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SCHEDULE

THE TEXT OF THE CODE

PART ONE

CHAPTER I

DEFINITIONS

Liner conference or conference

A group of two or more vessel-operating carriers which provides international liner services for the carriage of cargo on a particular route or routes within specified geographical limits and which has an agreement or arrangement, whatever its nature, within the framework of which they operate under uniform or common freight rates and any other agreed conditions with respect to the provision of liner services.

National shipping line

A national shipping line of any given country is a vessel-operating carrier which has its head office of management and its effective control in that country and is recognized as such by an appropriate authority of that country or under the law of that country.

Lines belonging to and operated by a joint venture involving two or more countries and in whose equity the national interests, public and/or private, of those countries have a substantial share and whose head office of management and whose effective control is in one of those countries can be recognized as a national line by the appropriate authorities of those countries.

Third-country shipping line

A vessel-operating carrier in its operations between two countries of which it is not a national shipping line.

Shipper

A person or entity who has entered into, or who demonstrates an intention to enter into, a contractual or other arrangement with a conference or shipping line for the shipment of goods in which he has a beneficial interest.

Shippers' organisation

An association or equivalent body which promotes, represents and protects the interests of shippers and, if those authorities so desire, is recognized in that capacity by the appropriate authority or authorities of the country whose shippers it represents.

Goods carried by the conference

Cargo transported by shipping lines members of a conference in accordance with the conference agreement.

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Appropriate authority

Either a government or a body designated by a government or by national legislation to perform any of the functions ascribed to such authority by the provisions of this Code.

Promotional freight rate

A rate instituted for promoting the carriage of non-traditional exports of the country concerned.

Special freight rate

A preferential freight rate, other than a promotional freight rate, which may be negotiated between the parties concerned.

CHAPTER II

RELATIONS AMONG MEMBER LINES

Article 1 Membership

- 1 Any national shipping line shall have the right to be a full member of a conference which serves the foreign trade of its country, subject to the criteria set out in article 1, paragraph 2. Shipping lines which are not national lines in any trade of a conference shall have the right to become full members of that conference, subject to the criteria set out in article 1, paragraphs 2 and 3, and to the provisions regarding the share of trade as set out in article 2 as regards third-country shipping lines.
- 2 A shipping line applying for membership of a conference shall furnish evidence of its ability and intention, which may include the use of chartered tonnage, provided the criteria of this paragraph are met, to operate a regular, adequate and efficient service on a long-term basis as defined in the conference agreement within the framework of the conference, shall undertake to abide by all the terms and conditions of the conference agreement, and shall deposit a financial guarantee to cover any outstanding financial obligation in the event of subsequent withdrawal, suspension or expulsion from membership, if so required under the conference agreement.
- 3 In considering an application for membership by a shipping line which is not a national line in any trade of the conference concerned, in addition to the provisions of article 1, paragraph 2, the following criteria,*inter alia*, should be taken into account:
 - (a) The existing volume of the trade on the route or routes served by the conference and prospects for its growth;
 - (b) The adequacy of shipping space for the existing and prospective volume of trade on the route or routes served by the conference;
 - (c) The probable effect of admission of the shipping line to the conference on the efficiency and quality of the conference service;
 - (d) The current participation of the shipping line in trade on the same route or routes outside the framework of a conference; and
 - (e) The current participation of the shipping line on the same route or routes within the framework of another conference.

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The above criteria shall not be applied so as to subvert the implementation of the provisions relating to participation in trade set out in article 2.

- 4 An application for admission or readmission to membership shall be promptly decided upon and the decision communicated by a conference to an applicant promptly, and in no case later than six months from the date of application. When a shipping line is refused admission or readmission the conference shall, at the same time, give in writing the grounds for such refusal.
- 5 When considering applications for admission, a conference shall take into account the views put forward by shippers and shippers' organizations of the countries whose trade is carried by the conference, as well as the views of appropriate authorities if they so request.
- 6 In addition to the criteria for admission set out in article 1, paragraph 2, a shipping line applying for re-admission shall also give evidence of having fulfilled its obligations in accordance with article 4, paragraphs 1 and 4. The conference may give special scrutiny to the circumstances under which the line left the conference.

