic roadworthiness tests for vehicles and trailers registered in the Member State, and the test will have mutual recognition by other Member States. These inspections should be carried out once a year for heavy vehicles, and at least every other year for light vehicles and passenger cars. The directive was later amended by Directives 1999/52/EC, 2001/9/EC, 2001/11/EC, and 2003/27/EC.

An increase in the number of vehicles leads to an increase in accidents. With road safety and environmental concerns, Council Directive 2000/30/EC puts forth that commercial vehicles in EU territory will be subject to unannounced technical roadside inspections regarding the vehicles' roadworthiness. These inspections will be non discriminatory, and will try to minimize the costs and delays of the operators involved. The inspector shall draw up a report and give it to the driver of the commercial vehicle. On the other hand, with the aim of harmonization of some codes and contents the Council Directive 1999/37 was issued regarding the registration documents for vehicles. The directive was later amended by Directive 2003/127/EC.

Improving traffic safety is an important objective in the liberalization of markets. Directive 91/439/EEC introduced the mutual recognition of drivers licenses along with the harmonization of many aspects of drivers licenses including categories, issuing conditions, and requirements. A review in some Member States showed that 30 percent of drivers never received any training. This situation was remedied with Directive 2003/59/EC regarding the qualifications and periodic training of drivers of certain road vehicles for the carriage of goods or passengers. Drivers would be trained in road safety, technical aspects of the vehicle, fuel consumption, loading, accidents and physical risk, criminality, emergencies, and the economic image of the company. Starting towards the end of 2008 all new drivers will have to be trained. Training will lead to better skills, improved service and higher quality, improved road safety, reduced fuel consumption, and reduced costs.

Seatbelts are another important aspect of road transport safety. While the Directive 91/671/EEC regarding 'the approximation of the laws of EU Member States having to do with the compulsory seat belt use in motorized vehicles weighing less

than 3.5 tons' applied only to cars and vans and did not require parents to use child restraints for their children, the new Directive 2003/20/EC extends the scope of application of Directive 91/671/EEC requiring the use of seatbelts, where provided, by those in all motor vehicles. Furthermore it states that children must be restrained by an appropriate child restraint system that conforms to the latest UN-ECE standard when traveling in M1 and N1 vehicles.

The White Paper on European transport policy of September 2001 had proposed halving the total number of accidents by 2010. On the other hand the Road Safety Action Program, which was announced in the White paper, aims to reduce the total number of fatalities by half by the year 2010. This includes equipment to reduce disastrous effects of accidents, dissemination of information, and accident prevention measures having to do with vehicles, people and infrastructure. Traffic accidents on roads have an estimated cost of 160 billion euro annually, while resulting in more than 40 000 fatalities and 1.7 million injured.²⁵ Therefore, a Community database on road accidents called CARE (Community Database on Accidents on the Roads in Europe) was set up in 1993 by Council Decision 93/704/EC. The objectives of the CARE database is to identify and quantify problems in road safety, study further situations leading to accidents, examine the efficiency of measures taken for road safety, and play a role in disseminating and exchanging information in order to find appropriate solutions.

Directive 2004/54/EC concerns the minimum safety requirements for tunnels in the TEN.²⁶ Many tunnels are aging, many lives have been lost in tunnels in recent years, and the costs from closure of a tunnel are great. The objective of this directive is to prevent those situations that endanger the lives of people, and protect the tunnels and the environment.

Another issue of importance for safety is the transportation of dangerous goods. Regarding road transport of dangerous goods, the international transport of dangerous goods has long been governed by established agreements. The EU with the use of directives tries now to apply such guidelines to national traffic. Directive 94/55/EC concerns the laws regarding the transport of dangerous goods by road. This directive applies to road transportation of dangerous goods within or

between Member states. The rules are based on the European Agreement concerning the International Carriage of Dangerous Goods by Road. The directive was later amended by Directive 2000/61/EC. On the other hand the Directive 95/50 is about uniform procedures for random checks on the road transportation of dangerous good. In 1999 the Directive 1999/36/EC, often referred to as Transportable Pressure Equipment Directive, was introduced. This directive, aiming to increase the safety in relation to transportable pressure equipment by setting technical requirements, was later amended by Directives 2001/2/EC and 2002/50/EC. Council Directive 96/35 concerns appointing safety advisers for the transportation of dangerous goods by road, rail and inland waterway, and their qualifications. The Directive stipulates that all operations involved in the transportation, loading or unloading of dangerous goods appoint a safety advisor who has gone through the necessary training, passed an examination, and received a certificate. The Directive 2000/18 is about the examination requirements for safety advisers for the transportation of dangerous goods.

