

UNITED NATIONS

GENERAL  
ASSEMBLY



Distr.  
RESTRICTED

A/CN.9/WG.3/WP.3  
15 March 1971

ENGLISH  
Original: SPANISH



UNITED NATIONS COMMISSION ON  
INTERNATIONAL TRADE LAW  
Working Group on International Shipping  
Legislation  
Second session  
Geneva, 22 March 1971

REPORT OF THE CHAIRMAN OF THE UNCITRAL WORKING GROUP  
ON INTERNATIONAL SHIPPING LEGISLATION ON HIS  
PARTICIPATION AS SPECIAL REPRESENTATIVE AT THE SESSION  
OF THE UNCTAD WORKING GROUP ON INTERNATIONAL SHIPPING LEGISLATION

1. Attendance. Pursuant to the decision adopted by UNCITRAL at its third session (report of UNCITRAL on the work of its third session, A/8017, para. 166), the writer attended the second session of the UNCTAD Working Group, held at Geneva from 15 to 26 February 1971, in order to serve as the Special Representative of UNCITRAL and to comply with the requests made of him in that decision.
2. Statement. At the twelfth meeting, before opening the general debate on the subject of bills of lading, the Chairman invited the writer to address the meeting. This gave him an opportunity to convey to the Working Group UNCITRAL's views on the need to avoid duplication of work and its desire to strengthen the close co-operation and effective co-ordination between UNCTAD and UNCITRAL in making progress in the study of international shipping legislation. The complete text of the statement he made is reproduced in document TD/B/C.4/ISL(II)/CRP.1.
3. Subjects dealt with by the UNCTAD Working Group. The matters dealt with in the Working Group and the decisions adopted are recorded in the report on the Group's second session (TD/B/C.4/86), which may be regarded as an annex to this

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report, and to which - in order to avoid repetition here - the reader is returned for a full account of the subject. We would merely add that, beyond any doubt, the substantive discussion was concentrated on bills of lading, on the basis of the Secretariat report.

4. Appraisal of the situation with regard to duplication of work between UNCTAD and UNCITRAL.

One of the main reasons for UNCITRAL's decision to send the Chairman of the Working Group on International Shipping Legislation to UNCTAD was to express the Commission's desire to avoid duplication of work, and to find out whether the examination of international shipping legislation by both organs as a priority item on their agenda had produced any such duplication.

Both in the general debate on bills of lading and in the process of formulating resolutions, all the participants agreed that it was for the UNCTAD Working Group to make commercial and economic studies of the problems and their legal implications but that if, on the completion of those studies, it was concluded that legal work was needed in order to revise, clarify or redraft existing texts or to draw up new texts, that should be the task of UNCITRAL and its jurists.

The general opinion of the UNCTAD Working Group on this subject thus proved to coincide with the thinking of UNCITRAL as expressed by the writer in his statement already mentioned.

This general opinion was expressed in the resolution which the Working Group adopted on bills of lading (annex I (a) to the report on the second session), and in which UNCITRAL is expressly requested to take over and carry on with the legal work on bills of lading, in the areas and in the spirit defined in the preamble and operative part of the resolution.

Further, in order to maintain the inter-disciplinary co-operation between the two organs, the resolution expresses the wish that the progress made by UNCITRAL in this work should be conveyed to the UNCTAD Working Group for its comments.

5. Attendance by the Chairman of the UNCTAD Working Group at the forthcoming session of the UNCITRAL Working Group.

In the same spirit of co-operation, the UNCTAD Working Group decided to invite its Chairman to attend, as its special representative, the meeting of the UNCITRAL Working Group which is scheduled to be held at Geneva from 22 March onwards.

6. Decision to convene the UNCITRAL Working Group. Paragraph 3 of the aforementioned decision on international shipping legislation adopted by UNCITRAL at its third session (A/8017, para. 166) provided that, at the request of the Special Representative, the Chairman of the third session of the Commission shall request the Secretary-General to convene a meeting of the Working Group, it being understood that duplication with the UNCTAD Working Group should be avoided.

As explained in the previous paragraphs, no such duplication will occur, because UNCTAD has expressly requested UNCITRAL to take up a specific legal task, thus making it clear that UNCTAD itself does not propose to do that work.

7. Background information and working papers. The writer considers it desirable that the report of the UNCTAD Working Group on its second session should be available at the meeting of the UNCITRAL Working Group, together with the other documents concerning bills of lading which have been circulated in UNCTAD, and more especially the report by the UNCTAD secretariat on bills of lading (TD/B/C.4/ISL/6), which examines, with illustrations, the legal, economic and commercial aspects of bills of lading - an important instrument in seaborne trade - and contains an ample bibliography.

It would also be desirable to have for the meeting of 22 March, if time permits, a working paper briefly mentioning the legal technicalities involved in the topics on which UNCTAD asks UNCITRAL to take action. In addition, if feasible, the working paper might describe the possible methods whereby UNCITRAL could undertake its task if, at its fourth session, it should decide to accede to UNCTAD's request.

8. Competence of the UNCITRAL Working Group. Under its terms of reference, it is for the meeting of the Working Group to indicate to the fourth session possible topics for study under the heading of international shipping legislation and to propose methods of work on the subject, "giving full regard to the recommendations of UNCTAD and any of its organs".

Since the UNCTAD Working Group has made a specific request that UNCITRAL should take up the study of the matters relating to bills of lading which are listed in its resolution, everything suggests that our Working Group should decide what methods of work might be applied to such a study, and what their implications are.

We would ask the Secretariat to supply the Working Group, if possible, with some suggestions on what steps might be taken to respond without delay to the request made by the UNCTAD organ.