

*Uniform Rules for a Combined Transport Document*

80. The ICC's Uniform Rules for a Combined Transport (CT) Document, published in November 1973, comprise a set of minimum rules that are intended to govern an acceptable and easily recognizable combined transport document. They are suited to being given a legal effect by their incorporation into private contracts for combined transport. By issuing a CT document, subject to ICC Rules, the combined transport operator accepts full responsibility for performance of the complete transport operation, including liability for loss, damage, and delay.

81. Work on these rules began in October 1972 by the ICC's Joint Committee on Containerization, which includes representatives of the various modes of transport and of transport users, bankers, insurers, trade facilitation bodies and forwarders from countries throughout the world. The Rules were developed with the co-operation of the International Federation of Forwarding Agents' Associations (FIATA), the International Maritime Committee (CMI), the International Union of Railways (UIC), the International Road Transport Union (IRU), the International Chamber of Shipping (ICS), the International Union of Marine Insurance (IUMI) and several other international organizations.

82. The Rules are not meant to prejudice the results which may be achieved by UNCTAD in the development of an international intermodal transport convention but to fill the gap until such a convention can be agreed upon and implemented, and to provide a basis for standardizing CT documents and the rights and responsibilities of the parties to a contract for combined transport.

*Multinational enterprises*

83. The questionnaire received from UNCITRAL on this subject was considered by the ICC Commission on International Commercial Practice. The reply to this questionnaire, *inter alia*, drew attention to the ICC Guidelines on International Investment.

84. In relation to multinational enterprises, the ICC also made a submission through Mr. Renato Lombardi, its President, to the group of eminent persons set up by the United Nations Economic and Social Council to examine their role and impact.

**B. INTERNATIONAL MARITIME COMMITTEE (CMI)***International legislation on shipping*

85. The International Maritime Committee is primarily engaged in the preparation of international legislation on shipping. In addition, work has been initiated with respect to international commercial arbitration in maritime affairs. The present working programme includes the following:

Revision of the 1957 International Convention relating to the liability of owners of seagoing ships;

Revision of the International Convention for the unification of certain rules of law relating to bills of lading (1924) and the Protocol to amend that Convention (1968);

Revision of the York/Antwerp Rules relating to general average shipbuilding contracts;

Combined transports and documentation relating thereto.

**UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD) (Addendum 1)***International shipping legislation**Code of conduct for liner conferences*

1. The Preparatory Committee established by General Assembly resolution 3035 (XXVII), requesting the Secretary-General of the United Nations to convene, under the auspices of UNCTAD, a conference of plenipotentiaries as early as possible in 1973 to consider and adopt a convention or any other multilateral legally binding instrument on a code of conduct for liner conferences held its first session from 8 to 26 January 1973 and its second session from 4 to 29 June 1973 in Geneva.<sup>1</sup> The Preparatory Committee had before it, among other documents, the draft code of conduct for liner conferences annexed to UNCTAD resolution 66 (III). At the second session, 16 developed market-economy countries submitted counter-proposals for a draft code of conduct for liner conferences.<sup>2</sup> The Preparatory Committee annexed to the report on its second session its proposed text of a code of conduct for consideration by the United Nations Conference of Plenipotentiaries on a Code of Conduct for Liner Conferences.<sup>3</sup>

2. The United Nations Conference of Plenipotentiaries on a Code of Conduct for Liner Conferences held two sessions in Geneva from 12 November to 15 December 1973 and from 11 March to 6 April 1974. Altogether 92 States members of UNCTAD participated in the Conference.

3. The members of the Joint UNCTAD/United Nations Office of Legal Affairs shipping Legislation Unit serviced both the meetings of the Preparatory Committee and the Conference.

4. The Conference completed its task on 6 April 1974 when it adopted the Convention on a Code of Conduct for Liner Conferences. The Convention was adopted by a roll-call vote of 72 votes in favour, 7 against, and 5 abstentions. The final Act of the United Nations Conference of Plenipotentiaries was adopted by the Conference and signed by all but eight participating States, at the conclusion of the Conference.

5. The Convention will be open for signature at United Nations Headquarters from 1 July 1974 to 30 June 1975 inclusive and will thereafter remain open for accession.

*International intermodal transport*

6. A 58-member Intergovernmental Preparatory Group on a Convention on International Intermodal Transport was established by the Trade and Development Board, in its decision 96 (XII) of 10 May 1973, to elaborate a preliminary draft of a convention on international intermodal transport, in response to the request by the Economic and Social Council in paragraph 2 of its resolution 1734 (LIV) of 10 January 1973.

7. In that decision, the Board requested the UNCTAD secretariat to prepare the studies referred to in paragraph 1 of Economic and Social Council resolution 1734 (LIV), taking into account any additional guidance which the Intergovernmental Preparatory Group, at its first session, might give to the secretariat concerning the studies.