2. Liberalization efforts in Egypt, Morocco and Jordan

Road transport accounts for a relatively small fraction of cross border transport flows in Egypt and Morocco. Even though the bulk of trade in these countries is processed via ports, road transport is needed for door-to-door delivery. On the other hand in Jordan road transport accounts for a relatively larger share of cross border transport flows.²⁷ International road transport is not only important in South-South transport, but also in North-South transport, either through Ro-Ro in the Maghreb or through Turkey to the Mashrek.

2.1. Road networks

Egypt boasts a relatively well developed road system connecting the major population centers. Egypt's system of highways has almost trebled over the last two decades, to about 44 000 km up from 15 300 km in 1981. It's network of highways and inter-city roads carries 85 percent of domestic freight and 60 percent of passenger travel. Currently a 113 kilometer Greater Cairo Ring Road is linking all highways between Cairo and other cities. Six BOT road projects have been offered for

construction, namely roads between Saloum and Natroun; Alexandria and Fayoum; Dayrout and Fayoum; Aswan and Dayrout; Dayrout and Farafra; and Kharga and East Oweinat.

The Moroccan road network currently spreads over 60 000 km of roads and highways, including more than 32 000 km of paved roads. It stands currently as one of the top networks in Africa. The network is divided into national roads which have a total length of 11 300 km, regional roads of a length of 10 150 km, provincial roads with roughly 36 000 km, and local roads reaching 3 200 km. In 1995, the government had already begun a National Rural Road Program aimed at constructing 11 236 km of rural roads by 2005, followed by a second Rural Road Program to construct 15 000 km between 2005 and 2015. The objective is to improve rural populations' road accessibility to 80 per cent, compared to less than 50 per cent currently. By the end of 2005, roughly 83 per cent of the first Rural Road Program initially planned was completed. The government also plans to complete the construction of the 550 km Mediterranean bypass linking Tangiers and Saïdia by 2009. Regarding highway infrastructure, the Ministry of Equipment and Transport has set the objective of constructing 400 km of highway between 2003 and 2007, completing 1 500 km of highways by 2010. The Asilah-Tangier motorway was completed over the summer of 2005 and the Settat-Marrakech motorway (145 km) was completed early 2007. The motorway linking Tétouan to Fnideq (28 km), and the Tangier-Mediterranean Port motorway has been completed by now. The Marrakech-Agadir motorway (233 km) started in 2005 and is planned to be ready by the end of 2009. Finally, the construction of the Fès-Oujda axis is scheduled to take place over the period 2006-2010. Currently, 95 percent of domestic transport of travelers and around 75 percent of tons kilometers of goods (phosphate not included) are carried out by road.

Jordan has 3 440 km of main roads, 2 127 km of side roads and 2 435 km of rural roads connecting all parts of the country. The main road network is paved and in good condition. Jordan hopes to be able to exploit this network as a crossroad for transporting goods both from its port Aqaba in the south and, with progress in the Peace Process, from the Israeli Mediterranean coast to the Arab hinterland. There are about 792 thousand vehi-

cles, of which 157 thousand are trucks of various sizes. In the case of trucking 78 percent of the fleet is over a decade old and singly owned.

A basic road network for South-South movement throughout the Middle Eastern and North African region has already been built. The main road systems connecting Egypt, Morocco and Jordan with major trading partners are as follows. The coastal corridor which links main cities in the Maghreb (Marrakech-Algiers-Tunis-Sousse-Libyan border) provides in principle for efficient national and international traffic flows. But the closed border between Morocco and Algeria greatly restricts this corridor's potential. The Maghreb road network is connected to the Egyptian border through a relatively efficient coastal highway in Libya. In Egypt, the international road route which connects the Mashreq and Maghreb also follows the coast, from Ismailia through to Port Said and Alexandria and onward to the Libyan border at Umm Said. In the Mashreq, the road connection from Egypt goes via Jordan and Syria to Turkey and through Turkey to the EU, Caucasus and Iran.

