

IMMTA NEWS

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1. IMMTA International Conference on Logistics and Multimodal Transport, 9-11 October 2011, Las Palmas, Canary Islands, Spain

Dear friends and IMMTA members,

I am pleased to inform you that our new member Ms. Ida Stier from Canary Islands, Spain, is organizing the 2011 IMMTA International Conference in October. Ida is the General Manager of the Stier Group providing shipping agency services and acting as the P&I Correspondent in the Canary Islands. She is also the Director of the Maritime Training and Education Centre (CEMA).

The Conference aims at bringing together international experts on logistics and multimodal transport and will provide an important forum to explore ways and means of promoting logistics and multimodal transport. The programme of the Conference includes operational as well as legal and insurance issues. Furthermore, it will provide an important opportunity for networking and making business contacts.

So please mark the dates 9-11 October 2011 in your agenda and come and join us for this important event. The detailed programme will be circulated shortly. It will be available on the IMMTA website, at: www.immta.org

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2. Entry into force of the International Convention on Arrest of Ships 1999

The International Convention on Arrest of Ships 1999 will enter into force on 14th September 2011. The Albania was the 10th State to accede to the Convention on 14th March 2011 and was the required number of Contracting State for its entry into force.

Other Contracting States of the Convention are: Algeria, Benin, Bulgaria, Ecuador, Estonia, Latvia, Liberia, Spain and the Syrian Arab Republic.

The Convention had been adopted, on 12 March 1999 by the Joint UN/IMO Diplomatic Conference, held in Geneva Under the auspices of UNCTAD. Few years earlier in 1993 a joint UN/IMO Conference had also adopted the International Convention on Maritime Liens and Mortgages 1993 (MLM Convention) which entered into force in 2004 and presently has 16 Contracting States. The two conventions, while entirely independent legal instruments, together provide a complete set of modern and up-to-date legal regime governing the recognition and enforcement of maritime liens and mortgages and maritime claims.

The text and Status of the both conventions are available on the UNCTAD website:

www.unctad.org/ttl/legal

3. The UN Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea: The Rotterdam Rules

In previous IMMTA E-Newsletters, we have been reporting regularly on the work within UNCITRAL concerning the preparation and adoption of the United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea 2008, known as the Rotterdam Rules. The Convention which had been opened for signature by States in the city of Rotterdam, the Netherlands, on 23 September 2009, has been signed by 23 States. But it has only been ratified by one State, i.e. Spain, on 19 January 2011. Another 19 ratifications are required for the Convention to enter into force. It would, therefore, seem unlikely that the Convention would enter into force in the near future.

The preparation of the Rotterdam Rules had began with the intention of establishing a modern international instrument that would provide commercial parties with more legal certainty and predictability. However the final text of the Convention turned out to be a highly complex and controversial legal instrument making it unlikely to achieve this objective. The Convention differs in many respects from the existing transport Conventions, including very wide scope of application, multimodal transport coverage, introduction of the concept of maritime performing parties, risk allocation and wide and mandatory obligations and liability of the shipper and extensive freedom of contract through exemption of the so-called “volume contracts” from mandatory scope of application of the Convention.

For more information concerning the Rotterdam Rules including views and position papers of various industry representatives, see IMMTA Newsletter, October 2009, available at:

http://www.immta.org/uploads/ImmtaNews_2009_2.pdf

Below is the work of the UNCTAD secretariat on the Rotterdam Rules put together on their website with the introduction and direct link to relevant documents:

The United Nations Convention on Carriage of Goods Wholly or Partly by Sea, 2008 (“Rotterdam Rules”)

Relevant documents by the UNCTAD secretariat

In the field of transport law, an important recent development is the adoption by the UN General Assembly, in December 2008, of a new UN Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea.[1] The new Convention, to be known as the Rotterdam Rules, provides mandatory standards of liability for loss or damage arising from the international carriage of goods by sea and is intended to provide a modern successor to earlier international conventions in the field, namely the so-called Hague Rules 1924, the Hague-Visby Rules, 1968 and the Hamburg Rules 1978. In contrast to these conventions currently in force, however, the Rotterdam Rules also apply to multimodal transport involving an international sea-leg and deal with a range of issues not presently subject to mandatory international law.

The new Convention, which requires 20 ratifications to enter into force, had been in preparation for several years under the auspices of UNCITRAL and high hopes are pinned on its success. At the same time, the Convention is highly controversial in a number of respects - including in respect of the substantive compromise between shipper and carrier interests inherent in the Convention, the particular complexity of its provisions, as well as its treatment of multimodal transportation and of transportation under so-called “volume contracts”.

The UNCTAD Secretariat participated in the preparatory work that was carried out by the UNCITRAL Working Group III (Transport Law)[2] as an observer and has, over the years, prepared a number of documents to provide technical legal analysis of the draft text for consideration by the Working Group; these include an article-by-article commentary (UNCTAD/SDTE/TLB/4)[3] and comments on specific aspects of the draft text (UNCTAD/SDTE/TLB/2004/2).[4]

Following the adoption of the new Convention in December 2008, Governments will be considering the potential implications of ratifying the Rotterdam Rules.

Against this background and to assist governments, in particular in developing countries, in their assessment of the merits of ratification, an analytical overview of key features of the Rotterdam Rules has been published as part of the Review of Maritime Transport 2009 (Chapter 6 A),[5] with a brief update in the Review of Maritime Transport 2010.[6]

For more information on the latest status of this and other Conventions, please visit www.unctad.org/ttl/legal

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4. IMMTA National Conference: 29 March 2011, Karachi, Pakistan

An IMMTA National Conference on impact of the Rotterdam Rules on the international trade and transport of Pakistan was held on 29 March in Karachi. The Conference was organized by Capt. Raffat Zaheer, Hon. Secretary and IMMTA Representative in Pakistan. The Conference brought together representatives from various sectors of trade and transport industry to discuss the issues.

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[1] http://www.uncitral.org/pdf/english/texts/transport/rotterdam_rules/09-85608_Ebook.pdf

[2] http://www.uncitral.org/uncitral/en/commission/working_groups/3Transport.html

[3] <http://www.unctad.org/en/docs/posdtetlbd4.en.pdf>

[4] http://www.unctad.org/en/docs/sdtetlb20042_en.pdf

[5] http://www.unctad.org/en/docs/rmt2009ch6_en.pdf

[6] http://www.unctad.org/en/docs/rmt2010ch6_en.pdf