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International Developments in Shipping

by Dr Gerhard Krause, Hamburg

A current widespread in the membership of UNCTAD will have it that the usefulness of an international meeting can be measured by the number and contents of resolutions it adopted. It is not intended to argue this philosophy here, since on the other side, one could argue that the significance of international gatherings should be found less in their results than in the atmosphere which prevails in their proceedings.

Phase of Confrontation

Undoubtedly, during the first years of the UNCTAD Committee on Shipping's existence, the situation was mostly marked by confrontation. Assuming that governments of developed market economy countries could direct their shipping industries as it is done in state trading countries, the majority of the Committee confronted the representation of the traditional maritime countries in the Committee more often than not with ideas and demands the minority had difficulties to agree to, not because of any hostility against the legitimate intentions of new maritime countries but in view of the impossibility for these governments to translate them into action.

But due to the efforts of cooperative minds in the different groups, due to the research work done by the Secretariat of the UNCTAD Committee on Shipping, and—what counts most—under the pressure of actual developments in the world shipping this phase of predominant confrontation had to come to an end some time. At the 5th session of the Committee on Shipping the speaker for the developing countries—the so-called “Group of 77”—the Brazilian diplomat Murillo Gurgel Valente, expressed the view that the beginning of a period of cooperation could be dated from this session. It is the purpose of this paper to review the principal features of this meeting.

As usual the agenda of the 5th session held in Geneva from March 22 to April 3, 1971, was decided during the preceding session. It comprised a number of important items most of which were under discussion in the Committee already for some time. However, since the 4th session sev-

eral developments had taken place which had to influence the deliberations of the 5th session and especially its climate.

UN-Shipping Strategy

The first development was the understanding reached by a negotiating group under the chairmanship of the Secretary General of the UNCTAD in June 1970. The group agreed on a draft for the chapter on shipping and ports in the Strategy for the Second Development Decade. The draft, after approval by the Board of UNCTAD, was adopted by the General Assembly of the United Nations in October last year. The chapter is of importance because of its pragmatic approach. It contains many items which were taken from unanimously adopted resolutions. On other items included in this chapter, discussion had gone on for a long time but a compromise was not in reach because of the differences in approach. Some groups insisted on identifying necessities and aims, widely recognised also by other groups, with rights and principles to be invoked in favour of an interested party. But those against whom the rights and principles thus created could be exercised later on, better avoid agreeing to misunderstandable language. Therefore, the market economy countries had not agreed to a draft resolution on “assistance to shipping” which was passed by a majority vote at the 4th session. However, they accepted the pragmatic approach of the Strategy chapter. And they considered it a sign of progress that the developing and the socialist countries were likewise satisfied.

Ministers Meeting in Tokio

The second development which seems to have influenced favourably the atmosphere of the 5th session was the fact that in the beginning of February the ministers in charge of shipping in the governments members of the Consultative Shipping Group (CSG) met in Tokyo in order to decide on a number of maritime problems of importance to them. Due to the great variety of interests they represent, their decisions read rather conservative. However, it has been recognised that basically they reflect a mind open to worldwide cooperation.

The ministers' conference had adopted decisions on flag preference, liner conferences, United States regulation of conferences, flags of convenience, and containerisation and other unit-load systems. Of these particularly the decisions on flag preference and on liner conferences found general attention. As regards flag preference, the ministers acknowledged the legitimate aspirations of developing countries to expand their merchant marines and to increase their participation in the carriage of sea-borne trade on a competitive basis, taking into account in particular the special problems connected with the infant stage of development of certain merchant marines; with a view to meeting these aspirations the ministers agreed to consider sympathetically requests for technical and financial assistance and to be cooperative also in other respects. As to liner conferences, the ministers instructed the liner operators of their flags to work out the draft of a code of conference practice until the end of the year in cooperation with the shippers of their countries; by this code malpractices should be eliminated and a sound cooperation between shipowners and shippers, the users of their services, should be ensured. It can be said that both decisions have helped to dispel doubts about the position of the members of CSG in these two important areas.

Positive Results

Of the items on the agenda of the 5th session three were dealt with in the general debate. One was to cover the current and long term trends of shipping problems, another one concentrated on the progress and the third concerned the problem of financial assistance for the acquisition of tonnage by developing countries. As harmonious as the atmosphere was in this debate, only one resolution resulted from the negotiations on drafts submitted by the "Group of 77" at its end. It was unanimously adopted. Since it reflects very well the spirit of understanding and will be of importance for the relation of member countries to UNCTAD and for the activity of the Secretariat until the 3d United Nations Conference on Trade and Development in April/May 1972 in Santiago de Chile, its operative part may be quoted in full: "The Committee on Shipping...