2.2. The role of the state and the regulator

Access to the road freight transport industry has been greatly liberalized in Egypt, Morocco and Jordan during the late 1990's. The private sector is highly involved in both the national and international goods traffic. But, in Egypt and Morocco the state still provides some freight transport services using its own truck fleets. In the Egyptian trucking market there are five public firms, which have a market share of 3.1 percent where the rest of the market is controlled by private firms. Similar considerations apply in the case of Morocco. On the other hand Jordan has a relatively small public fleet. The government holds 50 percent equity stakes in the Jordan-Syrian Road Freight Transport Company and the Jordan- Iraqi Road Freight Transport Company. Statutory or other legal limits to the number or proportion of shares held by foreign investors in those companies are 50 percent. The contract of establishment between the parties limits the sale of the equity held by the government in publicly controlled companies. Although the involvement of the public sector in the industry would not present a problem as long as governments would ensure that no special advantages are given to the state-owned trucks and that

fair competition is maintained between the state and the private sector, the satisfaction of these conditions is rarely achieved.

The regulator of the sector in Egypt is the General Authority for Road, Bridges and Road Transport, affiliated to Ministry of Transport. The regulator in Morocco is the National Transport Board (ONT) affiliated to Ministry of Infrastructure and Transport, while the regulator in Jordan is the Ministry of Transport. In Egypt the regulator was established in 1966 by Presidential Decree No. 2717/1996, and the regulator is not an institutionally independent agency. In Morocco the regulator is also not an institutionally independent agency, and it is financed entirely from the state budget. Finally, the regulator in Jordan was established in 1965 and it is an institutionally independent agency.

2.3. Liberalization

In Egypt participation of the private sector in the transport sector has been allowed without restrictions during the late 1990's. Law No. 8 of 1997 has opened several road transport fields for the full engagement of the private sector. Presently there are no policy restrictions to new entry by domestically owned commercially established operators and entry by firms with foreign participation. There are also no restrictions on cross-border entry of foreign service providers on the road transportation market. These rules apply for bus, truck, special cargo, forwarding and also for cabotage firms. But, until now the actual participation of the private sector in different road sectors has been rather limited. Regarding price regulation we note that prices are regulated according to Law No. 55/1975. According to the law the operator is obliged to take approval for its fees from the Regulator in the course of issuing the license.

In Morocco the Government launched a reform of transport services in 1999. The transport sector reform is carried out with the aim of making a clear separation of the roles of government and the private sector by refocusing the public administration on regulatory tasks and gradually conceding commercial activities to the private sector. Its ultimate objective is to modernize the transport infrastructure network; increase autonomy of various state-owned enterprises operating in the sector; gradually privatize state-owned enterprises and encourage private sector investment

in transport as well as transport related activities. Presently there still are policy restrictions to new entry by domestically commercially established bus operators and entry by bus firms with foreign participation, but there are no policy restrictions to new entry by commercially established truck and forwarding operators or entry by truck and forwarding firms with foreign participation. The main reason for policy restrictions by bus firms is the belief that the market can sustain only a limited number of operators. There are also restrictions on cross-border entry of foreign service providers on the road transportation market implemented through bilateral road freight agreements. In Morocco prices have been liberalized to a large extent, but the public sector still regulates some of the tariffs. Cabotage by foreign companies is not allowed.

In Jordan there has been an obvious shift in the traditional role of the government concerning this sector since the start of the new millennium. As part of the new national strategy, the Ministry of Transport is trying to retain the role of regulation and monitoring, leaving service provision and operation to the private sector. Currently, there are no policy restrictions to new entry of commercially established operators, but there are restrictions on cross-border entry of foreign service providers on the road transportation market. These restrictions are implemented through bilateral road freight agreements. Entry is restricted for trucking to increase government revenue from privatization or license fees; and for special cargo and forwarding to give incumbent operators time to prepare for competition, as well as to increase government revenue from privatization or license fees. In the case of cabotage priority in job opportunities goes to Jordanian trucks. In Jordan prices have been liberalized. The government or regulatory agency does not regulate tariffs, but does provide pricing guidelines to road transport companies on the tariff for forwarding. Professional bodies or representatives of trade and commercial interests are involved in specifying or enforcing pricing guidelines or regulations on transport tariffs and on forwarding.

