

UNITED NATIONS

ECONOMIC COMMISSION
FOR LATIN AMERICA
AND THE CARIBBEAN



1948 - 1988

ECLAC

Distr.
LIMITED

LC/L.453
15 June 1988

ORIGINAL: ENGLISH

LATIN AMERICAN AND CARIBBEAN LINER SHIPPING POLICIES
AND THE UNITED NATIONS CONVENTION ON A
CODE OF CONDUCT FOR LINER CONFERENCES

This document was prepared for presentation at the III Meeting of the Latin American Maritime Transport Commission (COLTRAM) of the Latin American Economic System (SELA), to be held in Mexico from 27 June to 1 July 1988, convoked to analyze options for modifying the Code of Conduct for Liner Conferences from the view point of the countries of Latin America and the Caribbean.

C O N T E N T S

	<u>Page</u>
SUMMARY	1
INTRODUCTION	3
I. THE TWO PILLARS OF LATIN AMERICAN LINER SHIPPING POLICIES	4
A. THE LINER CONFERENCE SYSTEM	4
1. The impact of market forces on homogeneous liner cargoes	5
2. The interchangeable nature of container transport services and its impact on conferences	5
B. CARGO RESERVATION REGIMES	6
1. Economic considerations	7
a) Macroeconomic policies	7
b) External indebtedness: The monetary-commercial environ- ment that gave rise to current macroeconomic policies	8
c) The role of liner shipping in macroeconomic policies	10
2. Legal considerations: The United Nations Convention on a Code of Conduct for Liner Conferences	17
a) Possible impediments to adoption of the Code	20
b) Efforts to implement the Code	22
c) Possible amendments that might be considered by Latin American and Caribbean countries	23
II. CONCLUSIONS	28
A. LINER SHIPPING AND NATIONAL ECONOMIC GOALS	28
B. THE CODE OF CONDUCT AND NATIONAL ECONOMIC GOALS	29
Notes	30

SUMMARY

Due to the direct relation between exports, imports, economic growth and transport, the United Nations Convention on a Code of Conduct for Liner Conferences not only forms part of a country's liner shipping policies but also affects the attainment of its economic goals. Liner shipping policies have been formulated by most Latin American and Caribbean countries on the basis of two pillars -- the liner conference system and national cargo reservation regimes.

During the early history of liner shipping all cargoes were carried by liner vessels. When homogeneous cargoes carried in such vessels reached appropriate volumes, they were separated from liner shipping and carried in specialized vessels under contractual or charter arrangements. The liner conference system was established to limit the offer of liner transport services and to stabilize freight rates. Liner conferences were strong and virtually controlled the liner industry for many years, since they offered a package of services which included stable freight rates, as well as appropriate technologies, routes and frequencies. Even more important than those service elements were the handling and stowage of cargoes. With the ever-growing use of containers, most liner shipping companies are no longer involved in the handling and stowage of general cargoes. Liner operators have come to offer numerous other services to cargo owners, such as computerized container location systems, but the transfer of handling and stowage services to factories and interior cargo terminals has eliminated the unique nature of each line and made them undifferentiated and substitutable.

Many Latin American and Caribbean countries, faced with large external indebtedness, have formulated export-oriented macroeconomic policies. These policies utilize numerous "transmission mechanisms," as they are called in macroeconomics, to increase foreign exchange earnings through exports so that needed capital investments might be made. This has led enterprises and governments, of both industrialized and developing countries, to search globally for market access advantages and least-cost inputs. Dominated by their external sectors, most countries of this region find themselves increasing integrated into a global economy and trading in very demanding international markets. Due to the costs of transporting their products to such markets, carriers, ports and all those in the distribution chain can contribute to and strengthen the impact of macroeconomic "transmission mechanisms" through the "support mechanisms" of cost control as well as through the selection of appropriate technologies, routes and frequencies.

Due to the inverse relation between foreign exchange earnings from exports and transport costs, the governments of Chile, Colombia and Brazil permit an increased presence of non-conference carriers in their trades. This was done to introduce a competitive element in their liner services and to lower freight rates. Liner freight rates are not limited to the costs of ocean transport, but also include those for port and land transport services. As approximately 60-70% of liner freight rates are utilized for the payment of port and land transport expenses, those activities represent an important focal point for the "support mechanism" of cost control.

The capacity of the transport industry, acting as a whole, to sterilize or alternatively to actively support the "transmission mechanisms" of macroeconomic policies seems to be little understood. Excessive transport costs reduce the quantities of goods which can be exported and the amounts of foreign exchange earned. The consequences of macroeconomic policies are determined at the microeconomic level, and ocean transport has numerous "support mechanisms" which can be utilized to strengthen macroeconomic "transmission mechanisms." Probably the most important result of this evaluation is that a subservient, derived-demand sector like liner shipping can make a major contribution to the achievement of macroeconomic goals. This idea, despite its simplicity, can be used by governments to strengthen the effectiveness of their macroeconomic policies.

Some of the more important legal measures adopted during the last decade would be the Code of Conduct, the U.S. Shipping Act of 1984 and the inclusion of the liner industry within the Treaties Establishing the European Communities (Treaty of Rome). The Code was prepared for a liner shipping industry composed of general cargo vessels and strong liner conferences, and must be brought up-to-date to reflect the transformation of liner shipping which began with containerization. A second weakness of the Code relates to its lack of an explicitly defined scope of application. Due to these and other problems, the Code has had only limited practical application even though it entered into force as a legal instrument five years ago. At the forthcoming Code review conference, it might be amended to have a scope of application which includes all ocean-transported cargoes or those which are covered by bills-of-lading and subject to the Hague Rules. Either of these proposals would solve enormous definitional problems concerning the role of non-conference carriers and would bring about its immediate application.

The Code of Conduct establishes a new relationship between the members of a liner conference and the cargoes they carry, and seeks to ensure appropriate rates and services are offered through the competition of third-country lines. This new relationship is seen by Latin American and Caribbean shipping lines as a means which can be utilized to secure an adequate cargo base for their operations. The proposals to extend the Code to all ocean transported cargoes or to those which are covered by bills of lading and subject to the Hague Rules would do much to provide the needed cargo base. For countries which have export-oriented macroeconomic policies, such amendments could provide a cargo base which would permit national shipping companies to offer the cost-effective services desired by shippers, and that would strengthen national economic goals.

