



General Assembly

Distr.: Limited
1 September 2004

Original: English

**United Nations Commission
on International Trade Law**
Working Group III (Transport Law)
Fourteenth session
Vienna, 29 November-10 December 2004

Annotated provisional agenda

I. Provisional agenda

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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.

II. Composition of the Working Group

1. The Working Group is composed of all States members of the Commission, which are the following States: Algeria, Argentina, Australia, Austria, Belarus, Belgium, Benin, Brazil, Cameroon, Canada, Chile, China, Colombia, Croatia, Czech Republic, Ecuador, Fiji, France, Gabon, Germany, Guatemala, India, Iran (Islamic Republic of), Israel, Italy, Japan, Jordan, Kenya, Lebanon, Lithuania, Madagascar, Mexico, Mongolia, Morocco, Nigeria, Pakistan, Paraguay, Poland, Qatar, Republic of Korea, Russian Federation, Rwanda, Serbia and Montenegro, Sierra Leone, Singapore, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, The former Yugoslav Republic of Macedonia, Tunisia, Turkey, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, and Zimbabwe.
2. In addition, States that are not members of the Commission, as well as relevant intergovernmental organizations and international non-governmental organizations,



may be invited to attend the session as observers. In accordance with established UNCITRAL practice, observer delegations may participate actively in the deliberations leading to decisions, which are taken by consensus.

III. Annotations to agenda items

Item 1. Opening of the session and scheduling of meetings

3. The fourteenth session of the Working Group will be held from 29 November to 10 December 2004 at the Vienna International Centre. Meeting hours will be from 9:30 a.m. to 12:30 p.m. and from 2:00 p.m. to 5:00 p.m., except on Monday, 29 November 2004, when the session will commence at 10:00 a.m. There will be eight working days available for consideration of the agenda items at the session. No formal meeting will be scheduled for Thursday, 9 December, to allow for the preparation of the draft report of the session, which will be adopted on Friday, 10 December.

Item 2. Election of officers

4. In accordance with its practice at previous sessions, the Working Group may wish to elect a Chairman and a Rapporteur.

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

(a) Previous deliberations of the Working Group

5. 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 At its thirty-sixth session, in 2003, the Commission noted the complexities involved in the preparation of the draft instrument, and authorized the Working Group, on an exceptional basis, to hold its twelfth and thirteenth sessions on the basis of two-week sessions, with the agreement that the length of the Working Group's sessions would be reassessed at the thirty-seventh session of the Commission, in 2004.³ At its thirty-seventh session, for the reasons noted by the Commission at its thirty-sixth session in 2003,⁴ the Commission decided to accommodate again the need of Working Group III (Transport Law) for two-week sessions, utilizing the entitlement of Working Group V (Insolvency Law) which was not expected to meet in the second half of 2004 or in 2005.⁵

6. At its thirty-seventh session, the Commission took note of the reports of the twelfth (Vienna, 6-17 October 2003) and thirteenth (New York, 3-14 May 2004) sessions of the Working Group (A/CN.9/544 and A/CN.9/552, respectively).

7. The Commission noted with appreciation that the Working Group had continued its consideration of the draft instrument on the carriage of goods [wholly or partly] [by sea]. The Commission reaffirmed its appreciation of the magnitude of the project and of the complexities involved in the preparation of the draft instrument, particularly considering the controversial issues that remained open for discussion and that required the striking of a delicate balance between the various conflicting interests at stake.⁶

8. The Commission was informed that at its twelfth and thirteenth sessions the Working Group had proceeded with its second reading of the draft instrument, and had made progress regarding a number of difficult issues, such as those regarding the scope of application of the instrument and of key liability provisions. The Commission was also informed that, with a view to accelerating the exchange of views, the formulation of proposals and the emergence of consensus in preparation for a third and final reading of the draft instrument, a number of delegations participating in the thirteenth session of the Working Group had taken the initiative of creating an informal consultation group for the continuation of discussion between sessions of the Working Group.⁷

9. The Commission expressed its support for the efforts of the Working Group to accelerate the progress of its work on this complex project. With respect to a possible time frame for completion of the draft instrument, a number of delegations were of the view that it would be desirable to complete a third reading of the draft text with a view to its adoption by the Commission in 2006. However, it was also felt by a number of delegations that achieving a high degree of quality should be a paramount objective in the preparation of the draft instrument. That objective should not be compromised by hasty deliberation of the important issues that remained to be solved. After discussion, the Commission agreed that 2006 should be a desirable goal for completion of the project but it also agreed that the issue of establishing a deadline for such completion should be revisited at its thirty-eighth session, in 2005.⁸

10. At its thirteenth session (New York, 3-14 May 2004), 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). The report of that session is contained in document A/CN.9/552. The Working Group continued its consideration of chapter 5 on the liability of the carrier, including the liability of performing parties in draft article 15 (6), delay in draft article 16, the calculation of compensation in draft article 17, limits of liability in draft article 18, loss of the right to limit liability in draft article 19, notice of loss damage or delay in draft article 20, and non-contractual claims in draft article 21. The Working Group also considered chapter 6 containing additional provisions relating to carriage by sea, including draft article 22 on the liability of the carrier, draft article 23 on deviation, and draft article 24 on deck cargo. In addition, the Working Group considered chapter 7 regarding the obligations of the shipper, including draft articles 25 to 32, as well as chapter 9 on freight.

(b) Documentation for the fourteenth session

11. 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).

12. 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] that were considered during the twelfth (A/CN.9/WG.III/WP.36) and thirteenth (A/CN.9/WG.III/WP.39) sessions.

13. 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-seventh sessions (A/51/17 and A/53/17 to A/59/17);
- Reports of the Working Group on the work of its ninth to thirteenth sessions (A/CN.9/510, 525, 526, 544 and 552); and
- Working papers prepared by the Secretariat for consideration by the Working Group at its ninth to thirteenth sessions (A/CN.9/WG.III/WP.20 to 37).

Item 5. Other business

14. The fifteenth session of the Working Group is scheduled to be held in New York, at the United Nations Headquarters, from 18 to 28 April 2005.

Item 6. Adoption of the report

15. The Working Group may wish to adopt, at the close of its session, a report for submission to the thirty-eighth session of the Commission (currently scheduled to be held in Vienna, from 4 to 22 July 2005).

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 *Ibid.*, *Fifty-eighth Session, Supplement No. 17 (A/58/17)*, para. 208.

⁴ *Ibid.*, para. 272.

⁵ *Ibid.*, *Fifty-ninth Session, Supplement No. 17 (A/59/17)*, paras. 132 and 133.

⁶ *Ibid.*, para. 64.

⁷ *Ibid.*, para. 65.

⁸ *Ibid.*, para. 66.