2.4. Licensing

In Egypt, Morocco and Jordan private operators are granted operation rights through a license. However, the current licensing schemes do not

sufficiently match international standards and poses a potential threat to transport efficiency and safety. This is particularly the case where the issuing of licenses is based on minimal requirements focusing mainly on the availability of asset capital. In other cases licensing schemes are more advanced taking into account the financial, technical and professional qualifications of operators. But even in those cases they are not entirely adapted to international best practices. The inadequacy of the licensing schemes has resulted in a highly fragmented road haulage industry in the region, characterized by the emergence of numerous owner-operators who cannot take advantage of economies of scale.

In Morocco road transportation licenses in the past have taken the form of “favors” granted on the basis of unclear criteria that stimulated an evident rent-seeking behavior. With the new legal framework adopted during late 1990’s, conditions for acceding to the profession are based exclusively on professional criteria and financial capacity. Unlike, the former regime, no constraints are imposed on foreigners. In addition, transporters can undertake both domestic and international road transport operations, and all those who hold “licenses” have a transition period to conform to the prevailing criteria.

In Jordan the main requirement that a firm must fulfill in order to become an international carrier under bilateral agreements for trucking is to get a license from the Ministry of Transport under the provisions of transport laws and bylaws and instructions issued. The license fee for trucks, special cargo, or forwarding is 130 Jordanian Dinar. Licenses or concessions are issued by competitive tender for bus services and cabotage, and on a first-come first-served basis for truck, special cargo, and forwarding services. The Ministry of Transport issues licenses for trucks, special cargo, and forwarding, and the Public Transport Regulatory Commission for bus and cabotage services. The regulator has no power to limit industry capacity.

2.5. Border crossing

In Egypt, Morocco and Jordan the use of the single administrative document by customs authorities is still not as widespread as required. Furthermore, the Information Technology (IT) packages used by Egypt, Morocco and Jordan do not support in

general the implementation of modern risk management techniques, and they are not linked to the overall port management system. As a result the rate of inspections at the customs continues to be relatively high compared to the rates in the EU. Furthermore, the infrastructure and equipment at border points are often insufficient or in need of upgrading.

2.6 Road safety

In the case of road safety a number of factors jeopardize it. Such factors according to EuroMed (2005) include the following: (i) safety aspects are not well integrated in the design, construction and operation of road networks and facilities; (ii) inadequacy or incompleteness of regulatory frameworks governing the training and testing of drivers, the physical and mechanical conditions of vehicles; (iii) shortage or inadequacy of existing traffic control and guidance systems; (iv) shortage or inadequacy of existing road safety furniture such as guard rails, and embankments; (v) absence of advanced technologies such as intelligent transport systems and road safety management systems; (vi) inappropriate street enforcement and control of the existing driving regulations by the traffic police; (vii) inappropriate inspection of existing vehicle fleets for compliance with the set standards and regulations; and (viii) poor physical conditions of road networks due to inappropriate maintenance and rehabilitation. In addition, differences in limits imposed by different countries on speeds, alcohol levels, and continuous driving times increase the risk of road accidents.

2.7. Financing and maintenance

While Morocco and Egypt apply motorway tolls, Jordan does not adopt the tolling concept. Regarding road maintenance we note that Egypt and Jordan manage their national road networks in a traditional manner, with funds being allocated from the general government budget. But, the amounts allocated are insufficient to meet the maintenance needs, thereby giving rise to substandard road networks. On the other hand Morocco represents an exception in that revenues from road users are used for covering the maintenance costs of the road networks. The Moroccan Ministry of Equipment and Transport gives primary attention to the maintenance program, and the objective is to maintain in a few years time the Moroccan net-

work at a rate of 65 percent of roads in a 'good to acceptable' condition.

Governments are interested in upgrading and improving the infrastructure in the sector by inviting the private sector to participate in this process. Several BOT and BOOT type of projects in the construction of roads and highways are under consideration. But there are certain problems. Private investors anticipate a high level of risk and this deters them from becoming involved in such projects. The hesitation of the private sector to be involved in road projects can be mainly related to the low level of maturity of legal frameworks for such projects and to strong uncertainties regarding financial profitability because of high construction costs, insufficient traffic volumes, and low toll levels.