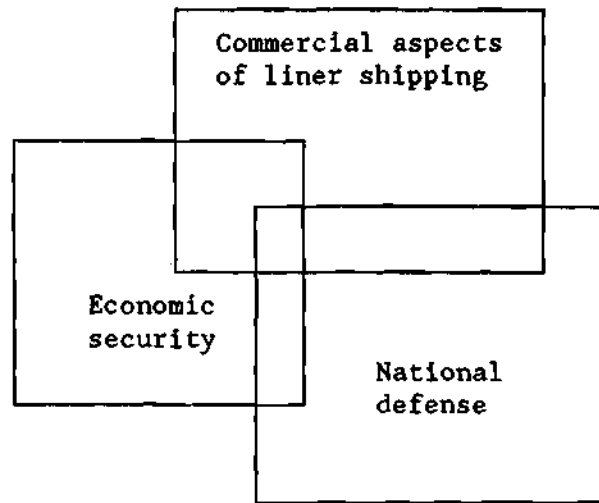
INTRODUCTION

At the II Meeting of the Latin American Maritime Transport Commission (COLTRAM), held at the headquarters of the Latin American Economic System (SELA), Caracas, Venezuela, 13-14 August 1987, a work program was adopted for 1988-1989. That work program requests ECLAC to, inter alia, prepare an evaluation of the United Nations Code of Conduct for Liner Conferences which would contribute to the establishment of a Latin American and Caribbean position for the forthcoming Code review conference, scheduled to be held from 31 October to 18 November 1988, the Palace of Nations, Geneva, Switzerland.

The Code of Conduct is but one of many elements that make up the environment in which liner shipping policies are formulated and executed. Such elements are neither isolated nor unrelated and must be understood and interpreted collectively to formulate policies which are timely, effective and relevant. Due to the direct relation between exports, imports, economic growth and transport, the Code not only forms part of a country's liner shipping policies but also influences the attainment of its economic goals. As a consequence, this study seeks to provide at least partial answers to questions such as: What are the challenges facing Latin American and Caribbean liner policies? What role should liner shipping play in the achievement of national economic goals? And finally, what amendments to the Code should Latin American and Caribbean countries pursue?

I. THE TWO PILLARS OF LATIN AMERICAN LINER SHIPPING POLICIES

The liner shipping industry operates in an environment which is composed of three overlapping areas:



The identification of objectives in each of these three areas by a particular country and the means utilized for their achievement result in a statement of its liner shipping policy, whether explicit or implicit. Many governments of this region have identified objectives within the above overlapping areas and translated them into liner shipping policies which are based on two pillars: (a) the liner conference system and (b) cargo reservation regimes. Each of these pillars must be carefully analyzed to determine whether they will continue to serve Latin American and Caribbean liner operators vis-a-vis national economic goals.

A. THE LINER CONFERENCE SYSTEM

The liner conference system was established to eliminate freight rate competition among carriers and to control the offer of transport services on a particular route. With liner operators still facing the same economic circumstances which gave rise to the conference system, one might ask why conferences are unable to control the offer of transport services and stabilize freight rates. Does this loss of control mean that the conference system will be ineffective as a means of support for the liner companies of Latin American countries? Probably the most important factors which should be evaluated in an attempt to answer those questions are (1) the impact of market forces on homogeneous liner cargoes and (2) the interchangeable nature of liner transport services and their impact on conferences.1/

1. The impact of market forces on homogeneous liner cargoes

Ocean transport can be divided into two types of services -- liner and tramp. Liner services are offered by vessels which sail along fixed routes on preannounced schedules and transport general cargoes. Tramp, contract or charter services are provided by vessels which offer their capacity for the carriage of cargoes such as grains, minerals, petroleum, lumber, paper, pipes, automobiles and sugar. Usually, a liner vessel carries cargo belonging to many exporters and importers on each of its voyages, whereas it is more common for a tramp ship to carry cargo belonging to a single exporter or importer.

If one begins with the age of modern liner shipping, which started with the development of the steam engine and establishment of the liner conference system during the 1860s, the impact of market forces on homogeneous liner cargoes can be clearly seen. During the early history of ocean transport all cargoes were carried by liner vessels -- whether they were grains, minerals, petroleum, passengers or what is today referred to as general cargoes. When the above homogeneous cargoes and others such as automobiles, pipes, paper rolls and lumber reached appropriate volumes, they were spun off or separated from liner shipping and began to be carried in specialized vessels under contractual or charter arrangements.

The ocean carriage of petroleum is perhaps the first example of the spin-off of homogeneous cargoes from liner transport. On 16 June 1886 the first purpose-built ocean-going vessel for the carriage of oil in bulk was launched, the "Gluckauf," of 3 070 deadweight tons.^{2/} General cargoes have resisted this trend due to their non-homogeneous nature and the need to handle and stow each individual unit. However, with the carriage of general cargoes in standard containers, they now form a homogeneous transport unit. The ocean transport of containers began in 1956 by grafting itself onto -- and then slowly taking control of, not separating from -- an ailing general-cargo industry that was labor-intensive, inefficient and damage prone. The incorporation of containers did not lead to their separation from liner cargoes, but rather has resulted in their taking gradual control of the industry. The homogeneity and universality of the container seems to be leading liner shipping to abandon the conference system. This possibility has numerous facets and must be given serious consideration by policy makers at all levels.

2. The interchangeable nature of container transport services and its impact on conferences

Before goods began to be carried in containers, liner shipping companies offered a package of services with four common elements -- technology, route, frequency and price. However, more important to shippers and consignees than these common elements provided by all lines were the service aspects involved in handling and stowage of general cargoes. The handling and stowage of such cargoes was an art as well as a science, and required great knowledge and experience to place compatible cargoes in the same hold and to stow them appropriately for the rigors of ocean carriage. Shippers were known to

forego vessels of one company specifically because they knew their cargoes would be better cared for by another.

