



Merchant Shipping (Liner Conferences) Act 1982

CHAPTER 37

MERCHANT SHIPPING (LINER CONFERENCES) ACT 1982

Main implementing provisions

- 1 Introductory provisions: the Code and the Contracting Parties to it
- 2 Implementing regulations: the general scheme
- 3 Matters which may be provided for by regulations
- 4 Power to exclude or restrict operation of the Code for lack of reciprocity

Proceedings arising out of the Code

- 5 Liability of members of conference to be in proportion to their responsibility
- 6 Proceedings by or against unincorporated conferences
- 7 Restrictions on legal proceedings
- 8 Time for bringing legal proceedings
- 9 Recognition and enforcement of recommendations, etc of conciliators

Other supplementary provisions

- 10 Secretary of State to be appropriate authority in the U.K
- 11 Exclusion of restrictive practices law
- 12 Modifications consequent on revision of Code, etc.
- 13 Regulations and orders: consultation and Parliamentary control

General

- 14 Interpretation
- 15 Short title, commencement and extent

SCHEDULE — THE TEXT OF THE CODE
 — CONVENTION ON A CODE OF CONDUCT FOR LINER
 CONFERENCES

OBJECTIVES AND PRINCIPLES

PART ONE

CHAPTER I

DEFINITIONS

Liner conference or conference

National shipping line

Third-country shipping line

Shipper

Shippers' organization

Goods carried by the conference

Appropriate authority

Promotional freight rate

Special freight rate

CHAPTER II

RELATIONS AMONG MEMBER LINES

Article 1

MEMBERSHIP

- 1 Any national shipping line shall have the right to be...
- 2 A shipping line applying for membership of a conference shall...
- 3 In considering an application for membership by a shipping line...
- 4 An application for admission or readmission to membership shall be...
- 5 When considering applications for admission, a conference shall take into...
- 6 In addition to the criteria for admission set out in...

Article 2

PARTICIPATION IN TRADE

- 1 Any shipping line admitted to membership of a conference shall...
- 2 When a conference operates a pool, all shipping lines members...

- 3 For the purpose of determining the share of trade which...
- 4 When determining a share of trade within a pool of...
- 5 If, for any one of the countries whose trade is...
- 6 If the national shipping lines of one country decide not...
- 7 If the national shipping lines of the countries concerned do...
- 8 The national shipping lines of a region, members of a...
- 9 Subject to the provisions of article 2, paragraphs 4 to...
- 10 The application of the present article shall commence as soon...
- 11 Shipping lines members of a conference shall be entitled to...
- 12 The criteria for sharing and the revision of shares as...
- 13 Where no pooling, berthing, sailing or other trade participation agreements...
- 14 In the event of a disagreement between the national shipping...
- 15 Other shipping lines, members of a conference, may also request...
- 16 A conference shall provide for appropriate measures in any conference...
- 17 The provisions of article 2, paragraphs 1 to 16 inclusive...

Article 3

DECISION-MAKING PROCEDURES

Article 4

SANCTIONS

- 1 A shipping line member of a conference shall be entitled,...
- 2 A conference may, upon notice to be specified in the...
- 3 No expulsion or suspension shall become effective until a statement...
- 4 Upon withdrawal or expulsion, the fine concerned shall be required...

Article 5

SELF-POLICING

- 1 A conference shall adopt and keep up to date an...
- 2 Shipping lines and conferences are entitled to the full co-operation...

Article 6

CONFERENCE AGREEMENTS

CHAPTER III

RELATIONS WITH SHIPPERS

Article 7

LOYALTY ARRANGEMENTS

- 1 The shipping lines members of a conference are entitled to...
- 2 Whatever loyalty arrangements are made, the freight rate applicable to...
- 3 The terms of loyalty arrangements shall provide safeguards making explicit...

- 4 If there is a dispute between a conference and a...

Article 8

DISPENSATION

- 1 Conferences shall provide, within the terms of the loyalty arrangements,...
- 2 In ports where conference services are arranged subject to the...

Article 9

AVAILABILITY OF TARIFFS AND RELATED CONDITIONS AND/OR REGULATIONS

Article 10

ANNUAL REPORTS

Article 11

CONSULTATION MACHINERY

- 1 There shall be consultations on matters of common interest between...
- 2 The following matters, inter alia, may be the subject of...
- 3 To the extent that they fall within the scope of...
- 4 Consultations shall be held before final decisions are taken, unless...
- 5 Consultations shall begin without undue delay and in any event...
- 6 When holding consultations, the parties shall use their best efforts...

CHAPTER IV

FREIGHT RATES

Article 12

CRITERIA FOR FREIGHT-RATE DETERMINATION

Article 13

CONFERENCE TARIFFS AND CLASSIFICATION OF TARIFF RATES

- 1 Conference tariffs shall not unfairly differentiate between shippers similarly situated...
- 2 Conference tariffs should be drawn up simply and clearly, containing...