2.8. Bilateral and multilateral agreements

Because hauliers move internationally, there is as mentioned above a strong need to standardize those aspects of national road freight transportation rules and regulations that are related to the international operation of hauliers and hence increase access to foreign markets. In this context Egypt has signed various bilateral agreements with Arab countries, and the Agreement on International Roads in the Arab Mashreq. The bilateral agreements are co-operation agreements in the field of passenger and freight transport. Similarly Morocco has signed 17 bilateral agreements and 15 operational agreements with main trading partners in Europe and the Arab world. The bilateral agreements have capacity clauses imposed on foreign carriers, constraints on the number of foreign carriers, and some of the agreements have tariff clauses. On the other hand Jordan has signed 32 bilateral agreements, and 28 operational agreements. Under operational bilateral agreements capacity clauses apply to foreign carriers, and under bilateral agreements route specifications for foreign carriers apply.

Egypt, Morocco and Jordan are party to the Transport Regulation Agreement signed between Arab states in 1977. The aim of the agreement was to facilitate the passage of goods and means of transport through the lands of the Arab countries, increase the collective ability of using ports of other Arab countries as an entry point to goods imported, legalize and recognize a single customs invoice (called Arab Transit invoice) among the

Arab countries instead of using several customs invoices, and to make it possible as a general rule for goods to be not inspected by customs in Arab countries as far as there are seals not tampered with. Although 30 years have passed since this agreement was signed, road freight transport is still facing difficulties negatively affecting the intra-trade flows between Arab countries.

Thus, there is an abundance of bilateral road transport agreements in the region leading to confusion for carriers and also to conflicts between agreements. Concerning the international agreements for regulating international road transport such as the conventions of UNECE, we note that Egypt and Jordan remain inactive with respect to ratifying most of these conventions. They seem to have a low interest in these conventions due to the limited volume of road traffic exchanges with the EU. On the other hand Morocco shows a higher degree of involvement in such conventions. Egypt and Jordan have not ratified any of the following convention and agreements: the Convention on Customs Containers, the Convention on Harmonizing the Frontier Control of Goods, the Convention on Customs Pool Container, the Convention on the International Carriage of Dangerous Goods by Road and the Agreement on the International Carriage of Perishable Foodstuffs. On the other hand Morocco has ratified the Convention on

Customs Containers, the Convention on the International Carriage of Dangerous Goods by Road and the Agreement on the International Carriage of Perishable Foodstuffs. With regard to transit agreements, we note that Morocco and Jordan with the exception of Egypt have signed the Convention on International Transit by Road (TIR).

In Morocco permits for international road transport, according to WTO (2003), were granted by a national commission. The customs service, on behalf of the Ministry of Transport, issued vehicle licenses for Morocco to foreign carriers. The National Transport Board (ONT) levied fees on TIR agreements for the national network and other fees were also due. But the number of Moroccan TIR vehicles was limited by several constraints, including the age of the vehicles, the growth in informal transport, the inadequacy of the road infrastructure, the freight monopoly given to the ONT, and the high cost of the investment needed. In order to respond to this situation, Law No. 16-99 was adopted and implemented in March 2003. It confirms as emphasized above the liberalization of road transport of goods and the abolition of the ONT's freight monopoly.

Turning to WTO services negotiations we note that WTO commitments provide important forum for the liberalization of road transport services. Here, we note that in the Uruguay Round of mul-

Table 2.3
Specific commitments by Morocco in road transportation services

Mode of supply	Market access				National treatment			
	1	2	3	4	1	2	3	4
Cross border	1				1			
Consumption abroad		2				2		
Commercial presence			3				3	
Presence of natural				4				4
International road passenger transport (CPC 7121 + 7122)	□	■	○	□	□	■	■	□
Goods transport (CPC 7123)	□	■	○	□	□	□	■	□
Other passenger transport (tourists) CPC 71219)	□	■	○	□	□	□	■	□

Note: Commitments: □ full; ○ partial; ■ none; — not in the schedule

tilateral trade negotiations, Morocco has made specific commitments in road transportation, but not Egypt. Jordan when joining the WTO in 2000 has also made no commitments in road transportation. The specific commitments made by Morocco are shown in Table 3.