With the growing use of containers in liner shipping, most companies which operate cellular vessels are no longer involved in the handling and stowage of general cargoes. To an ever increasing extent these functions are carried out at interior cargo terminals and factories where containers are filled and emptied. Such a change might appear minimal, but its impact is enormous. Without the service aspects of cargo handling and stowage, liner services have become undifferentiated and substitutable. Containers have not only made liner services interchangeable but also largely deprived them of characteristics which would make them individually unique. Where different shipping companies offer similar vessel technologies, routes, frequencies and prices, ocean-liner services are identical. While vessel operators continue to need the conference system to limit the offer of transport services, cargo owners no longer need conferences to provide them with the quality of service they require. Indeed, cargo owners recognize that conference members can offer no better service than non-conference carriers. As a result, liner conferences exercise much less control over carriers and shippers than in the era of general cargo vessels.^{3/}

In response to the questions posed at the beginning of this part, the historical trend toward specialization in the carriage of homogeneous cargoes and cargo units could result in the liner industry finding the conference system unnecessary. Proof of this can be found in the contractual carriage arrangements between carriers, shippers and consignees, which have resulted in their integration into the manufacturing and consumption processes. To an increasing extent, it appears that liner conferences could become unnecessary for both carriers and shippers, but the need to control the offer of services is ever present and could lead to new forms of agreements between carriers.

B. CARGO RESERVATION REGIMES

Cargo reservation regimes are just one of many measures that both industrialized and developing countries utilize to support their liner shipping industries. Others include preferential use of port facilities, price reductions for bunkers, tax exemptions for seafarers and direct subsidy payments. For example, between 1980 and 1985 the annual operating-differential subsidy payment of the U.S. to its shipowners grew from US\$341.4 million to US\$351.7 million. That subsidies distort the market mechanisms of supply and demand cannot be argued, but in an industry which is required to satisfy numerous policy objectives, in addition to those related to trade, such measures have become the sine qua non for a viable operation. Thus, cargo reservation regimes are an alternative to direct subsidy payments and are utilized by countries of this region to improve the load factor of their national liner companies.

If one looks to industrialized countries, they use the same means to accomplish comparable objectives. The United States, for instance, reserves for national shipping lines its coastal, military and economic assistance cargoes, while certain members of the European Economic Community (EEC)

reserve for national lines both their domestic trade and trade with island territories and former colonies that are now fully independent nations. What all cargo reservation regimes have in common, whether of industrialized or developing countries, is that they seek to direct the demand for ocean transport services to national shipping lines. The differences between cargo reservations regimes are largely centered on the cargoes, trades and shipping lines to which they are applicable.

The challenges facing cargo reservation regimes are simple enough to outline, but enormously complex in their social, commercial and political implications. Nonetheless, within this complexity certain matters must be evaluated in order to determine whether the cargo reservation regimes utilized by Latin American countries can be relied upon in the future to support their national shipping companies. Some of the more important matters which should be analyzed are (1) economic considerations and (2) legal considerations.

1. Economic considerations

It is often assumed that the major challenges facing Latin American cargo reservation regimes come from outside the region. Perhaps this was true in the past, but today they come from a myriad of sources, some of the more important being national macroeconomic policies, external indebtedness and the role of liner shipping. This section presents an analysis of these topics in the light of their impact on cargo reservation regimes.

a) Macroeconomic policies

The microfoundations of macroeconomics are usually presented in generic terms of households, firms and governments, with evaluations directed toward their aggregate consumption, saving and investment activities. In this part an effort will be made to look more closely at one specific microfoundation --liner shipping and related port and land transport operations-- in order to identify the contributions it can make to the achievement of macroeconomic objectives.

To accomplish macroeconomic objectives numerous "transmission mechanisms" are utilized by each country. They include (1) monetary mechanisms which encompass the purchase and sale of financial instruments to control the stock of money in the economy, (2) fiscal mechanisms that involve government taxation and spending to guide the demand for goods and savings as well as investments and (3) general policy measures such as import tariffs, quantity and exchange restrictions, export financing, loans from international agencies and currency valuations.

To understand how countries of this region arrived at export-oriented macroeconomic policies and what they mean for liner operators, it is necessary to briefly consider (i) the monetary-commercial environment in which such policies were formulated and (ii) the role for liner shipping therein.

b) External indebtedness: The monetary-commercial environment that gave rise to current macroeconomic policies

It will be recalled that during October 1973 the Organization of Petroleum Exporting Countries (OPEC) decided to raise the price of crude oil from US\$1.88 to US\$3.15 per barrel and on 1 December of the same year to US\$11.65 per barrel.^{4/} These price increases were followed by others, ultimately reaching US\$34.00 per barrel in January 1982.^{5/} Even though the price of oil has decreased from that high; and is currently US\$17.52 per barrel,^{6/} increases in the price of crude oil during the 1970s brought about a massive transfer of income from oil importing countries to oil exporters. As a consequence, the treasuries of OPEC member nations as well as their accounts with banks in Europe and North America began to swell with petro-dollars from sales of crude oil. These banks found themselves in the position of having to find persons, enterprises and governments wishing to borrow money.

The economic environment for Latin America during the 1970s was one of positive economic growth and most opportune for undertaking desired national projects. As can be seen from table 1, with the exception of 1975, which had an annual economic growth rate of 3.6%, from 1971 to 1980 such rates remained between 4.5 and 7.7%. To better understand such rates for Latin America, a comparison with those of developed countries in the same table will disclose the strong growth environment in which countries of this region found themselves during each year of that period.

From the viewpoint of the international banking community with excess liquidity, countries of this region were extremely good candidates for loans; that is, they had higher economic growth rates during the 1971-1980 period than did their developed counterparts, they were relatively unaffected by the world recession of 1974-1975 and the prices of their traditional primary product exports had risen with increases in the price of crude oil. In this high-growth environment Latin American countries began to adopt expansive economic policies. These policies permitted them to supplement domestic savings with funds obtained from external borrowing and to invest in capital improvement projects, thereby maintaining and even raising their rates of economic growth.

As can be seen from table 2, the global debt of Latin America and the Caribbean more than doubled during a seven year period. Preliminary estimates prepared by ECLAC show the global debt has increased to approximately US\$400 billion in 1986 and to US\$410 billion in 1987.

The tables show quite clearly that, in spite of macroeconomic policies focused on expanding exports and limiting imports, since the onset of the debt crises in 1982 the rate of increase in overall indebtedness of Latin American and Caribbean countries has lessened but the total amount has continued to grow. The large amount of external financing flowing to countries of this region during the 1970s was reversed in 1982; and between that year and 1985 they transferred to creditors more than US\$26 000 million each year, which represents more than 25% of their exports. Indeed, for the period 1983-1985 the average increase in real resource transfers from countries of this region to creditors increased by 5.3% of real gross domestic product (GDP), which can be closely correlated to the average decrease of investment in the region which amounted to 5.8% of GDP.