Article 2 Participation in Trade

- 1 Any shipping line admitted to membership of a conference shall have sailing and loading rights in the trades covered by that conference.
- 2 When a conference operates a pool, all shipping lines members of the conference serving the trade covered by the pool shall have the right to participate in the pool for that trade.
- 3 For the purpose of determining the share of trade which member lines shall have the right to acquire, the national shipping lines of each country, irrespective of the number of lines, shall be regarded as a single group of shipping lines for that country.
- 4 When determining a share of trade within a pool of individual member lines and/or groups of national shipping lines in accordance with article 2, paragraph 2, the following principles regarding their right to participation in the trade carried by the conference shall be observed, unless otherwise mutually agreed:
 - (a) The group of national shipping lines of each of two countries the foreign trade between which is carried by the conference shall have equal rights to participate in the freight and volume of traffic generated by their mutual foreign trade and carried by the conference;
 - (b) Third-country shipping lines, if any, shall have the right to acquire a significant part, such as 20 per cent, in the freight and volume of traffic generated by that trade.
- 5 If, for any one of the countries whose trade is carried by a conference, there are no national shipping lines participating in the carriage of that trade, the share of the trade to which national shipping lines of that country would be entitled under article 2, paragraph 4 shall be distributed among the individual member lines participating in the trade in proportion to their respective share.
- 6 If the national shipping lines of one country decide not to carry their full share of the trade, that portion of their share of the trade which they do not carry shall be distributed among the individual member lines participating in the trade in proportion to their respective shares.

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- 7 If the national shipping lines of the countries concerned do not participate in the trade between those countries covered by a conference, the shares of trade carried by the conference between those countries shall be allocated between the participating member lines of third countries by commercial negotiations between those lines.
- 8 The national shipping lines of a region, members of a conference, at one end of the trade covered by the conference, may redistribute amongst themselves by mutual agreement the shares in trades allocated to them, in accordance with article 2, paragraphs 4 to 7 inclusive.
- 9 Subject to the provisions of article 2, paragraphs 4 to 8 inclusive regarding shares of trade among individual shipping lines or groups of shipping lines, pooling or trade-sharing agreements shall be reviewed by the conference periodically, at intervals to be stipulated in those agreements and in accordance with criteria to be specified in the conference agreement.
- 10 The application of the present article shall commence as soon as possible after entry into force of the present Convention and shall be completed within a transition period which in no case shall be longer than two years, taking into account the specific situation in each of the trades concerned.
- 11 Shipping lines members of a conference shall be entitled to operate chartered ships to fulfil their conference obligations.
- 12 The criteria for sharing and the revision of shares as set out in article 2, paragraphs 1 to 11 inclusive shall apply when, in the absence of a pool, there exists berthing, sailing and/or any other form of cargo allocation agreement.
- 13 Where no pooling, berthing, sailing or other trade participation agreements exist in a conference, either group of national shipping lines, members of the conference, may require that pooling arrangements be introduced, in respect of the trade between their countries carried by the conference, in conformity with the provisions of article 2, paragraph 4; or alternatively they may require that the sailings be so adjusted as to provide an opportunity to these lines to enjoy substantially the same rights to participate in the trade between those two countries carried by the conference as they would have enjoyed under the provisions of article 2, paragraph 4. Any such request shall be considered and decided by the conference. If there is no agreement to institute such a pool or adjustment of sailings among the members of the conference, the groups of national shipping lines of the countries at both ends of the trade shall have a majority vote in deciding to establish such a pool or adjustment of sailings. The matter shall be decided upon within a period not exceeding six months from the receipt of the request.
- 14 In the event of a disagreement between the national shipping lines of the countries at either end whose trade is served by the conference with regard to whether or not pooling shall be introduced, they may require that within the conference sailings be so adjusted as to provide an opportunity to these lines to enjoy substantially the same rights to participate in the trade between those two countries carried by the conference as they would have enjoyed under the provisions of article 2, paragraph 4. In the event that there are no national shipping lines in one of the countries whose trade is served by the conference, the national shipping line or lines of the other country may make the same request. The conference shall use its best endeavours to meet this request. If, however, this request is not met, the appropriate authorities of the countries at both ends of the trade may take up the matter if they so wish and make their views known to the parties concerned for their consideration. If

