

## STATUTORY INSTRUMENTS

1985 No. 405

## MERCHANT SHIPPING

**The Merchant Shipping (Liner Conferences) (Conditions for Recognition) Regulations 1985***Laid before Parliament in draft**Made - - - - 13th February 1985**Coming into operation in  
accordance with regulation 1(1)*

The Secretary of State for Transport, after consultation with the persons referred to in section 13(1) of the Merchant Shipping (Liner Conferences) Act 1982 (a) (hereinafter called "the Act"), in exercise of the powers conferred on him by sections 2 and 3 of the Act, and of all other powers enabling him in that behalf, hereby makes the following Regulations, a draft of which has been laid before and approved by a resolution of each House of Parliament in pursuance of section 13(2)(a) of the Act:—

1.—(1) These Regulations may be cited as the Merchant Shipping (Liner Conferences) (Conditions for Recognition) Regulations 1985 and shall come into operation on the date on which the Code enters into force for the United Kingdom.

(2) In these Regulations—

"the Code" has the same meaning as in section 1(1) of the Act;

"conference" has the meaning given by Chapter I of the Code;

"representative of shippers" means any person who represents directly shippers as an agent in making arrangements for the shipment of goods;

"shipper" has the meaning given by Chapter I of the Code;

"shippers' organisation" means an association or equivalent body which promotes, represents and protects the interests of shippers.

*National Shipping Lines of the United Kingdom*

2.—(1) Subject to paragraph (4) below, a body corporate being a vessel-operating carrier shall be recognised as a national shipping line of the United Kingdom for the purposes of the Code in respect only of those conferences of which it is a member if it is of British nationality in accordance with paragraph (2) below, or is to be treated as of British nationality in accordance with paragraph (3) below.

(2) For the purpose of this regulation a shipping line is of British nationality if it is incorporated or formed under the law of a part of the United Kingdom, and has its principal place of business in the United Kingdom.

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(a) 1982 c.37.

(3) A shipping line shall also be treated as being of British nationality if it is incorporated or formed under the law of another Member State of the European Economic Community and has its principal place of business in any such State, but is established in the United Kingdom.

(4) If any State outside the European Economic Community does not permit bodies corporate falling within paragraph (1) above to establish themselves (whether by having a place of business in that State, or by means of a subsidiary company registered in that State or otherwise) in such a State or have an effective opportunity to ply for trade to and from that State or, if such a State is party to the Code, qualify as a national shipping line for the purposes of the Code in that State, then a body corporate which is directed from that State shall not be recognised as a national shipping line of the United Kingdom.

(5) In deciding whether a body corporate is directed from another State regard shall be had to any relevant matter. In particular a body corporate shall be treated as being directed from another State if a person (or group of persons) resident in or a national of, or any agency or undertaking of such State—

- (a) has an interest in shares comprising more than 50% of the share capital of the body corporate or in any body corporate which holds, whether directly or through other bodies corporate, more than 50% of such shares; or
- (b) has the power to appoint a majority of the directors of the body corporate; or
- (c) is a person, agency or undertaking in accordance with whose instructions the body corporate is accustomed to act.

#### *Shippers' Organisations*

3. The conditions for recognition by the Secretary of State as a shippers' organisation in relation to any conference so far as it serves the trade of the United Kingdom and another State which is a Contracting Party to the Code are—

- (1) the shippers' organisation has its headquarters in the United Kingdom; and
- (2) compliance by the shippers' organisation with either of the following:—
  - (a) that the shippers' organisation is a national organisation representing those shippers who, taken together, are the shippers of the greatest quantity of goods with that conference; or
  - (b) that the shippers' organisation can show that it represents shippers of such quantities of goods with that conference as to make it reasonable for the conference to consult the organisation, unless the conference can show—
    - (i) that the majority of shippers represented by the organisation are adequately represented by shippers' organisations already recognised pursuant to this regulation; or
    - (ii) that it would not be appropriate to consult the organisation having regard to the number of organisations who represent shippers of greater quantities of goods with the conference, or the number of shippers of greater quantities of such goods; and

(3) notification by the shippers' organisation in writing to the conference that it wishes to be so recognised and of the address to which notices intended for it should be sent.

4. A shippers' organisation recognised in relation to any conference shall cease to be a recognised organisation in relation to that conference 3 months after it notifies the conference that it is to cease to be regarded as a shippers' organisation, but such notice shall not prevent the organisation thereafter becoming again a recognised organisation in relation to the conference.

*Designation*

5. The Secretary of State may designate for the purpose of article 11 of the Code (consultation machinery) any recognised shippers' organisation, any shipper, and any representative of shippers.

*Nicholas Ridley,*  
Secretary of State for Transport.

13th February 1985.

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EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations lay down, for the purposes of the Convention on a Code of Conduct for Liner Conferences, 1974 ("the Code"), (which is scheduled to the Merchant Shipping (Liner Conferences) Act 1982)—

- (a) the conditions for recognition of shipping lines as national shipping lines of the United Kingdom (regulation 2);
  - (b) the conditions for recognition of shippers' organisations (regulation 3);
- and

empower the Secretary of State to designate shippers, representatives of shippers and all recognised shippers' organisations under Article 11 of the Code (regulation 5).

The Regulations come into force when the Code enters into force for the United Kingdom. This date, which will be six months after accession by the United Kingdom, will be published in the London and Edinburgh Gazettes.

Any vessel-operating carriers which are bodies corporate incorporated or formed under the law of the United Kingdom and having their principal place of business here, and equivalent bodies corporate from other EEC Member States which are established here, are to be recognised as United Kingdom national shipping lines in respect only of those conferences of which they are members. However, bodies corporate which are controlled in States which do not allow in their countries similar rights for UK shipping lines are excluded from recognition.

The shippers' organisation representing shippers of the greatest quantity of goods with the conference will be automatically recognised. In addition shippers' organisations are recognised if it is reasonable for them to be recognised having regard to the shippers they represent, and the conference cannot show that such shippers are already adequately represented or that it would not be appropriate to consult them as provided for in the Code in view of the number of shippers and other shippers' organisations representing shippers who shipped greater quantities of goods.

The Secretary of State is empowered to designate for the purposes of Article 11 of the Code (which relates to consultations) recognised shippers' organisations, individual shippers, and representatives of shippers.

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