Table 1

RATE OF GROWTH IN REAL GROSS DOMESTIC PRODUCT, 1971-1985 ^a

Year	World	Developed	Developing	Latin America
1971	3.7	3.3	6.0	6.6
1972	5.2	5.0	5.6	6.7
1973	5.8	5.7	6.4	7.7
1974	1.8	0.7	6.6	7.0
1975	0.5	-0.4	4.0	3.6
1976	5.1	4.7	6.9	6.1
1977	4.1	3.7	5.7	4.5
1978	4.0	4.1	3.6	4.5
1979	3.5	3.2	4.5	6.6
1980	2.0	1.3	4.4	5.7
1981	1.6	1.5	2.2	-0.2
1982	-	-0.2	0.9	-1.2
1983	2.2	2.6	0.5	-2.5
1984	4.1	4.5	2.8	3.5
1985	2.8	3.1	1.7	2.5

^aThe rate of change in real gross domestic product for any year is shown in relation to the previous year. Data taken from the Spanish language version of the International Monetary Fund *Yearbook 1987*, pp. 159-161. The groupings are world, developed, developing countries, and Latin America and the Caribbean, presented here as Latin America. Note: the dash (-) in the column for World 1982 means that the figure is zero, close to zero or that data were not available.

Table 2

GLOBAL DEBT OF LATIN AMERICA AND THE CARIBBEAN, 1978-1985

Year	Amount (millions of US\$)	% increase over prior period
1978	161 525.2	-
1980	242 358.9	25.0
1981	295 308.5	21.8
1982	331 529.7	12.3
1983	354 844.2	7.0
1984	372 434.8	5.0
1985	383 928.9	3.1

Source: World Bank, *World Debt Tables*, External Debt of Developing Countries, 1978 data from p. 250 of the 1985-86 edition and 1980-1985 data from p. 262 of the 1986-1987 edition.

Supremacy of the external sector today is more far-reaching than the earlier shifts in economic orientation: it is a fundamental and permanent transformation in the nature and scope of national economic activities. This transformation is due not only to the oil shock and debt crises but also to the internationalization of markets and trading patterns. The era of relatively isolated national economies is fading as enterprises and governments search globally for market-access advantages and least-cost inputs. This search has led to, for instance, the employment of construction workers from the Indian Subcontinent in the Persian Gulf, Filipino crews on Norwegian vessels, registration of U.S. vessels in Liberia and the assembly of Japanese electronic products in Mexico for the North American market. The implications of such changes are profound not only for buyers and sellers of liner shipping services but also for countries which have and do not have market access advantages and low-cost inputs.

c) The role of liner shipping in macroeconomic policies

Liner shipping is accorded, at best, only indirect attention in the formulation of national macroeconomic policies. The reason for this is that perfect carriers and ports are almost invisible; that is, if they are efficient, inexpensive and deliver goods on time and without damage they are not seen. On the other hand, they come into view when cargoes are damaged, costs are too high or delivery is delayed. With the burden of the external debt on many countries of this region, the objectives of macroeconomic policies are largely focused on expanding exports, reducing imports and generating employment, and the earlier mentioned "transmission mechanisms" have come to the forefront. This part will consider how liner shipping can be utilized to strengthen the functioning of such "transmission mechanisms."

That the demand for shipping services is totally dependent on the demand for the products of other sectors is probably the first commandment of ocean transport which vessel operators have had to deal with since time immemorial. The generally accepted corollary to this commandment is that shipping lines have relatively little influence over the demand for those products. Nonetheless, along with the costs of production and insurance, transport costs are added to the delivered price of goods. Transport costs include not only freight rates paid by shippers but also those which arise from vessel technologies, routings and frequencies, as the latter contribute directly to the gain or loss of market opportunities for cargo owners. If transport costs are excessive, whether through unnecessarily high freight rates, or inappropriate vessel technologies, routings or frequencies, they will reduce the competitiveness of goods in world markets, limit sales, decrease foreign exchange earnings and diminish the effectiveness of macroeconomic policies.

Due to the inverse relation between foreign exchange earnings from exports and transport costs, if the latter are unnecessarily high they can weaken the effectiveness of "transmission mechanisms" or even render them impotent and frustrate macroeconomic goals. It is often considered that subsidies can compensate for excess transport costs, and this would be true if the national economy were relatively isolated and all direct and indirect expenses were paid in the national currency. From information provided by the Latin American Integration Association (ALADI), in 1983 the trade relations of its 11 member countries generated US\$11 587 million in ocean

freights. Based upon an earlier analysis,^{7/} it can be estimated that even with Latin American and Caribbean shipping lines earning a substantial proportion of those freights (as an example see Brazil in the following paragraphs of this part), the net foreign exchange effect of an investment in liner shipping ranges from 10 to 35% of gross revenues depending on a variety of factors. Thus, Latin American and Caribbean countries probably reduce their foreign exchange outflows by some US\$700 million.^{8/}

The basis for this estimation can be found in the large number of vessel, cargo and crew expenses in foreign ports, the need to import equipment and spare parts produced outside the region, the chartering of foreign vessels as well as the repair and maintenance of vessels in extra-regional shipyards, all of which must be paid in foreign exchange. For example, during 1986 Lloyd Brasileiro time chartered 79 foreign vessels and voyage chartered another 141 at a cost of US\$75.4 million,^{9/} while all national shipping lines of Brazil jointly incurred similar expenses in the same year of US\$580.3 million.^{10/} In 1987, chartering expenses incurred by Brazilian ship operators increased to approximately US\$587 million.^{11/} Notwithstanding the large amounts which must be paid in foreign exchange outside of the region, vessel operators, ports and all those in the distribution chain can contribute to and strengthen the impact of macroeconomic "transmission mechanisms" through the "support mechanisms" of cost control as well as through the selection of appropriate technologies, routes and frequencies.