On the other hand within the context of the Euro-Mediterranean Partnership the first Euro-Mediterranean Conference of Transport Ministers was held on 15 December 2005 in Marrakesh. The conference covered issues such as the status of transport sector reform in the Mediterranean region, and infrastructure development and financing of transport investments in the Mediterranean region. On the other hand the EU-Egypt, EU-Morocco and EU-Jordan action plans concentrate on measures designed to improve safety, security and efficiency of transport operations as well as the development of an efficient transport network. The European Commission's January 2007 communication to the Council and European Parliament 'Extension of the Major Trans-European Transport Axes to the Neighboring Countries – Guidelines for Transport in Europe and Neighboring Countries' focused on linking up the major axes of the trans-European networks with the transport networks of the neighboring countries. The Commission identified five major transnational transport axes and two of those concern the MENA countries. The South-Eastern Axis will link the EU with the Balkans and Turkey and further with the Middle East up to Egypt and Red Sea. On the other hand the South-Western Axis will connect EU with Morocco, and the trans-Maghrebin link will connect Morocco with Algeria, Tunisia and Egypt.

3. Conclusion

Consideration of the liberalization efforts in the road freight transportation sector in Egypt, Morocco and Jordan reveal that considerable progress has been achieved in these countries since the 1990s regarding the liberalization of road freight services. But much remains to be done.

When reforming the road freight transport sector the roles of government and the private sector in MENA countries need to be clearly specified. Public administrations should focus on regulatory tasks and concede gradually all of the commercial activities to the private sector.

As regulators of the road freight transportation sectors, public administrations could try to eliminate market access restrictions on commercial presence and cross border supply, and distortions to competition in the sector. The current quantitative licensing schemes could be replaced with qualitative criteria for allowing access to the road transport market. Such criteria could include, as in the EU, good reputation in the exercise of the business, minimum financial standing, and professional competence. In addition, the public administrations in the MENA countries could try to eliminate the barriers to border crossing. For this purpose the MENA countries could attempt, as in the EU, to standardize documents required at the customs by adopting the single administrative document. The Information Technology (IT) packages could support the implementation of modern risk management techniques, and they could be linked to the overall port management systems. In addition they could allow Electronic Data Interchange interaction to be made, as in the EU, with service providers and economic operators such as the freight forwarders and customs. Finally, the infrastructure and equipment at border points could be upgraded and improved, increasing the efficiency of customs services and procedures.

Because hauliers move internationally, there is need to standardize those aspects of national road freight transportation rules and regulations that are related to the international operation of hauliers. Currently, there is an abundance of bilateral road transport agreements leading to confusion for carriers. These agreements could be replaced, as in the EU, with comprehensive multilateral agreements covering the neighboring countries of Egypt, Morocco and Jordan. Furthermore, the MENA countries could ratify and effectively implement the various conventions of UNECE such as the Convention on Customs Containers, Convention on Harmonizing the Frontier Control of Goods, Convention on Customs Pool Container, Convention on the International Carriage of Dangerous Goods by Road, Agreement on the International Carriage of Perishable Foodstuffs, and the Convention on International Transit by Road (TIR). Such agreements will provide the international legal and technical framework for the development of international transport in the region.

To upgrade and improve the infrastructure in the road transport sector the MENA countries

could invite the private sector to participate further in the process. Concession contracts could be awarded on the condition that concession-holders assume responsibility for the investments. But adoption of such an approach would require the assurance of the project's economic viability by improving the legal framework for such projects and decreasing the uncertainties regarding financial profitability of the projects. Once the project's economic viability will be assured charges for infrastructure could be set, as in the EU, to reflect the marginal social costs.

Enhancing the safety, security and environmental aspects of road freight transport can be accomplished through adopting the appropriate UNECE conventions and related EU regulations regarding the carriage of dangerous goods, drivers working hours and professional standards, securing and loading of goods, road signs, and markings and signals. In this respect, the approximation with the *acquis* regulations could be encouraged as it can provide for a simultaneous convergence of these regulations between MENA countries on one hand, as well as between them and the EU on the other hand.

These are all issues that could be handled within the context of the European Neighborhood Policy (ENP). The Action Plans could focus on developing modern regulatory structures, improving competition, eliminating barriers to border crossing, increasing the efficiency of customs services and procedures, replacing bilateral agreements with comprehensive multilateral agreements, helping with implementation of various UNECE conventions, increasing private sector participation in upgrading and improving the infrastructure in the road transport sector, linking up of major axes of the trans-European transport networks with the transport networks of the MENA countries, and designing and implementation of transport regulations on road safety, technical and social conditions.