Article 14

GENERAL FREIGHT-RATE INCREASES

- 1 A conference shall give notice of not less than 150...
- 2 At the request of any of the parties prescribed for...
- 3 A conference, in an effort to expedite consultations, may or...
- 4 If agreement is reached as a result of the consultations,...
- 5 If no agreement is reached within 30 days of the...
- 6 Subject to the provisions of article 14, paragraph 9, a...

- 7 A deferred rebate which is due to the shipper and...
- 8 If the trade of a country carried by shipping lines...
- 9 Conferences should institute any general freight-rate increase effective in accordance...

Article 15

PROMOTIONAL FREIGHT RATES

- 1 Promotional freight rates for non-traditional exports should be instituted by...
- 2 All necessary and reasonable information justifying the need for a...
- 3 Special procedures shall be instituted providing for a decision within...
- 4 Information regarding the procedures for considering applications for promotional freight...
- 5 A promotional freight rate shall be established normally for a...
- 6 When examining a request for a promotional freight rate, the...
- 7 Promotional freight rates are not excluded from the imposition of...
- 8 Each shipping line member of a conference serving the relevant...

Article 16

SURCHARGES

- 1 Surcharges imposed by a conference to cover sudden or extraordinary...
- 2 Surcharges imposed on cargo moving to or from a particular...
- 3 Before any surcharge is imposed, whether general or covering only...
- 4 Unless the parties agree otherwise, within a period of 15...
- 5 In the event of a surcharge being imposed, in exceptional...
- 6 Financial loss incurred by the shipping lines members of a...

Article 17

CURRENCY CHANGES

- 1 Exchange rate changes, including formal devaluation or revaluation, which lead...
- 2 Such adjustments or changes shall be subject to notice, which...
- 3 If no agreement is reached within 15 days through consultations,...
- 4 The provisions of article 16, paragraph 6 shall apply, adapted...

CHAPTER V

OTHER MATTERS

Article 18

FIGHTING SHIPS

Article 19

ADEQUACY OF SERVICE

- 1 Conferences should take necessary and appropriate measures to ensure that...

- 2 Conferences and other parties prescribed in this Code as entitled...
- 3 In respect of any port for which conference services are...

Article 20

HEAD OFFICE OF A CONFERENCE

Article 21

REPRESENTATION

Article 22

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PARTICIPATION AGREEMENTS AND LOYALTY ARRANGEMENTS*

PART TWO

CHAPTER VI

PROVISIONS AND MACHINERY FOR SETTLEMENT OF DISPUTES

A. GENERAL PROVISIONS

Article 23

- 1 The provisions of this chapter shall apply whenever there is...
- 2 Disputes between shipping lines of the same flag, as well...
- 3 The parties to a dispute shall first attempt to settle...
- 4 Disputes between the parties referred to in article 23, paragraph...

Article 24

- 1 The conciliation procedure is initiated at the request of one...
- 2 The request shall be made: (a) In disputes relating to...
- 3 The provisions of article 24, paragraph 2 shall not apply...
- 4 Requests for conciliation in disputes other than those referred to...
- 5 The time-limits specified in article 24, paragraph 2 may be...
- 6 A request for conciliation shall be considered to have been...
- 7 Where no request has been made within the time-limits specified...

Article 25

- 1 Where the parties have agreed that disputes referred to in...
- 2 The provisions of article 25, paragraph 1 apply also to...
- 3 Where conciliation proceedings have been initiated, such proceedings shall have...

Article 26

- 1 The Contracting Parties shall confer upon conferences and shippers' organizations...
- 2 Acceptance or rejection by a conference or shippers' organization of...

Article 27

B. INTERNATIONAL MANDATORY CONCILIATION

Article 28

Article 29

- 1 In international mandatory conciliation the proceedings shall be held in...
- 2 In determining the place of conciliation proceedings the parties and...

Article 30

- 1 For the purposes of this chapter an international panel of...
- 2 Each Contracting Party may at any time nominate members of...
- 3 The Registrar shall maintain the panel list and shall regularly...

Article 31

- 1 The purpose of conciliation is to reach an amicable settlement...
- 2 The conciliators shall identify and clarify the issues in dispute,...
- 3 The parties shall co-operate in good faith with the conciliators...
- 4 Subject to the provisions of article 25, paragraph 2, the...

Article 32

- 1 The conciliation proceedings shall be conducted either by one conciliator...
- 2 Where the parties cannot agree on the number or the...
- 3 If the reply does not name a conciliator to be...
- 4 Where the conciliators appointed in accordance with article 32, paragraphs...

Article 33

- 1 Where several parties request conciliation with the same respondent in...
- 2 The request for consolidation shall be considered and decided upon...

Article 34

Article 35

- 1 The recommendations of the conciliators shall be made in accordance...
- 2 When the Code is silent upon any point, the conciliators...
- 3 The conciliators shall not decide ex aequo et bono upon...
- 4 The conciliators shall not bring a finding of non liquet...
- 5 The conciliators may recommend those remedies and reliefs which are...

Article 36

Article 37

- 1 Unless the parties have agreed before, during or after the...
- 2 Acceptance of the recommendation must be communicated by the parties...
- 3 Any party which does not accept the recommendation shall notify...
- 4 When the recommendation has been accepted by the parties, the...
- 5 A recommendation which has become binding upon the parties shall...
- 6 Any party may make its acceptance conditional upon acceptance by...