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- no agreement is reached, the dispute shall be dealt with in accordance with the procedures established in this Code.
- 15 Other shipping lines, members of a conference, may also request that pooling or sailing agreements be introduced, and the request shall be considered by the conference in accordance with the relevant provisions of this Code.
- 16 A conference shall provide for appropriate measures in any conference pooling agreement to cover cases where the cargo has been shut out by a member line for any reason excepting late presentation by the shipper. Such agreement shall provide that a vessel with unbooked space, capable of being used, be allowed to lift the cargo, even in excess of the pool share of the line in the trade, if otherwise the cargo would be shut out and delayed beyond a period set by the conference.
- 17 The provisions of article 2, paragraphs 1 to 16 inclusive concern all goods regardless of their origin, their destination or the use for which they are intended, with the exception of military equipment for national defence purposes.

Article 3 Decision-making Procedures

The decision-making procedures embodied in a conference agreement shall be based on the equality of all the full member lines; these procedures shall ensure that the voting rules do not hinder the proper work of the conference and the service of the trade and shall define the matters on which decisions will be made by unanimity. However, a decision cannot be taken in respect of matters defined in a conference agreement relating to the trade between two countries without the consent of the national shipping lines of those two countries.

Article 4 Sanctions

- 1 A shipping line member of a conference shall be entitled, subject to the provisions regarding withdrawal which are embodied in pool schemes and/or cargo-sharing arrangements, to secure its release, without penalty, from the terms of the conference agreement after giving three months' notice, unless the conference agreement provides for a different time period, although it shall be required to fulfil its obligations as a member of the conference up to the date of its release.
- 2 A conference may, upon notice to be specified in the conference agreement, suspend or expel a member for significant failure to abide by the terms and conditions of the conference agreement.
- 3 No expulsion or suspension shall become effective until a statement in writing of the reasons therefor has been given and until any dispute has been settled as provided in chapter VI.
- 4 Upon withdrawal or expulsion, the line concerned shall be required to pay its share of the outstanding financial obligations of the conference, up to the date of its withdrawal or expulsion. In cases of withdrawal, suspension or expulsion, the line shall not be relieved of its own financial obligations under the conference agreement or of any of its obligations towards shippers.

Article 5 Self-Policing

- 1 A conference shall adopt and keep up to date an illustrative list, which shall be as comprehensive as possible, of practices which are regarded as malpractices and/or breaches of the conference agreement and shall provide effective self-policing machinery to deal with them, with specific provisions requiring:

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- (a) The fixing of penalties or a range of penalties for malpractices or breaches, to be commensurate with their seriousness;
 - (b) The examination and impartial review of an adjudication of complaints, and/or decisions taken on complaints, against malpractices or breaches, by a person or body unconnected with any of the shipping lines members of the conference or their affiliates, on request by the conference or any other party concerned;
 - (c) The reporting, on request, on the action taken in connection with complaints against malpractices and/or breaches, and on a basis of anonymity for the parties concerned, to the appropriate authorities of the countries whose trade is served by the conference and of the countries whose shipping lines are members of the conference.
- (2) Shipping lines and conferences are entitled to the full co-operation of shippers and shippers' organizations in the endeavour to combat malpractices and breaches.

Article 6 Conference Agreements

All conference agreements, pooling, berthing and sailing rights agreements and amendments or other documents directly related to, and which affect, such agreements shall be made available on request to the appropriate authorities of the countries whose trade is served by the conference and of the countries whose shipping lines are members of the conference.