Notes

1. If each country has different regulations in place and does not recognize qualifications in a foreign firm's home country, then the national qualification costs become cumulative costs, as firms in the sector in order to enter the foreign markets will have to incur costs to comply with the qualification criteria (compliance costs) of each country. As long as these costs are country-specific, they may become prohibitive hampering trade and investment.
2. See Braithwaite and Drahos (2000).
3. These rules and regulations are discussed thoroughly in ECMT (2001).
4. The European Conference of Ministers of Transport (ECMT) has recently been transformed to the International Transport Forum, which is an inter-governmental organization within the OECD family. Its founding member countries include all the OECD members, as well as many countries in Central and Eastern Europe. The aim of the Forum is to foster a deeper understanding of the essential role played by transport in the economy and society.
5. The list of individual transport operations comprises: (i) transport of vehicles that are damaged or have broken down, (ii) unladen runs by a vehicle sent to replace a vehicle that has broken down and also the return run, after repair, of the vehicle that had broken down, (iii) transport of goods by motor vehicle whose total permissible laden weight, including trailers, does not exceed 6 tons, or whose permitted payload, including that of the trailers, does not exceed 3.5 tons, (iv) transport of supplies to meet medical and humanitarian needs, (v) transport of goods, on an occasional basis, to airports in the event of services being diverted, (vi) transport of works and objects of art for fairs and exhibitions or for non-commercial purposes, (vii) transport for non-commercial purposes of properties, accessories and animals to or from theatrical or circus performances, (viii) transport of spare parts and provisions for ocean-going ships and for aircraft, (ix) funeral transport, (x) transport of livestock in special purpose-built or permanently converted vehicles for the transport of livestock, recognized as such by the Member Countries' authorities concerned, and (xi) transport of goods on own account.

6. Transport for hire or reward consists of a range of transport operations such as postal transport, transport vehicles that are damaged or have broken down, transport of goods by vehicles whose authorized payload does not exceed 3.5 tons, transport of medicinal products or medical equipment, transport of emergency equipment. Transport operations for hire or reward other than those just listed require an operating certificate, namely the Community license, which replaces bilateral licenses at European Union Level (Council Regulation EEC N° 881/92 of 26 March 1992).
7. The Member countries of ECMT were Albania, Austria, Azerbaijan, Belarus, Belgium, Bosnia-Herzegovina, Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, Federal Republic of Yugoslavia, Finland, France, FYR Macedonia, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Moldova, Netherlands, Norway, Poland, Portugal, Romania, the Russian Federation, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine and the United Kingdom. There are six Associate member countries (Australia, Canada, Japan, New Zealand, Republic of Korea and the United States) and two Observer countries (Armenia and Morocco).
8. As examples of blocking roads as a result of political conflicts consider the closure of borders between Lebanon and Syria on the one hand and with Israel on the other hand; and the closure of borders between Morocco and Algeria.
9. The single administrative document (SAD) used in the EU within the framework of trade with third countries and for the movement of non-EU goods within the EU is aimed at ensuring openness in national administrative requirements, rationalize and reduce administrative documentation, reduce the amount of requested information and standardize and harmonize data.
10. While the rate of inspections at the customs is about 2 percent in the EU, the rate in other countries not using the facilities is much higher.
11. TIR stands for 'Transport Internationaux Routiers'.
12. The TIR Convention has 64 Contracting Parties, including the European Community (EC). It covers the whole of Europe and reaches out to North Africa and the Near and Middle East. The United States of America and Canada are Contracting Parties as well as Chile and Uruguay in South America.
13. "National treatment" requires that once products have entered the market, they must be treated no less favorably than the equivalent domestically produced products.
14. MFN stands for "most favored nation". According to MFN clause, members are bound to grant to the products of others treatment no less favorable than that accorded to the products of any other country.
15. Annex I to the EEC Directive of 23 July 1962, as amended, defines intra-community own account transport as follows: "Transport of goods by motor vehicle subject to the following conditions: (i) the goods transported must belong to the company or have been sold, bought, rented, produced, extracted, transformed or repaired by it, or given to it, (ii) the carriage must be used to take goods to the company premises, to send them from the company premises, to move them, either within the company premises, or outside the company premises for its own needs, (iii) the motor vehicles used for this carriage must be driven by members of the company's own staff, (iv) the vehicles transporting the goods must belong to the company or have been bought by it on deferred terms, or hired provided that in the latter case they meet the conditions of Council Directive 84/67 on the use of vehicles hired without drivers for the carriage of goods by road, and (v) transport must only be incidental to the companies activity as a whole."
16. There were anxieties in the sector about the possible adverse effects of running cabotage services. These focused on potentially unfair competition from lower-wage countries, which could undercut operators who have to bear greater costs in a more tightly regulated environment.
17. See European Commission (1995).
18. See European Commission (1998).
19. EU legislation on emissions from new motor vehicles have been in force since 1970. Since 1993 this has been mandatory for Member States. Standards requiring the use of catalytic converters on petrol cars first came into force in 1993 with EURO I, which was replaced by