The reasoning that there exists an inverse relation between foreign exchange earnings and transport costs is correct, but the magnitude of the latter must be understood to formulate appropriate liner shipping policies. With only minor exceptions, liner freight rates are ad valorem or calculated on the basis of the value of the goods carried. Further, liner conferences offer lower rates for non-traditional exports and imports in order to promote their transport, as well as higher rates for dangerous, refrigerated and other cargoes requiring special care. Notwithstanding such diversity in the calculation of freight rates, from a survey of 174 Chilean exporters during 1987 it was determined that the freight rates charged by conference members for the carriage of their manufactured goods to the Far East reached an average of 21% of the CIF (cost, insurance and freight) value, while 42% by weight of those cargoes incurred rates of over 40% of the CIF value.^{12/} Even though cargo owners of all nations must pay transport cost to place their goods in world markets, if those costs are unnecessarily high they constitute a leakage from the foreign exchange earnings a country would otherwise receive and a restraint on investment spending.

As approximately 60-70% of liner freight rates are utilized for the payment of port and land transport expenses, those activities represent an important focal point for the "support mechanism" of cost control. Most ports of this region have, for instance, an acute labor problem in four interrelated areas --surplus, high remuneration, low productivity and lack of interchangeability of tasks-- which increases the cost of imports and exports. This problem has reached such a magnitude that many port directors ask themselves if they are a commercial entity or one dedicated to provide work for the unemployed in the surrounding city. One port director indicated that he has 4 600 stevedores receiving wages, while needing only 1 200, and another emphasized that he was required to find work for an additional 900

persons even though he already had a surplus of port labor. Other ports must comply with legislation which requires that each stevedore be paid a minimum number of days per month, whether worked or not.^{13/} Still others find they have been transformed into a no-man's-land by overly strong unions,^{14/} thereby reducing cargo handling efficiency and creating an incentive to transship cargoes at the ports of neighboring countries.^{15/}

The cost of labor as a percentage of overall port operating expenses has been calculated by a number of port authorities. Due to the variety of generally-accepted accounting practices which might be utilized for items such as depreciation, comparisons among ports must be treated with caution. Nonetheless, at the Fifteenth Conference of the International Association of Ports and Harbors, held in Seoul, Korea, in 1979, a group of port specialists headed by the executive director for the port of Houston estimated that labor costs for a container terminal should reach only 30% of overall operating expenses.^{16/} It is instructive to note that at the port of Acajutla, El Salvador, they reach 76% of operating expenses and at the port of Callao, Peru, they are 80%.^{17/}

Another problem faced by liner shipping companies is the time their vessels sit idle in ports. It will be remembered that general cargo vessels usually spent 20% of their time navigating and 80% in ports. With the arrival of containerization those percentages were practically reversed, since capital-intensive loading and discharge systems for containerships were utilized. Even with this decrease in vessel port time, there are many periods of total inactivity when vessels wait for clearance (doctors, inspectors, fumigators, etc.), longshoremen, container handling equipment and cranes, and Customs officers, as well as for the resolution of labor disputes and the passing of inclement weather. TransConsultants of Sweden has estimated that vessel idle time at berths is between 7 and 15% of total port time, or 25 to 40 days per year.^{18/} To place the 40 day time period in perspective, it is sufficient for a round voyage between Valparaiso, Chile, and the U.S. east coast, with approximately seven ports of call. In other words, the earning capacity of vessels in that trade for one voyage per year is needlessly lost.

The president of a national shipowners' association of one Latin American country recently indicated that its members had good earning for 1987 due to an improvement in the national economy, a realistic exchange rate, the simplification, reduction and elimination of many bureaucratic foreign-trade requirements, and the extraordinary increase in efficiency of their ports.^{19/} In contrast, a spokesman for the national shipowners' association of Peru (AAP), indicated that the ports of his country are among the most expensive in the world.^{20/} According to a joint news release of the AAP, the maritime association of Peru (AMP) and the Peruvian association of shipping agents (APAM), Peru's principal port, Callao, is three and one-half times more expensive than Guayaquil, Ecuador, and seven times more than Buenaventura, Colombia.^{21/} During the latter part of 1986, the national shipping line of Brazil, Lloyd Brasileiro, discontinued its roll-on/roll-off service to Montevideo, Uruguay, as labor unions at that port required the employment of 20 stevedores each eight hour shift, while the same ships in the port of Buenos Aires, Argentina, utilize only four.^{22/} Once the cost of low productivity, wages for persons not working and excess wages of those working are taken

into account, one can begin to translate the port labor problem into lost exports, reduced foreign exchange earnings and postponed capital investments.

Shipping lines also can contribute to a strengthening of the macroeconomic "transmission mechanisms." The labor agreements under which national and private liner shipping companies of this region operate are a fruitful source of information concerning possible avenues which might be pursued to strengthen macroeconomic goals through the "support mechanism" of cost control. Certain liner shipping companies of this region find themselves with ships that can be operated safely and efficiently with crews of 20, for instance, but are nonetheless required by union agreements to employ 34. In many countries the number of crew members is determined by their navies, who wish to maintain larger crews in case of a national emergency, or legal dispositions adopted 25-30 years earlier.^{23/} One liner operator finds itself strapped with a union agreement which requires it not only to pay crew wages which are internationally competitive and in U.S. dollars but also to differentiate in the amounts paid according to individual routes served. Another liner company finds itself with a labor agreement which grants crew members one day free with pay, in addition to vacation, for each day aboard ship.

Other fruitful areas of "support mechanisms" for liner operators would be the reduction of shoreside administrative costs, energy conservation and measures which would assist in the avoidance of partially loaded voyages. One successful Latin American liner company carefully studied the functions carried out by shoreside personnel and found that, due to duplications in activities, 10% could be eliminated at its head office and almost 50% of those in foreign countries.^{24/}

Of the many problems involved in the operation of a liner shipping company, probably the most important relates to cargoes -- types, volumes, units of presentation for carriage, origins and destinations, headhauls, backhauls and many others. If national cargo volumes are small and shippers demand a frequent service to a wide range of ports, a cost-effective operation might require complementary cargoes from other countries on the trade route so that partially loaded voyages could be avoided. With new levels of cost-effective operation and productivity resulting from the utilization of very large vessels and modern technologies, as well as "just-in-time" deliveries required by an ever growing number of shippers and consignees, the volume of cargoes required for the establishment of an efficient and economical service can be substantial.

