



General Assembly

Distr.: Limited
12 February 2004

Original: English

**United Nations Commission
on International Trade Law**
Working Group III (Transport Law)
Thirteenth session
New York, 3-14 May 2004

Provisional agenda

1. Scheduling of meetings.
2. Election of officers.
3. Adoption of the agenda.
4. Preparation of a draft instrument on the carriage of goods [wholly or partly] [by sea].
5. Other business.
6. Adoption of the report.

Notes on the provisional agenda

1. At its thirty-fourth session, in 2001, the Commission established Working Group III (Transport Law) and entrusted it with the task of preparing, in close cooperation with interested international organizations, a legislative instrument on issues relating to the international carriage of goods by sea such as the scope of application, the period of responsibility of the carrier, obligations of the carrier, liability of the carrier, obligations of the shipper and transport documents.¹ At its thirty-fifth session, in 2002, the Commission approved the working assumption that the draft instrument on transport law should cover door-to-door transport operations, subject to further consideration of the scope of application of the draft instrument after the Working Group had considered the substantive provisions of the draft instrument and come to a more complete understanding of their functioning in a door-to-door context.²

2. At its thirty-sixth session, in July 2003, the Commission had before it the reports of the tenth (Vienna, 16-20 September 2002) and eleventh (New York,



24 March-4 April 2003) sessions of the Working Group (A/CN.9/525 and A/CN.9/526, respectively).

3. The Commission was mindful of the magnitude of the project undertaken by the Working Group and expressed appreciation for the progress accomplished so far. It was widely felt that, having recently completed its first reading of the draft instrument on transport law, the Working Group had reached a particularly difficult phase of its work. The Commission noted that a considerable number of controversial issues remained open for discussion regarding the scope and the individual provisions of the draft instrument. Further progress would require a delicate balance being struck between the various conflicting interests at stake. A view was stated that a door-to-door instrument might be achieved by a compromise based on uniform liability, choice of forum and negotiated contracts, which would not deal with actions against performing inland parties. It was also stated that involving inland road and rail interests was critical to achieve the objectives of the text. A view was expressed that increased flexibility in the design of the proposed instrument should continue to be explored by the Working Group to allow for States to opt in to all or part of the door-to-door regime.

4. The Commission also noted that, in view of the complexities involved in the preparation of the draft instrument, the Working Group had met at its eleventh session for a duration of two weeks, thus making use of additional conference time that had been made available by Working Group I completing its work on privately financed infrastructure projects at its fifth session, in September 2002. The Chairman of Working Group III confirmed that, if progress on the preparation of the draft instrument was to be made within an acceptable time frame, the Working Group would need to continue holding two-week sessions. After discussion, the Commission authorized Working Group III, on an exceptional basis, to hold its twelfth and thirteenth sessions on the basis of two-week sessions.³ It was agreed that the situation of the Working Group in that respect would need to be reassessed at the thirty-seventh session of the Commission in 2004. The Working Group was invited to make every effort to complete its work expeditiously and, for that purpose, to use every possibility of holding intersessional consultations, possibly through electronic mail. The Commission realized, however, that the number of issues open for discussion and the need to discuss many of them simultaneously made it particularly relevant to hold full-scale meetings of the Working Group.⁴

5. At its twelfth session (Vienna, 6-17 October 2003), the Working Group continued to review the provisions of the draft instrument on the carriage of goods [wholly or partly] [by sea] contained in the annex to the note by the Secretariat (A/CN.9/WG.III/WP.32) and discussed various proposals, including the proposal of the United States (A/CN.9/WG.III/WP.34) regarding ten aspects of the draft instrument. The report of that session is contained in document A/CN.9/544. The Working Group considered the definition of “performing party” in draft article 1 (e), in addition to proposals regarding the definition of “maritime performing party” and “non-maritime performing party”, as well as draft articles 18 (2), 1 (a), 2, 14, 13, and 15 (1) through (6). Due to the absence of sufficient time, the Working Group deferred its consideration of draft article 15 (7) and the remaining provisions of the draft instrument until its next session (A/CN.9/544, para. 181).

Item 1. Scheduling of meetings

6. The thirteenth session of the Working Group will be held from 3 to 14 May 2004 at United Nations Headquarters, in New York. There will be eight working days available for consideration of the agenda items at the session. No formal meeting will be scheduled for Thursday, 13 May, to allow for the preparation of the draft report of the session, which will be adopted on Friday, 14 May. Meeting hours will be from 10 a.m. to 1 p.m. and from 3 p.m. to 6 p.m., except on Monday, 3 May 2004, when the session will commence at 10.30 a.m.

7. The Working Group is composed of all States members of the Commission. These are: Austria, Benin, Brazil, Burkina Faso, Cameroon, Canada, China, Colombia, Fiji, France, Germany, Honduras, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Kenya, Lithuania, Mexico, Morocco, Paraguay, Romania, Russian Federation, Rwanda, Sierra Leone, Singapore, Spain, Sudan, Sweden, Thailand, the former Yugoslav Republic of Macedonia, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay.

Item 2. Election of officers

8. The Working Group, in accordance with its practice at previous sessions, may wish to elect a Chairman and a Rapporteur.

Item 4. Preparation of a draft instrument on the carriage of goods [by sea]

9. The Working Group will have before it, and may wish to use as a basis for continuation of its deliberations, a note prepared by the Secretariat containing a first revision of the draft instrument on the carriage of goods [wholly or partly] [by sea] (A/CN.9/WG.III/WP.32).

10. In addition, the Working Group will have before it a proposed interim redraft of the articles of the draft instrument on the carriage of goods [wholly or partly] [by sea] (A/CN.9/WG.III/WP.36) that were considered during the twelfth session.

11. The above-mentioned documents will also be accessible on the UNCITRAL web site (www.uncitral.org), together with the documentation previously published by the Secretariat regarding that project, which contains additional information regarding the history of the project. That documentation includes:

- Reports of the Commission on the work of its twenty-ninth and thirty-first to thirty-sixth sessions (A/51/17 and A/53/17 to A/58/17);
- Reports of the Working Group on the work of its ninth to twelfth sessions (A/CN.9/510, 525, 526 and 544); and
- Working papers prepared by the Secretariat for consideration by the Working Group at its ninth to twelfth sessions (A/CN.9/WG.III/WP.20 to 34).

Item 5. Other business

12. The fourteenth session of the Working Group is scheduled to be held in Vienna, at the Vienna International Centre, from 29 November to 10 December 2004.

Item 6. Adoption of the report

13. The Working Group may wish to adopt, at the close of its session, a report for submission to the thirty-seventh session of the Commission (currently scheduled to be held in New York, from 14 June to 2 July 2004).

Notes

¹ *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 17 and corrigendum (A/56/17 and Corr.3)*, para. 345.

² *Ibid., Fifty-seventh Session, Supplement No. 17 (A/57/17)*, para. 224.

³ For the general discussion regarding the allocation of conference time to the various working groups, see *ibid., Fifty-eighth Session, Supplement No. 17 (A/58/17)*, paras. 270-275 and 277-278.

⁴ *Ibid.*, paras. 205-208.