CHAPTER III

RELATIONS WITH SHIPPERS

Article 7 Loyalty Arrangements

- 1 The shipping lines members of a conference are entitled to institute and maintain loyalty arrangements with shippers, the form and terms of which are matters for consultation between the conference and shippers' organizations or representatives of shippers. These loyalty arrangements shall provide safeguards making explicit the rights of shippers and conference members. These arrangements shall be based on the contract system or any other system which is also lawful.
- 2 Whatever loyalty arrangements are made, the freight rate applicable to loyal shippers shall be determined within a fixed range of percentages of the freight rate applicable to other shippers. Where a change in the differential causes an increase in the rates charged to shippers, the change can be implemented only after 150 days' notice to those shippers or according to regional practice and/or agreement. Disputes in connexion with a change of the differential shall be settled as provided in the loyalty agreement.
- 3 The terms of loyalty arrangements shall provide safeguards making explicit the rights and obligations of shippers and of shipping lines members of the conference in accordance with the following provisions,*inter alia*:
 - (a) The shipper shall be bound in respect of cargo whose shipment is controlled by him or his affiliated or subsidiary company or his forwarding agent in accordance with the contract of sale of the goods concerned, provided that the shipper shall not, by evasion, subterfuge, or intermediary, attempt to divert cargo in violation of his loyalty commitment;

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- (b) Where there is a loyalty contract, the extent of actual or liquidated damages and/or penalty shall be specified in the contract. The member lines of the conference may, however, decide to assess lower liquidated damages or to waive the claim to liquidated damages. In any event, the liquidated damages under the contract to be paid to the shipper shall not exceed the freight charges on the particular shipment, computed at the rate provided under the contract;
 - (c) The shipper shall be entitled to resume full loyalty status, subject to the fulfilment of conditions established by the conference which shall be specified in the loyalty arrangement;
 - (d) The loyalty arrangement shall set out:
 - (i) A list of cargo, which may include bulk cargo shipped without mark or count, which is specifically excluded from the scope of the loyalty arrangement;
 - (ii) A definition of the circumstances in which cargo other than cargo covered by (i) above is considered to be excluded from the scope of the loyalty arrangement;
 - (iii) The method of settlement of disputes arising under the loyalty arrangement;
 - (iv) Provision for termination of the loyalty arrangement on request by either a shipper or a conference without penalty, after expiry of a stipulated period of notice, such notice to be given in writing; and
- 4 If there is a dispute between a conference and a shippers' organization, representatives of shippers and/or shippers about the form or terms of a proposed loyalty arrangement, either party may refer the matter for resolution under appropriate procedures as set out in this Code.

Article 8 Dispensation

- 1 Conferences shall provide, within the terms of the loyalty arrangements, that requests by shippers for dispensation shall be examined and a decision given quickly and, if requested, the reasons given in writing where dispensation is withheld. Should a conference fail to confirm, within a period specified in the loyalty arrangement, sufficient space to accommodate a shipper's cargo within a period also specified in the loyalty arrangement, the shipper shall have the right, without being penalized, to utilize any vessel for the cargo in question.
- (2) In ports where conference services are arranged subject to the availability of a specified minimum of cargo (i.e. on inducement), but either the shipping line does not call, despite due notice by shippers, or the shipping line does not reply within an agreed time to the notice given by shippers, shippers shall automatically have the right, without prejudicing their loyalty status, to use any available vessel for the carriage of their cargo.

Article 9 Availability of Tariffs and Related Conditions and/or Regulations

Tariffs, related conditions, regulations, and any amendments thereto shall be made available on request to shippers, shippers' organizations and other parties concerned at reasonable cost, and they shall be available for examination at offices of shipping lines and their agents. They shall

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spell out all conditions concerning the application of freight rates and the carriage of any cargo covered by them.