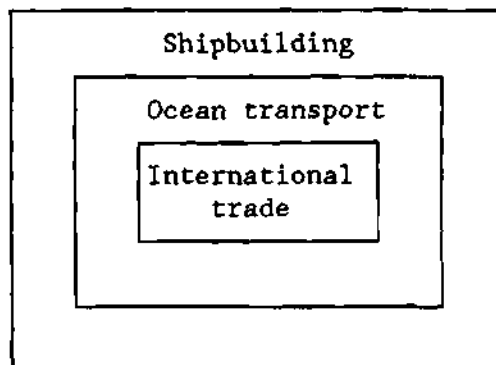
Other than cargo reservation regimes, numerous measures such as combining parallel operations, contract carriage arrangements, slot chartering, and becoming a "cross trader" are utilized to obtain sufficient volumes of cargoes. To enlarge its cargo base, Transportación Marítima Mexicana (TMM), for instance, carries an increasing portion of the Asia/U.S. trade in its service between the west coasts of Mexico and the U.S., and numerous ports in Asia. The president of TMM indicated that the greatest growth in cargo volumes for TMM had been those carried between the Far East and the U.S. west coast. During 1984 TMM earned US\$138.9 million of freight income from its liner operations, 39.3% more than the previous year, of which US\$67.7 million or 48.7% was earned as a "cross trader" carrying cargoes in its routes for other countries.^{25/} TMM is not the only "cross trader" in U.S. foreign

commerce, as the data compiled by the Federal Maritime Commission for 1987 indicate that approximately 54% of total U.S. liner traffic is carried by "cross traders."

In a similar manner, the national shipping enterprise of Argentina, ELMA, takes advantage of SUNAMAM Resolution 8364 (evaluated in greater detail in subsequent paragraphs of this part), which permits non-conference vessels to engage in the export trades of Brazil, and during 1987 approximately 23.9% of all cargoes transported by ELMA were between Brazil and third countries.^{26/} Thus, combining "cross trader" and national services can provide liner shipping companies with a valuable source of not only income but also experience.

During 1986, the state-owned shipping line of Chile, EMPREMAR, discontinued its service between countries on the west coast of South America and the east coast of the U.S. when the Government of Peru, by means of Supreme Decree 9/86, increased its reservation regime to include all national cargoes.^{27/} This increase was made in order to provide a broader national cargo base for the Peruvian national shipping line, CPV.^{28/} Until that time, EMPREMAR had relied on Peruvian cargoes to obtain a large enough load factor to economically justify its service. Before Supreme Decree was repealed early in 1988,^{29/} EMPREMAR had negotiated a contract with the national copper company of Chile, CODELCO, to transport approximately 50% of its products to the U.S. and reestablished a service every 25 days to that country during November 1987 with two semi-container vessels of 338 TEUs each.^{30/}

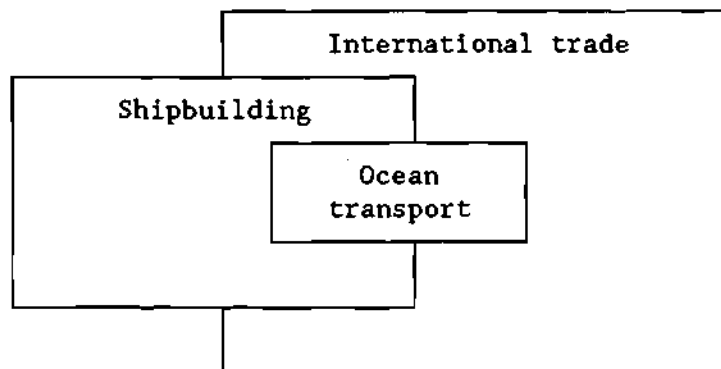
Probably the clearest example of the impact of a nation's macroeconomic policy on shipping would be that of Brazil. It will be recalled that as early as 1958 the Government of Brazil adopted legislation which contemplated the establishment of a regulatory body to ensure the participation of Brazilian vessels in its deep-sea trades. These early dispositions were complemented by Decree Law 666 of 2 July 1969 and Decree Law 667 of the same month and year, which formally adopted a cargo reservation regime, created liner conferences for Brazilian trades and established SUNAMAM to regulate ocean transport. The cargo reservation regime of Brazil, except for bilateral agreements, applies the cargo division formula of 40% for importing and exporting countries and 20% for third country carriers (40/40/20). For a period of approximately 15 years its national shipbuilding, ocean transport and international trade policy was one of economic interdependence, as can be seen from the following diagram:



In this environment, ocean carriers were beneficiaries of the directed demand of exporters and importers, and shipbuilders received carriers' demands for vessels. As a result, a series of five-year shipbuilding programs were undertaken and shipping lines were established in an effort to satisfy at least part of the demand which arose from the international trade of Brazil. During the period 1967-1984, the tonnage of Brazilian international trade carried by national ship operators rose from 10 to 50%. The fundamental question to be dealt with here is not whether the policy of economic interdependence was correct, as it most certainly was under the macroeconomic circumstances of that time, but whether the new macroeconomic policies adopted by Brazil following the first debt crisis in mid-1982, whose part related to shipping is embodied in SUNAMAM Resolution 8364 of 30 July 1984, provide a useful experience for other countries of this region.

With the onset of the debt crises in mid-1982, Brazil had an external debt of approximately US\$90 000 million; by the end of 1984 it had increased to US\$104 384.2 million. In this context, the Government of Brazil sought to expand exports in order to earn sufficient foreign exchange for payments on its external indebtedness and for investments in productive capacity, as well as respond to the claims of exporters that the high cost of liner shipping was limiting the types and volumes of goods they could sell in international markets. Resolution 8364 authorizes the participation of non-conference vessels, whether belonging to domestic or foreign operators, in its export trades to Europe and the U.S. The purpose of Resolution 8364 was to provide Brazilian exporters with another ocean transport option, lower liner shipping costs through the insertion of a new competitive element in two important trades, and stimulate exports.^{31/}

This resolution partially eliminated the interdependent relation between international trade on the one hand and shipbuilding and ocean transport on the other. Of even greater importance for transport policy makers, however, is the implicit declaration of international trade's supremacy over the other two. The change in policy can be seen from the following diagram:



The impact of SUNAMAM Resolution 8364 can be appreciated from the distribution of cargoes transported. During 1984 the international trade of Brazil carried by ocean carriers amounted to 182 million tons, of which 78 million tons or 42.9% were carried by national ship operators and 104 million tons or

