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Quarrels Over Conference Code

Delegates of the UNCTAD Working Group on International Shipping Legislation have wrestled in vain, for two weeks, in Geneva, for a meeting of standpoints regarding future rules governing international overseas liner shipping. Instead of a possible compromise between the Liner Conference Code adopted by the Consultative Shipping Group (CSG), which consists of twelve European countries and Japan, and the draft code submitted by the Secretariat of the UNCTAD Shipping Committee, there are now four different draft papers in existence, for during the course of the Geneva-deliberations, and to everybody's surprise, both the Latin American and the Afro-Asian countries tabled another additional draft document each.

There are many good reasons why developing countries have an ardent interest in a new and comprehensive definition of shipping conferences. In contrast with shippers in industrialised countries, those in LDCs are economically not powerful enough to be able to consult with shipping conferences or to conduct direct negotiations with them for obtaining lower freight rates. Moreover, especially LDCs are interested in being informed by all the liner shipping conferences about their costs and profitability in detail. For, in distinction from loaders in industrialised countries who co-operate closely with shipowners, which gives them some insight into their business, shippers in LDCs cannot learn, not even approximately, whether intended or actual increases in freight rate levels are economically justified. Furthermore, the entire organisation and practice of world shipping is tailored to meet the economic requirements of industrialised countries, since about 93 p.c. of all shipping is owned by them. Novel capital-intensive methods of ocean transport are being used to comply with the requirements of international trade in manufactured goods, but not of transporting commodities, which are most important for developing countries.

The new UNCTAD draft code tried to meet all these important points. Almost all the industrialised countries rejected this draft mainly because national arbitration tribunals and especially an international organisation are to watch under the new

code over all shipping conferences obeying the rules of the new convention worldwide. This led to the draft being accused of planning to transform ocean shipping into a non-profitmaking contractor for the export trade of individual countries, which would prevent shipowners from planning and acting economically and with initiative.

Yet, similar controls over liner shipping already exist in the United States in the form of the Federal Maritime Commission to operate them, without having done visible harm to US shipping. Also, the countries of Western Europe and Japan forget—although much of their criticism of the UNCTAD draft may have been justified—that the notion of transport as a contracting servant of the economy as a whole is an age-old concept in all industrialised countries and still rules much of the field of overland transport.

As to the Latin American and Afro-Asian UNCTAD members, they seem to have thought that UNCTAD's proposals did not go far enough. Therefore, both their separate drafts demanded bigger concessions to be made by industrialised nations. It is doubtful, however, if these 25 LDCs have acted very wisely: since the code desired by West European countries and Japan disagreed with the proposals of the USA, Canada, and Australia, UNCTAD's suggestions would have probably been adopted by a majority vote, to the detriment of those made by the Consultative Shipping Group, especially as the five Soviet Bloc delegations would have certainly swelled the vote for UNCTAD's draft.

True, the UNCTAD system would not have become binding upon CSG members, since UNCTAD has only the right to make criticisms and recommendations. But without the separate proposals of LDCs, it would have been much easier to arrive at a compromise between the UNCTAD and CSG drafts. Now the World Trade Conference in Santiago in April will have to discuss four draft papers. Chances for arriving at an agreement there are therefore practically nil. This will postpone all possibilities to find a comprehensive definition of all shipping conferences to an indefinite future.

Klaus Kwasniewski