Article 10 Annual Reports

Conferences shall provide annually to shippers' organizations, or to representatives of shippers, reports on their activities designed to provide general information of interest to them, including relevant information about consultations held with shippers and shippers' organizations, action taken regarding complaints, changes in membership, and significant changes in service, tariffs and conditions of carriage. Such annual reports shall be submitted, on request, to the appropriate authorities of the countries whose trade is served by the conference concerned.

Article 11 Consultation Machinery

- 1 There shall be consultations on matters of common interest between a conference, shippers' organizations, representatives of shippers and, where practicable, shippers, which may be designated for that purpose by the appropriate authority if it so desires. These consultations shall take place whenever requested by any of the above-mentioned parties. Appropriate authorities shall have the right, upon request, to participate fully in the consultations, but this does not mean that they play a decision-making role.
- 2 The following matters, *inter alia*, may be the subject of consultation:
 - (a) Changes in general tariff conditions and related regulations;
 - (b) Changes in the general level of tariff rates and rates for major commodities;
 - (c) Promotional and/or special freight rates;
 - (d) Imposition of, and related changes in, surcharges;
 - (e) Loyalty arrangements, their establishment or changes in their form and general conditions;
 - (f) Changes in the tariff classification of ports;
 - (g) Procedure for the supply of necessary information by shippers concerning the expected volume and nature of their cargoes: and
 - (h) Presentation of cargo for shipment and the requirements regarding notice of cargo availability.
- 3 To the extent that they fall within the scope of activity of a conference, the following matters may also be the subject of consultation:
 - (a) Operation of cargo inspection services;
 - (b) Changes in the pattern of services;
 - (c) Effects of the introduction of new technology in the carriage of cargo, in particular unitization, with consequent reduction of conventional service or loss of direct services; and
 - (d) Adequacy and quality of shipping services, including the impact of pooling, berthing or sailing arrangements on the availability of shipping services and freight rates at which shipping services are provided; changes in the areas served and in the regularity of calls by conference vessels.
- 4 Consultations shall be held before final decisions are taken, unless otherwise provided in this Code. Advance notice shall be given of the intention to take decisions on matters referred to in article 11, paragraphs 2 and 3. Where this is impossible, urgent decisions may be taken pending the holding of consultations.

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- 5 Consultations shall begin without undue delay and in any event within a maximum period specified in the conference agreement, or in the absence of such a provision in the agreement, not later than 30 days after receipt of the proposal for consultations, unless different periods of time are provided in this Code.
- 6 When holding consultations, the parties shall use their best efforts to provide relevant information, to hold timely discussions and to clarify matters for the purpose of seeking solutions of the issues concerned. The parties involved shall take account of each other's views and problems and strive to reach agreement consistent with their commercial viability.

CHAPTER IV

FREIGHT RATES

Article 12 Criteria for Freight-Rate Determination

In arriving at a decision on questions of tariff policy in all cases mentioned in this Code, the following points shall, unless otherwise provided, be taken into account:

- (a) Freight rates shall be fixed at as low a level as is feasible from the commercial point of view and shall permit a reasonable profit for shipowners;
- (b) The cost of operations of conferences shall, as a rule, be evaluated for the round voyage of ships, with the outward and inward directions considered as a single whole. Where applicable, the outward and inward voyage should be considered separately. The freight rates should take into account among other factors, the nature of cargoes, the interrelation between weight and cargo measurement, as well as the value of cargoes;
- (c) In fixing promotional freight rates and/or special freight rates for specific goods, the conditions of trade for these goods of the countries served by the conference particularly of developing and land-locked countries, shall be taken into account.

Article 13 Conference Tariffs and Classification of Tariff Rates

- 1 Conference tariffs shall not unfairly differentiate between shippers similarly situated. Shipping lines members of a conference shall adhere strictly to the rates, rules and terms shown in the tariffs and other currently valid published documents of the conference and to any special arrangements permitted under this Code.
- 2 Conference tariffs should be drawn up simply and clearly, containing as few classes/categories as possible, depending on the commodity and, where appropriate, for each class/category; they should also indicate, wherever practicable, in order to facilitate statistical compilation and analysis, the corresponding appropriate code number of the item in accordance with the Standard International Trade Classification, the Brussels Tariff Nomenclature or any other nomenclature that may be internationally adopted; the classification of commodities in the tariffs should, as far as practicable, be prepared in co-operation with shippers' organizations and other national and international organizations concerned.