EURO II in 1997. Even stricter standards have been agreed, with EURO III and EURO IV, coming into force in 2001 and 2006 for passenger cars and in 2002 and 2007 for light commercial cars. Catalytic converters result in marked reductions of CO, NO_x and hydrocarbon emissions from petrol-driven cars, and more efficient catalytic converters will ensure compliance with future, more stringent, standards. For heavy-duty vehicles, standards relate to emissions of CO, HC, NO_x and PM. The first standards came into force in 1990 with EURO 0, which was replaced by EURO I and EURO II, in 1993 and 1996. Proposals for EURO III, IV and V for 2001, 2006 and 2009 are currently being discussed.

20. For recent developments on estimation of external cost in the transport sector see CE Delft (2007).
21. The maximum daily driving period is 9 hours, with an exception of two days of the week when it can be 10 hours, where the driver may drive for 6 days a week. Total driving time must not be more than 56 hours, and total fortnightly driving time must not be more than 90 hours. The driver must rest for at least 11 hours a day, with an exception of 9 hours three times a week. There is a stipulation for a split rest of 3 hours followed by another 9 hours (totaling 12 hours) a day. Weekly rest is 45 hours (continuous), which can be brought down to 24 hours, where one 45 hour rest must be taken every two weeks. Breaks are at least 45 minutes (where that can be broken up into 15 and 30 minutes) and should be taken every four and a half hours.
22. It is supplementary to Regulation 561/2006 which outlines driving times.
23. In Council Directive 70/156/EEC of 6 February 1970 the categories are specified as follows: Category M1 : Vehicles used for the carriage of passengers and comprising no more than eight seats in addition to the driver's seat. Category M2 : Vehicles used for the carriage of passengers, comprising more than eight seats in addition to the driver's seat, and having a maximum weight not exceeding 5 metric tons. Category M3 : Vehicles used for the carriage of passengers, comprising more than eight seats in addition to the driver's seat, and having a maximum weight exceeding 5 metric tons. Category N : Motor vehicles having at least four wheels, or having three wheels when the maximum weight exceeds 1 metric ton, and used for the carriage of goods. - Category N1 : Vehicles used for the carriage of goods and having a maximum weight not exceeding 3.5 metric tons. Category N2 : Vehicles used for the carriage of goods and having a maximum weight exceeding 3.7 but not exceeding 12 metric tons. Category N3 : Vehicles used for the carriage of goods and having a maximum weight exceeding 12 metric tons. Category O : Trailers (including semi-trailers) - Category O1 : Trailers with a maximum weight not exceeding 0.75 metric ton. Category O2: Trailers with a maximum weight exceeding 0.75 metric ton but not exceeding 3.5 metric tons. Category O3 : Trailers with a maximum weight exceeding 3.5 but not exceeding 10 metric tons. Category O4 : Trailers with a maximum weight exceeding 10 metric tons.
24. Maximum length of motor vehicle is 12 meters, articulated vehicle 16.5 meters, and road train is 18.75 meters. Maximum width of a vehicle is 2.55 meters, while conditioned vehicles are 2.6 meters. Maximum weight is 40 tons for road train or articulated vehicle with 5-6 axles, 44 tons for a motor vehicle with 3 axles that has a semi trailer (2-3 axle) that transports a 40 foot ISO container (combined transport).
25. European Commission - News Center 'Stress-free motoring' <http://ec.europa.eu/research/news-centre/en/tra/01-12-tra02.html>
26. TEN stands for Trans European Transport Network.
27. This section is based largely on Achy et al. (2005), Achy (2008), EuroMed (2005), Ghoneim (2007), Khardoush and Khouri (2008), Mueller - Jentsch (2002), WTO (2003), and WTO (2005) and answers to a set of questionnaires prepared for Egypt, Morocco and Jordan.

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