8. The Intergovernmental Preparatory Group held its first session in Geneva, from 29 October to 2 November 1973.

<sup>1</sup> The reports of the first and second sessions of the Preparatory Committee are contained in document TD/CODE/1 and TD/CODE/PC/5 and TD/CODE/2 and TD/CODE/PC/9.

<sup>2</sup> For the text of the counter-proposals, see document TD/CODE/2, annex III.

<sup>3</sup> *Ibid.*, annex I.

9. The basic document before the Group, and on which discussion by the first session was based, was the note by the UNCTAD secretariat: "Some problems involved in inter-modal transport".<sup>4</sup> Representatives from developed market-economy, developing and some socialist countries from Eastern Europe also submitted working papers.<sup>5</sup>

10. At its 8th meeting, the Chairman of the Intergovernmental Preparatory Group, in summing up the work of the Group, said that the working papers which were submitted constituted useful guidance to the UNCTAD secretariat. Members of the Joint Shipping Legislation Unit assisted in servicing the session.

#### *Co-operation with UNCITRAL*

11. Members of the Joint Shipping Legislation Unit prepared drafts for studies on the following subjects: "Liability of ocean carriers for delay", "Documentary scope of application of the Convention" and "Geographic scope of application of the Convention", which were among the subjects included in the working paper entitled "Third report of the Secretary-General on responsibility of ocean carriers for cargo: bills of lading" (A/CN.9/WG.III/WP.12, vol. 1-3).<sup>\*</sup> This report was submitted to the sixth session of the UNCITRAL Working Group on International Legislation on Shipping.

12. The Chief of the Joint Shipping Legislation Unit attended, as the observer for UNCTAD, the sixth session of the Working Group on International Legislation on Shipping.

13. Two members of the Joint Unit assisted the UNCITRAL secretariat in servicing the sixth session of the UNCITRAL Working Group on International Legislation on Shipping. Members of the Joint Unit are working on a draft study authorized at the fifth session of the Working Group, incorporating the first and third questions of the third questionnaire on bills of lading, on "Contents of the contract of carriage of goods by sea" and "the legal effect of the bill of lading in protecting the good faith purchaser of the bill of lading" respectively. Studies on these topics will be incorporated in the report submitted by the UNCITRAL secretariat to the seventh session of the Working Group.

#### *Charter parties*

14. A report entitled "Charter-parties" on the legal, commercial and economic aspects of chartering has been completed by the UNCTAD secretariat for submission to the UNCTAD Working Group on International Shipping Legislation at its fourth session. It is contained in document TD/B/C.4/ISL/13. The fourth session of that Working Group is tentatively scheduled to be held from 27 January to 7 February 1975 at the Palais des Nations, Geneva.

#### *Attendance at conferences*

15. The Organization of African Unity invited UNCTAD to participate in an item on its agenda concerning the Code of Conduct for Liner Conferences at the twenty-second ordinary session of its Council of Ministers from 25 February to 5 March 1974 in Addis Ababa, Ethiopia. Two members of the Joint Shipping Legislation Unit attended.

#### *Second UNCTAD Training Course (in French) in Shipping Economics and Management, 1973*

16. A member of the Joint Shipping Legislation Unit gave a series of lectures on maritime law at the course which was held at the Palais des Nations, Geneva, between 2 July and

23 November 1973. The subjects included legal aspects concerning bills of lading, charter parties and marine insurance, and the code of conduct for liner conferences.

#### *Technical assistance*

17. The secretariat of UNCTAD, as part of its programme of technical assistance and in co-operation with other bodies in United Nations systems, participated in various programmes to assist developing countries in legal matters connected with maritime transport.

#### *Multinational enterprises*

##### *Working Group on the Charter of Economic Rights and Duties of States and Regulation of Transnational Corporations*

18. The Working Group on the Charter of Economic Rights and Duties of States was established in accordance with Conference resolution 45 (III) to draw up a draft charter.

19. The Group held its first and second sessions in Geneva from 12 to 23 February and from 13 to 22 July 1973. The General Assembly at its twenty-eighth session in 1973 considered the report of the Working Group on its first and second sessions and the comments made thereon by the Trade and Development Board at its thirteenth session (August-September 1973). In its resolution 3082 (XXVIII), the General Assembly decided, in the light of the progress achieved, to extend the mandate of the Working Group for two further sessions, as recommended by the Trade and Development Board in its decision 98 (XIII).

20. At its third session which was held in Geneva from 4 to 22 February 1974, the Group continued to elaborate further on the work of its previous session and presented in its report a consolidated text reflecting the work done at this session. The text contains some generally accepted paragraphs but in most cases there are several alternatives (report of the Working Group on its third session, document TD/B/AC.12/3).