Article 14 General Freight-Rate Increases

- 1 A conference shall give notice of not less than 150 days, or according to regional practice and/or agreement, to shippers' organizations or representatives of shippers

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- and/or shippers and, where so required, to appropriate authorities of the countries whose trade is served by the conference, of its intention to effect a general increase in freight rates, an indication of its extent, the date of effect and the reasons supporting the proposed increase.
- 2 At the request of any of the parties prescribed for this purpose in this Code, to be made within an agreed period of time after the receipt of the notice, consultations shall commence, in accordance with the relevant provisions of this Code, within a stipulated period not exceeding 30 days or as previously agreed between the parties concerned; the consultations shall be held in respect of the bases and amounts of the proposed increase and the date from which it is to be given effect.
- 3 A conference, in an effort to expedite consultations, may or upon the request of any of the parties prescribed in this Code as entitled to participate in consultations on general freight-rate increases shall, where practicable, reasonably before the consultations, submit to the participating parties a report from independent accountants of repute, including, where the requesting parties accept it as one of the bases of consultations, an aggregated analysis of data regarding relevant costs and revenues which in the opinion of the conference necessitate an increase in freight rates.
- 4 If agreement is reached as a result of the consultations, the freight-rate increase shall take effect from the date indicated in the notice served in accordance with article 14, paragraph 1, unless a later date is agreed upon between the parties concerned.
- 5 If no agreement is reached within 30 days of the giving of notice in accordance with article 14, paragraph 1, and subject to procedures prescribed in this Code, the matter shall be submitted immediately to international mandatory conciliation, in accordance with chapter VI. The recommendation of the conciliators, if accepted by the parties concerned, shall be binding upon them and shall be implemented, subject to the provisions of this article 14, paragraph 9, with effect from the date mentioned in the conciliators' recommendation.
- 6 Subject to the provisions of article 14, paragraph 9, a general freight-rate increase may be implemented by a conference pending the conciliators' recommendation. When making their recommendation, the conciliators should take into account the extent of the above-mentioned increase made by the conference and the period for which it has been in force. In the event that the conference rejects the recommendation of the conciliators, shippers and/or shippers' organizations shall have the right to consider themselves not bound, after appropriate notice, by any arrangement or other contract with that conference which may prevent them from using non-conference shipping lines. Where a loyalty arrangement exists, shippers and/or shippers' organizations shall give notice within a period of 30 days to the effect that they no longer consider themselves bound by that arrangement, which notice shall apply from the date mentioned therein, and a period of not less than 30 days and not more than 90 days shall be provided in the loyalty arrangement for this purpose.
- 7 A deferred rebate which is due to the shipper and which has already been accumulated by the conference shall not be withheld by, or forfeited to, the conference as a result of action by the shipper under article 14, paragraph 6.
- 8 If the trade of a country carried by shipping lines members of a conference on a particular route consists largely of one or few basic commodities, any increase in the freight rate on one or more of those commodities shall be treated as a general freight-rate increase, and the appropriate provisions of this Code shall apply.

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- 9 Conferences should institute any general freight-rate increase effective in accordance with this Code for a period of a stated minimum duration, subject always to the rules regarding surcharges and regarding adjustment in freight rates consequent upon fluctuations in foreign exchange rates. The period over which a general freight-rate increase is to apply is an appropriate matter to be considered during consultations conducted in accordance with article 14, paragraph 2, but unless otherwise agreed between the parties concerned during the consultations, the minimum period of time between the date when one general freight-rate increase becomes effective and the date of notice for the next general freight-rate increase given in accordance with article 14, paragraph 1 shall not be less than 10 months.