57.1% by foreign operators. By the first semester of 1985, foreign shipping lines were transporting 90% of exports and 52% of imports.^{32/} For all of 1985, the international commercial exchanges of Brazil generated US\$1 912.8 million in ocean freights for the carriage of general cargoes, of which US\$612.5 million or 32% were captured by shipping lines of that country.^{33/} In the period from 1977 to 1986, the participation of Brazilian lines in the freight revenue generated by the international carriage of general cargoes was reduced from 44.3% to 31.6%.^{34/}

It is most difficult to determine if Resolution 8364 contributed to an expansion in the types and volumes of exports. The reason for this is that there are a myriad of factors which can encourage expansion, contraction and alteration of a country's exports, such as exchange rate modifications, changes in consumption patterns, government subsidies and market access agreements. Notwithstanding the diversity of such factors, it is interesting to note that the export of unprocessed cacao was not included in Resolution 8364. The president of the Brazilian Association of Cacao Exporters (ABEC) indicated in February 1987 that freight rates charged by conference members were 60% higher than those of non-conference lines serving Brazilian trades. As a result of this rate difference, he pointed out that ABEC members attempt to sell their products only on free-on-board (FOB) conditions, in order to allow purchasers a choice between conference and non-conference carriers, and 90% is exported under those terms.^{35/}

The experience of Colombia is similar to that of Brazil, although more recent. On 25 January 1988, Colombia adopted Decree Law 143, which liberates all cargoes from the national reservation regime, except for the export of coffee and the import of "Plan Vallejo" cargoes -- capital goods and raw materials which will be utilized to produce or incorporated into manufactures that will be exported. Notwithstanding these provisions, national shipowners and operators have preference if they offer the same service conditions and freight rates. Control of this law is a posteriori -- shipowners and operators must file a complaint with the national maritime authority if cargo owners use a foreign shipping lines despite the offer of similar service conditions and freight rates by national shipping companies. Decree Law 143 was negotiated over a period of 18 months with national shipowners and operators and they are, according to the Colombian Council of Transport Users (CUTMA), in agreement with it.

In summary, faced with enormous external indebtedness, international monetary and commercial uncertainty, and an interdependent global economy, Latin American and Caribbean countries have sought to reformulate their macroeconomic policies in an effort to earn sufficient foreign exchange from exports so that they might make needed capital investments and create employment opportunities. Due to the dominance of the external sector and the increasing integration of Latin America and the Caribbean into a global economy, the costs of transporting their products to numerous geographically separate and yet related international markets has come under growing scrutiny. It has been found that liner shipping, which is composed of ocean transport, port and land transport services, can make a definite and important contribution to the achievement of macroeconomic policies through its "support mechanisms" of (i) cost control, so that freight rates are kept to a minimum, (ii) selecting the most appropriate transport, administrative and

cargo-handling technologies and (iii) offering the routes and frequencies required by shippers and consignees.

2. Legal considerations: The United Nations Convention on a Code of Conduct for Liner Conferences

During the last decade numerous legal measures for liner shipping have either been adopted or come into force. Some of the more important would include the United Nations Convention on a Code of Conduct for Liner Conferences, the U.S. Shipping Act of 1984, and the inclusion of that industry within the Treaties Establishing the European Communities (Treaty of Rome) by means of four Council Resolutions: the principle of freedom to provide maritime transport services between Member States and between Member States and third countries (4055/86), rules for the application of Articles 85 and 86 of the Treaty of Rome to maritime transport (4056/86), unfair pricing practices in maritime transport (4057/86) and coordinated action to safeguard free access to cargoes in ocean trades (4058/86). The implications of the U.S. Shipping Act of 1984 and the EEC common ocean transport policy for developing countries were analyzed in an earlier ECLAC study 36/ and will be summarized in order to show their implications for the present effort.

The U.S. Shipping Act of 1984 is one of the most influential instruments in maritime legislation since the advent of containerization. There are many reasons for this, but for the purposes at hand they include: first, approximately two-thirds of all liner vessels call at U.S. ports and must comply with its requirements; second, it reflects the evolution of the liner shipping industry towards contract carriage arrangements and provides numerous new tools for the industry -- service contracts, time-volume rates, independent action and others; third, it has become a model for similar legislation in several other nations 37/ including the four earlier mentioned Council Resolutions of the EEC; and fourth, when section 13(b)(5) of that Act is combined with section 19 of the Merchant Marine Act of 1920, they provide the Federal Maritime Commission with the means to ensure that U.S. vessels have access to cargoes in foreign-to-foreign trades and that vessels of all nations might participate in its trades.

Use of the Shipping Act of 1984 by the EEC as a model for its own common shipping policy goes far beyond any effort to take advantage of an earlier experience or avoid "reinventing the wheel." Ocean transport legislation and policies of the 24 member countries of the OECD are coordinated at regular meetings of its Maritime Transport Committee. Moreover, the U.S. attends meetings of the Consultative Shipping Group (US/CSG), composed of Belgium, Denmark, Finland, France, the Federal Republic of Germany, Greece, Italy, Japan, the Netherlands, Norway, Sweden and the United Kingdom, specifically to harmonize ocean-transport policies. The US/CSG joint statement at their meeting held at Copenhagen, Denmark, 28-30 April 1986, is indicative of their position on the United Nations Convention on a Code of Conduct for Liner Conferences. Paragraph two of that statement asserts:

"Whether or not the UN Liner Code applies to their trades, the participants reaffirm their resolve to avoid the introduction of new governmental measures, and to resist measures introduced or encouraged by third countries, where their effect is to exclude or restrict competitive access by each others' shipping lines to cargoes in their trades. The participants will maintain the right of commercially operated non-conference lines to compete freely for liner cargoes."

In addition to these regimes and institutional efforts, there are other legal initiatives which have had and will continue to have a profound influence on national liner shipping policies. For purposes of this evaluation the most important would be the United Nations Convention on a Code of Conduct for Liner Conferences. In contrast with the U.S. Shipping Act of 1984, which has been used as a model for other maritime legislation, the Code of Conduct has acted as a catalyst in the legislative efforts of numerous countries. For example, to a very large extent the U.S. Shipping Act of 1984 was formulated to avoid any impact of the Code in U.S. trade flows, and the four EEC Council Resolutions were promulgated to limit its impact on Community trade flows. Other countries have adopted legislation to implement its provisions with such a diversity of techniques and procedures that uniform application of the Code is placed in doubt. Even though the Code as a legal instrument entered into force almost five years ago, it has had only limited practical application.^{38/} This does not mean that the Code lacks importance, but rather that its relevance, influence and impact must be judged through the legislative efforts of countries which seek to avoid, limit or utilize its provisions.