☐ Expresses the hope that the objection of the International Development Strategy in the field of shipping and ports will be effectively implemented in the course of the Second Development Decade and additional measures to attain the objective should be considered within the work programme of the permanent machinery of UNCTAD;

☐ Calls upon the Governments of the States members of UNCTAD and international organisations to take measures, individually or collectively, which will encourage the achievement of this objective and, where necessary, appropriately involving liner conferences, shippers' councils and other relevant bodies;

☐ Expresses concern that a continuance of the recent rising trend in freight rates resulting in part from an increase in transport costs may have some adverse effects on the efforts of the developing countries to expand their export trade and may handicap the achievement of some of the objectives of the International Development Strategy;

☐ Urges Governments of States members of UNCTAD to continue their efforts to give effect to UNCTAD resolutions by inviting their shipowners to pursue their efforts to reduce maritime transport costs and freight rates, taking account of the special needs of the least developed among the developing countries, including the landlocked developing countries, and requests the Secretary General of UNCTAD to report on the results of these efforts at an appropriate stage, which, depending on the decisions of the eleventh session of the Board on the provisional Agenda for the third session of UNCTAD might be at the third session of UNCTAD;

☐ Requests the UNCTAD secretariat: to prepare a background paper indicating possible approaches to put into effect the objective and policy measures adopted on shipping and ports in the International Development Strategy for the Second Development Decade, in order to assist, as appropriate, consideration of the subject in UNCTAD bodies; to give priority to the study to be done on a selective basis on the relationship between changes in freight rates and changes in costs of maritime transport and the effect on the export trade of developing countries, which was requested in Committee resolution 12 (IV), and to submit that study to the Committee at its sixth session; to complete on a basis of high priority the study of economic aspects of providing promotional freight rates for a certain number of non-traditional exports of developing countries, as provided for in Committee resolution 3 (III); to include in future issues of the annual Review of Maritime Transport the available statistical data showing freight rates on selected commodities especially on non-traditional exports as a percentage of the prices of these commodities, similar to the data shown in Table 22 of the Review of Maritime Transport, 1969 (TD/B/C.4/66)."

Agreement on Ports Issues

Similar positive results were reached on 3 other items of the agenda not covered by the general debate. That on ports is already a point of tradition in the history of the Committee. A manual on the selection, collection and presentation of port information and statistics prepared by the Secretariat with the assistance of experts and with the cooperation of other UN organisations and offices was recommended to member states for the implementation by port administrations. The second additional subject on the agenda which concerned technological progress in shipping, created some difficulties which, however, were overcome. The Secretariat had submitted a paper on "Unitisation of cargo" with very comprehensive analytical studies on the various modes of modern unitisation, i.e. palletisation, container, lash, roll on/roll off. Of course, following the present general trend, the studies are particularly concerned with the nature, the necessity and the consequences of containerisation. Since the document had been distributed only shortly before the 5th session, most delegates were not in a position to comment on it in depth. Its role will be important at the 3rd UNCTAD when, as can be assumed, especially containerisation will be one of the most important items of the discussions on shipping problems.

Item on Technological Progress

Unexpectedly, in connection with the item concerning the technological progress in shipping another problem emerged that may have created a crisis if the atmosphere had been different. For some time the Intergovernmental Maritime Consultative Organisation (IMCO), the specialised agency of the United Nations (UN) for technical maritime questions, and the Economic Commission of the UN for Europe (ECE) had been working on drafts for 3 international conventions on the standardisations of safety requirements, the facilitation of custom procedures and the regulation of liability questions under combined transport contracts. These drafts were submitted to the Economic and Social Council of the UN (ECOSOC), which has decided that the Secretary General of the UN, after extended consultations with governments and international organisations, should invite to a conference at the end of 1972 for finalising and adopting the conventions.

While the two first mentioned drafts do not appear to create any difficulties, the one which after its original French title "Transport Combiné des Marchandises" is usually referred to as "TCM Convention" met with strong objections from leading developing countries. In their view the

convention when enacted may have detrimental effects especially on developing areas. They suggested that ECOSOC should be invited to consider undertaking a study on the economic implications, in particular for developing countries, of the proposed TCM Convention and that ECOSOC "be assured of UNCTAD readiness to participate in such a study". Although not all members of the Committee were convinced of the necessity to ask for such a study, they finally agreed to the idea. A corresponding resolution was passed unanimously. In the meantime ECOSOC has decided to undertake the study which should be available until May 31, 1972, half a year before the date fixed for the UN/IMCO Conference on International Container Traffic.

The Code of Conference Practice

The third item discussed outside the general debate was the report on the 2nd session of the Working Group on International Shipping Legislation in February 1971. The group had been dealing with the problem of bills of lading. It had formulated several suggestions for the United Nations Commission in International Trade Law (UNCITRAL). As pointed out in the Resolution the Working Group felt that the existing rules and practices concerning bills of lading should be examined with a view to revising the rules, if necessary by a new international convention under the auspices of the UN. It is the understanding between the two organisations that the Working Group of UNCTAD does the analytical work whereas the function of revising existing and drafting new international conventions rests with UNCITRAL. The report of the Working Group of UNCTAD on the bills of lading was adopted by the Committee.