21. The fourth session of the Group will be held in Mexico City from 10 to 28 June 1974. It is expected that there and then the Working Group will, as requested by General Assembly resolution 3082 (XXVIII), "complete as the first step in the codification and development of the matter, the elaboration of a final draft Charter of Economic Rights and Duties of States, to be considered and approved by the General Assembly at its twenty-ninth session".

22. From the outset proposals made by some Member States to include in the Charter provisions relating to transnational corporations have been before the Group. These proposals relate to the regulation of the activities of these corporations and to the co-operation among States with respect to this regulation. The Working Group has not yet reached agreement on this question which will be further considered in Mexico on the basis of the alternative formulations shown under paragraph 11 of chapter II in paragraph 7 of the report on the third session of the Group (TD/B/AC.12/3). (See also reports of the Working Group on its first and second sessions, documents TD/B/AC.12/1, TD/B/AC.12/2 and Add.1.)

#### *Restrictive business practices*

23. As indicated in a note on multinational enterprises (A/CN.9/83 of 16 March 1973) submitted by the Secretary-General at the sixth session of UNCITRAL, the United Nations Conference on Trade and Development (UNCTAD) at its third session adopted a resolution on restrictive business practices, namely resolution 73 (III). The text of this resolution was set out in annex III of that note.

24. As a result of this resolution UNCTAD has been called upon to study and identify all restrictive business practices including among others those resulting from activities of multinational corporations and enterprises which adversely

<sup>4</sup> Document TD/B/AC.15/2.

<sup>5</sup> Document TD/B/AC.15/3 and TD/B/AC.15/3/Add.1 containing submissions by the Economic Commission for Africa, Asia and the Far East, Europe and Latin America as well as documents TD/B/AC.15/L.2, TD/B/AC.15/L.3, TD/B/AC.15/L.5 and TD/B/AC.15/L.6.

\* Reproduced in this volume, part two, III, 2 *supra*.

affect the trade and development of developing countries. In this connexion, the Conference decided that attention should be paid to the possibility of drawing up guidelines for the consideration of Governments of developed and developing countries regarding restrictive business practices adversely affecting developing countries. In addition, it also called upon the secretariat to give consideration to formulating the elements of a model law or laws for developing countries in regard to restrictive business practices.

25. As also indicated in the above-mentioned note, the Conference established an *Ad Hoc* Group of Experts on Restrictive Business Practices. This group of experts participating in their individual capacities, met in Geneva from 19 to 30 March 1973 and their report is contained in document TD/B/C.2/119. Paragraphs 29 to 55 of this report specifically relate to restrictive business practices in relation to the operations of multinational corporations in developing countries. The report of this Group was subsequently considered in August 1973 by the UNCTAD Committee on Manufactures at the first part of its sixth session, and the Committee decided that another *ad hoc* group of experts should be convened by the Secretary-General of UNCTAD to carry on further the work requested in resolution 73 (III).<sup>6</sup> This group is scheduled to meet later this year.

26. With regard to the work going on in other organizations in the field of restrictive business practices, it should be mentioned that the Economic and Social Council, in resolution 1721 (LIII), requested that the Study Group of Eminent Persons on the Impact of Multinational Corporations on the Development Process and International Relations should take into account the work of the UNCTAD *Ad Hoc*

Group of Experts on Restrictive Business Practices. In the light of this, the Committee on Manufactures requested the Secretary-General of UNCTAD to inform the Study Group of Eminent Persons of the work of the *Ad Hoc* Group of Experts on Restrictive Business Practices and of the relevant parts of the report of the Committee.

#### COUNCIL OF EUROPE (Addendum 2)

##### 1. *Draft European rules on extinctive prescription in private and commercial matters*

The draft European rules will be considered after the United Nations Diplomatic Conference on Prescription (Limitation) in the International Sale of Goods, in the light of the outcome of the Conference, in order to determine what action might be taken on the draft rules.

##### 2. *International aspects of legal protection of the rights of creditors*

In view of the work being done on the subject by the European Communities, the European Committee on Legal Co-operation has decided not to recommend, for the time being, the establishment of a committee of experts within the Council of Europe.

##### 3. *Recognition and enforcement of foreign judgements in private and commercial matters*

The final text of a practical guide on the subject will probably be ready in a few months and will be published.

##### 4. *Liability of producers*

The committee of experts is continuing its work; at its fourth meeting, in January 1974, it completed its first reading of some texts for a draft convention on liability of producers.

<sup>6</sup> *Official Records of the Trade and Development Board, Thirteenth Session, Supplement No. 5* (TD/B/466-TD/B/C.2/134), chapter 5, paras. 211-247.