Article 38

- 1 A recommendation shall constitute a final determination of a dispute...
- 2 " Recommendation" includes an interpretation, clarification or revision of the...

Article 39

- 1 Each Contracting Party shall recognize a recommendation as binding between...
- 2 A recommendation shall not be recognized and enforced at the...
- 3 Any part of the recommendation shall not be enforced and...

Article 40

- 1 Where the recommendation has been accepted by all the parties,...
- 2 Where the recommendation has been rejected by one or more...
- 3 Where the recommendation has not been accepted by any of...

Article 41

- 1 Documents and statements containing factual information supplied by any party...
- 2 Such documents and statements supplied by a party may be...

Article 42

Article 43

- 1 (a) The costs of the conciliators and all costs of...
- 2 Each party shall bear all expenses it incurs in connexion...
- 3 Notwithstanding the provisions of article 43, paragraphs 1 and 2,...

Article 44

- 1 Failure of a party to appear or to present its...
- 2 Before closing the proceedings, the conciliators shall grant the party...
- 3 Failure to observe procedural time-limits laid down in this Code...
- 4 Where the proceedings have been closed owing to one party's...

Article 45

- 1 The conciliators shall follow the procedures stipulated in this Code...
- 2 The rules of procedure annexed to the present Convention shall...
- 3 If the parties agree that it may be in the...
- 4 The conciliators shall formulate their recommendation by consensus or failing...
- 5 The conciliation proceedings shall finish and the recommendation of the...

C. INSTITUTIONAL MACHINERY

Article 46

- 1 Six months before the entry into force of the present...
- 2 The Registrar shall perform the following functions in consultation with...

CHAPTER VII

FINAL CLAUSES

Article 47

IMPLEMENTATION

- 1 Each Contracting Party shall take such legislative or other measures...
- 2 Each Contracting Party shall communicate to the Secretary-General of the...

Article 48

SIGNATURE, RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

- 1 The present Convention shall remain open for signature as from...

- 2 All States are entitled to become Contracting Parties to the...
- 3 Ratification, acceptance, approval or accession shall be effected by the...

Article 49

ENTRY INTO FORCE

- 1 The present Convention shall enter into force six months after...
- 2 For each State which thereafter ratifies, accepts, approves or accedes...
- 3 Any State which becomes a Contracting Party to the present...

Article 50

DENUNCIATION

- 1 The present Convention may be denounced by any Contracting Party...
- 2 Denunciation shall be notified to the depositary in writing, and...

Article 51

AMENDMENTS

- 1 Any Contracting Party may propose one or more amendments to...
- 2 Each proposed amendment circulated in accordance with article 51, paragraph...
- 3 If no objection has been communicated, the amendment shall enter...

Article 52

REVIEW CONFERENCES

- 1 A Review Conference shall be convened by the depositary five...
- 2 The depositary shall, four years from the date on which...
- 3 Further review conferences shall be similarly convened every five years,...
- 4 Notwithstanding the provisions of article 52, paragraph 1, if the...

Article 53

FUNCTIONS OF THE DEPOSITARY

- 1 The depositary shall notify the signatory and acceding States of:...
- 2 The depositary shall also undertake such actions as are necessary...

Article 54

AUTHENTIC TEXTS-DEPOSIT

ANNEX TO THE — MODEL RULES OF PROCEDURE FOR INTERNATIONAL CONVENTION MANDATORY CONCILIATION

Rule 1

- 1 Any party wishing to institute conciliation proceedings under the Code...
- 2 The statement of claim shall: (a) Designate precisely each party...

- 3 The statement of claim shall be dated and shall be...

Rule 2

- 1 If the respondent decides to reply to the claim, he...
- 2 The reply shall: (a) Contain a summary statement of pertinent...
- 3 The reply shall be dated and shall be signed by...

Rule 3

- 1 Any person or other interest desiring to participate in conciliation...
- 2 If participation in accordance with (a) of article 34 is...
- 3 If participation in accordance with (b) of article 34 is...
- 4 Any objection to a request for joinder by such a...
- 5 In the event that two or more proceedings are consolidated,...

Rule 4

Rule 5

- 1 Any party may challenge a conciliator where circumstances exist that...
- 2 Notice of challenge, stating reasons therefor, should be made prior...
- 3 A conciliator who has died, resigned, become incapacitated or disqualified...
- 4 Proceedings interrupted in this way shall continue from the point...

Rule 6

Rule 7

- 1 The conciliators shall receive and consider all written statements, documents,...
- 2 (a) Each party may submit to the conciliators any material...

Rule 8

- 1 Whenever a period of days for the doing of any...
- 2 When the time provided for is less than seven days,...

Rule 9

Rule 10

- 1 The conciliators shall fix the order of business and, unless...
- 2 Unless the parties otherwise agree, the proceedings shall take place...
- 3 The conciliators shall specifically inquire of all the parties whether...

Rule 11

Rule 12

Rule 13