However, the report included another item which, originally, had not been considered for the agenda of the 2nd session of the Working Group. The point was conference practices. The developing countries, members of the Working Group, urged to advance that item from the last to the next highest place of the priority list for the work of the group, i.e. to be the principal subject at the 3rd session of the Working Group early in 1972. In this sense a resolution was passed by the Working Group without the developed market economy countries participating in negotiations and votes.

Later on, though, at the final meeting of the 5th session, the speaker for the "Group of 77" stated that the 3rd session of the Working Group, to be held early in 1972, should provide a forum for the first round of discussion only on various substantive issues relevant to this complex

subject. However, since this matter is of general interest and the 3rd UNCTAD will be attended by many more member states than usually participate in the Working Group or in the Committee, it will be impossible then to avoid a thorough discussion of the liner conference problem with particular emphasis on the idea of a generally respected Code of Conference Practice or Conduct. It appears that the Secretariat may make available a first compilation of views for consideration by the Working Group as early as in fall 1971.

Although the understanding on the next phase of procedure in the dealing with the delicate problem of a conference code was not explicitly expressed in the usual documents, it can be expected that it will be respected throughout the shipping sessions of UNCTAD in 1972.

Questions Left Open

On two issues no agreement could be reached. Draft resolutions submitted on these subjects could not be accepted by the minority of Western maritime countries. The "Group of 77" could

have put these drafts to a vote, but, very wisely, this was not done. Of course, this does not mean that the problems cease to exist, to the contrary, there is some likelihood that they will emerge again at the next occasion i.e. perhaps as early as at the 3rd UNCTAD.

No agreement was possible on the question of financial assistance for the acquisitions of tonnage by developing countries. Here it is the desire of certain developing countries that the developed market economy countries should make special efforts for assisting developing countries in purchasing new and old tonnage at conditions by far more favourable than the conditions are for their own merchant marines. Especially for India, this seems to be a point of importance. Nevertheless, it may be hoped that between now and the 3rd UNCTAD the ministries in question will see fit to reconsider the issue in order to avoid another discussion without the prospect for a compromise.

The second problem where the views of certain developing countries and of the Western group

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could not be reconciled concerned the development of the machinery for consultation between shipowners and shippers of rate fixing and of certain conference practices. Here, too, the "Group of 77" had submitted a draft resolution which would change fundamentally the purpose and structure of the consultation mechanism the developed market economy countries had introduced. Of course in countries with a different economic structure government agencies have to participate in the consultation, particularly as shippers. However, to make the ministries as such partners of the consultation if the government considers the shippers' representation vis-à-vis the shipowners as weak, would introduce a different note into the original concept and, therefore, did not appear acceptable to this minority. It may be hoped that it will not be tried again to urge the European countries into recognising

as general principle what in their view would lead into the wrong direction.

Conclusions

Looking back at the 5th session, at the spirit of its debates and negotiations and at its results, one could indeed conclude that it reflected more cooperation than the preceding ones. Some of the reasons why this happened may be found in the general development. However, to a great extent it was owed to the personality of the President, Mr. Quartley, the Shipping Commissioner in the Government of Ghana. He had proved his ability to chairing international meetings already in IMCO and elsewhere. He has encouraged cooperation by the members of all groups with the effect that no decision was taken under pressure. The 5th session has therefore been that with the least number of resolutions adopted but one of the most successful.

The Church Still Has a Task

by Karl Wolfgang Menck, Hamburg

Frustration, which is rife generally at the end of the first decade of development aid, has not left untouched the development aid activities of the churches. The Pearson Report even suggested that this kind of development aid should be done away with completely during the coming decade. Only in real emergencies (natural disasters, etc.) and for specific social aims in the Third World, it is said, could the church still assume tasks which do not transcend its strength¹.

Does that mean that the work of the church in the Third World has a bad record? After all, the church has channelled donations and gifts of a total value of DM 700 mn, and during the next ten years, it is even foreseen that the new total will rise to DM 2 bn². It has been suggested to forego the cut in Church Taxes, for which there is public demand, and instead to use more of the churches' funds for the Third

World. This would open up additional sources of finance³. Surely, it cannot be the question of money alone which persuades experts to predict an unfavourable future for the work of the churches in developing countries.

Unmodern Model

Perhaps this is due to the models, now somewhat out of date, to which the church subordinates its own "development policies". Today, it is the input/output calculation which dominates work in the Third World: efficiency of development aid seems to be accepted as the magic formula capable of overcoming all problems. All the efforts made by the church are focussed upon people or, expressed more precisely, "socially weak people who suffer deprivation"⁴. The aim of all the churches' effort is to help such people, both in the industrialised and in the developing countries, to obtain "social justice" and "in-

¹ See *Partners in Development*; New York, Washington, London, 1969, pp. 185 et seq.

² See *Entwicklung und Zusammenarbeit*, No. 4, 1970, p. 11.

³ See unsigned article, "Statt Senkung der Kirchensteuer mehr Mittel für die Entwicklungshilfe", in *Handelsblatt*, No. 189, Sept. 18, 1969.

⁴ See *MISEREOR aktuell*, No. 15 of June 15, 1970.