Article 15 Promotional Freight Rates

- 1 Promotional freight rates for non-traditional exports should be instituted by conferences.
- 2 All necessary and reasonable information justifying the need for a promotional freight rate shall be submitted to a conference by the shippers, shippers' organizations or representatives of shippers concerned.
- 3 Special procedures shall be instituted providing for a decision within 30 days from the date of receipt of that information, unless mutually agreed otherwise, on application for promotional freight rates. A clear distinction shall be made between these and general procedures for considering the possibility of reducing freight rates for other commodities or of exempting them from increases.
- 4 Information regarding the procedures for considering applications for promotional freight rates shall be made available by the conference to shippers and/or shippers' organizations and, on request, to the Governments and/or other appropriate authorities of the countries whose trade is served by the conference.
- 5 A promotional freight rate shall be established normally for a period of 12 months, unless otherwise mutually agreed between the parties concerned. Prior to the expiry of the period, the promotional freight rate shall be reviewed, on request by the shipper and/or shippers' organization concerned, when it shall be a matter for the shipper and/or shippers' organization, at the request of the conference, to show that the continuation of the rate is justified beyond the initial period.
- 6 When examining a request for a promotional freight rate, the conference may take into account that, while the rate should promote the export of the non-traditional product for which it is sought, it is not likely to create substantial competitive distortions in the export of a similar product from another country served by the conference.
- 7 Promotional freight rates are not excluded from the imposition of a surcharge or a currency adjustment factor in accordance with articles 16 and 17.
- 8 Each shipping line member of a conference serving the relevant ports of a conference trade shall accept, and not unreasonably refuse, a fair share of cargo for which a promotional freight rate has been established by the conference.

Article 16 Surcharges

- 1 Surcharges imposed by a conference to cover sudden or extraordinary increases in costs or losses of revenue shall be regarded as temporary. They shall be reduced in accordance with improvements in the situation or circumstances which they were

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imposed to meet and shall be cancelled, subject to article 16, paragraph 6, as soon as the situation or circumstances which prompted their imposition cease to prevail. This shall be indicated at the moment of their imposition, together, as far as possible, with a description of the change in the situation of circumstances which will bring about their increase, reduction or cancellation.

- 2 Surcharges imposed on cargo moving to or from a particular port shall likewise be regarded as temporary and likewise shall be increased, reduced or cancelled, subject to article 16, paragraph 6, when the situation in that port changes.

Before any surcharge is imposed, whether general or covering only a specific port, notice should be given and there shall be consultation, upon request, in accordance with the procedures of this Code, between the conference concerned and other parties directly affected by the surcharge and prescribed in this Code as entitled to participate in such consultations, save in those exceptional circumstances which warrant immediate imposition of the surcharge. In cases where a surcharge has been imposed without prior consultation, consultations, upon request, shall be held as soon as possible thereafter. Prior to such consultations, conferences shall furnish data which in their opinion justify the imposition of the surcharge.

- 4 Unless the parties agree otherwise, within a period of 15 days after the receipt of a notice given in accordance with article 16, paragraph 3, if there is no agreement on the question of the surcharge between the parties concerned referred to in that article, the relevant provisions for settlement of disputes provided in this Code shall prevail. Unless the parties concerned agree otherwise, the surcharge may, however, be imposed pending resolution of the dispute, if the dispute still remains unresolved at the end of a period of 30 days after the receipt of the above-mentioned notice.

- 5 In the event of a surcharge being imposed, in exceptional circumstances, without prior consultation as provided in article 16, paragraph 3, if no agreement is reached through subsequent consultations, the relevant provisions for settlement of disputes provided in this Code shall prevail.

- 6 Financial loss incurred by the shipping lines members of a conference as a result of any delay on account of consultations and/or other proceedings for resolving disputes regarding imposition of surcharges in accordance with the provisions of this Code, as compared to the date from which the surcharge was to be imposed in terms of the notice given in accordance with article 16, paragraph 3, may be compensated by an equivalent prolongation of the surcharge before its removal. Conversely, for any surcharge imposed by the conference and subsequently determined and agreed to be unjustified or excessive as a result of consultations or other procedures prescribed in this Code, the amounts so collected or the excess thereof as determined hereinabove, unless otherwise agreed shall be refunded to the parties concerned, if claimed by them within a period of 30 days of such claim.

Article 17 Currency Changes

- 1 Exchange rate changes, including formal devaluation or revaluation, which lead to changes in the aggregate operational costs and/or revenues of the shipping lines members of a conference relating to their operations within the conference provide a valid reason for the introduction of a currency adjustment factor or for a change in the freight rates. The adjustment or change shall be such that in the aggregate the member lines concerned neither gain nor lose, as far as possible, as a result of the adjustment or change. The adjustment or change may take the form of currency surcharges or discounts or of increases or decreases in the freight rates.

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- 2 Such adjustments or changes shall be subject to notice, which should be arranged in accordance with regional practice, where such practice exists, and there shall be consultations in accordance with the provisions of this Code between the conference concerned and the other parties directly affected and prescribed in this Code as entitled to participate in consultations, save in those exceptional circumstances which warrant immediate imposition of the currency adjustment factor or freight-rate change. In the event that this has been done without prior consultations, consultations shall be held as soon as possible thereafter. The consultations should be on the application, size and date of implementation of the currency adjustment factor or freight-rate change, and the same procedures shall be followed for this purpose as are prescribed in article 16, paragraphs 4 and 5, in respect of surcharges. Such consultations should take place and be completed within a period not exceeding 15 days from the date when the intention to apply a currency surcharge or to effect a freight-rate change is announced.
- 3 If no agreement is reached within 15 days through consultations, the relevant provisions for settlement of disputes provided in this Code shall prevail.
- 4 The provisions of article 16, paragraph 6 shall apply, adapted as necessary to currency adjustment factors and freight-rate changes dealt with in the present article.

CHAPTER V

OTHER MATTERS

Article 18 Fighting Ships

Members of a conference shall not use fighting ships in the conference trade for the purpose of excluding, preventing or reducing competition by driving a shipping line not a member of the conference out of the said trade.

Article 19 Adequacy of Service

- 1 Conferences should take necessary and appropriate measures to ensure that their member lines provide regular, adequate and efficient service of the required frequency on the routes they serve and shall arrange such services so as to avoid as far as possible bunching and gapping of sailings. Conferences should also take into consideration any special measures necessary in arranging services to handle seasonal variations on cargo volumes.
- 2 Conferences and other parties prescribed in this Code as entitled to participate in consultations, including appropriate authorities if they so desire, should keep under review, and should maintain close co-operation regarding the demand for shipping space, the adequacy and suitability of service, and in particular the possibilities for rationalization and for increasing the efficiency of services. Benefits identified as accruing from rationalization of services shall be fairly reflected in the level of freight rates.
- 3 In respect of any port for which conference services are supplied only subject to the availability of a specified minimum of cargo, that minimum shall be specified in the tariff. Shippers should give adequate notice of the availability of such cargo.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping(Liner Conferences) Act 1982, PART ONE. (See end of Document for details)

Article 20 Head Office of a Conference

A conference shall as a rule establish its head office in a country whose trade is served by that conference, unless agreed otherwise by the shipping lines P members of that conference.

Article 21 Representation

Conferences shall establish local representation in all countries served, except that where there are practical reasons to the contrary the representation may be on a regional basis. The names and addresses of representatives shall be readily available, and these representatives shall ensure that the views of shippers and conferences are made rapidly known to each other with a view to expediting prompt decisions. When a conference considers it suitable, it shall provide for adequate delegation of powers of decision to its representatives.

Article 22 Contents of Conference Agreements, Trade Participation Agreements and Loyalty Arrangements

Conference agreements, trade participation agreements and loyalty arrangements shall conform to the applicable requirements of this Code and may include such other provisions as may be agreed which are not inconsistent with this Code.

Status:

Point in time view as at 01/02/1991.

Changes to legislation:

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