Almost from their inception liner conferences have been the subject of numerous criticisms by shippers and governments for their monopolistic control over the supply of transport services and the setting of freight rates. It is not surprising then, that at the first session of the United Nations Conference on Trade and Development (UNCTAD), held at Geneva in 1964, such concern was expressed as part of the recommendation entitled "The Common Measure of Understanding on Shipping Questions". In 1971 the Committee of European and Japanese National Shipowners' Associations (CENSA) responded to such criticisms by formulating, in consultation with national shippers' councils of Europe and based on guidelines provided by their governments, a code of practice for liner conferences. This code of practice, which became known as the CENSA Code, was accepted by the governments of the Consultative Shipping Group, then composed of Belgium, Denmark, Finland, France, the Federal Republic of Germany, Greece, Italy, Japan, the Netherlands, Norway, Sweden and the United Kingdom.

The CENSA Code was not acceptable to developing countries and a liner code prepared by them was examined at the third session of UNCTAD, held at Santiago, Chile, April/May 1972. In response, a resolution was adopted requesting the General Assembly at its twenty-seventh session to convene a meeting of plenipotentiaries to adopt a code of conduct for liner conferences. The formulation of the code involved two sessions of a preparatory committee (January and June 1973) and two sessions of the plenipotentiaries (November/December 1973 and March/April 1974). The United Nations Convention on a Code of Conduct for Liner Conferences was adopted on 6 April 1974 by a vote of 72 countries in favor, seven against and five abstaining. The Code

entered into force on 6 October 1983, six months after being ratified by the Federal Republic of Germany and the Netherlands.

To better understand the need for and possible amendments to the Code, one must take into account the liner shipping environment which existed between 1964 and 1974, and the changes that are occurring to the industry. It will be remembered that the first international movement of containers took place in 1966 and was a trans-Atlantic voyage between the U.S. and Germany. This voyage occurred two years after international organizations began to consider various aspects of a liner code of conduct. By 1967 there were no more than five container vessels trading internationally, and by 1974 that number probably increased to approximately 50. In other words, the container revolution was at its earliest stages and general cargo conferences controlled liner shipping.

The Code was thus elaborated prior to the structural changes brought about by containerization and, of course, prior to the market, service, technological and legal forces which are currently restructuring the industry. This should not be taken as meaning that the Code is not a useful instrument, but merely that it, like many other legal regimes, has been largely overtaken by changes in the industry it seeks to regulate. Indeed, the objectives of the Code --to ensure the right of national lines to participate in trade flows, to balance the interests of shippers and shipowners, and to facilitate the orderly expansion of liner trades-- are equally valid today as they were when it was originally formulated. The possible need for amendments to the Code was foreseen by its drafters and at Article 52 it provides that:

"A Review Conference shall be convened by the depositary five years from the date on which the present Convention comes into force to review the working of the Convention, with particular reference to its implementation, and to consider and adopt appropriate amendments."

Thus, the questions facing all Contracting Parties are: what changes are needed to bring the Code up-to-date and how can those changes, as well as the Code, be structured to ensure that it will not be rapidly overtaken again by future events?

Some of the areas which might be discussed at the 1988 Code Review Conference, which will be held from 31 October to 18 November 1988 at the Palace of Nations, Geneva, Switzerland, could include individual proposals by developed and developing countries as well as those made jointly. With reference to the first, developed countries might propose (a) the elimination of article 2 -- participation in a trade, (b) protection of non-conference lines' right to participate in Code trades and (c) the right of economic communities to become Contracting Parties to the Code. On the other hand, some of the areas which might be proposed by developing countries could include (a) the allocation of cargo shares by governments rather than conferences, (b) the inclusion of non-conference lines within the scope of the Code, (c) the inclusion of all cargoes within the scope of the Code and (d) the inclusion of port and intermodal land-bridge services within the scope of the Code.

Both groups of countries might make proposals related to (a) the separation of containers from other liner cargoes and their transport in chartered vessels, (b) the broker and charter activities of conferences, (c) uniform interpretation of the Code, (d) reservations to the Code, (e) scope of application of the Code, (f) revision of certain Code definitions to reconcile them with current industry structure and practices, (g) revision of certain time periods for completion of activities, (h) unilateral cargo reservation, (i) preshipment control of cargoes to ensure compliance with Code cargo carrying rights, (j) matters which may be subject to consultations and international mandatory conciliation and (k) changes to the structure of the Code which might permit easier and more frequent amendments.

The above listings are merely indicative, but they include most of the important proposals which will be discussed at the Code Review Conference. Some of the above areas already have been analyzed in a series of documents prepared by the UNCTAD secretariat for the Code Review Conference. ^{39/} However, as the above proposals are endlessly complex in their ramifications, differences in interests among ship operators, shipbuilders, cargo owners, governments and others will have to be taken into account at the Code Review Conference to arrive at an amended text. In addition to the above substantive proposals there are a number of procedural matters, such as which countries have a right to participate in meetings, that will have to be resolved prior to considering such proposals at the Review Conference. Within this overall framework there are certain topics of special interest to the Latin American and Caribbean countries. As a consequence, an evaluation will be made of (a) possible impediments to its adoption, (b) efforts within this region to implement the Code and (c) possible amendments which might be considered by governments, shippers and ship operators of this region.

a) Possible impediments to adoption of the Code

Certain nations of the Latin American and Caribbean region have not adopted the Code because the widely considered 40/40/20 cargo sharing principle would result in a decrease of earlier acquired rights under national legislation. Other reasons generally concern the desire to engage in liner shipping as non-vessel operating common carriers (NVOCCs), and to control liner conferences and freight rates through relevant government agencies, as well as the existence of numerous conflicts between the Code and rights acquired under bilateral transport agreements, control of non-conference carriers and national requirements for the resolution of disputes.^{40/}

The Code defines a national shipping line as:

"...a vessel-operating carrier which has its head office ... and effective control in that country and is recognized as such by an appropriate authority of that country ..."

For small countries with limited cargo volumes, the possibility of becoming a vessel-operating carrier to take advantage of the rights accorded by the Code is reduced. Certain countries of this region, such as those of the Caribbean and Central America, regularly engage in liner shipping as NVOCCs through slot-chartering arrangements. Indeed, there is a growing use of such arrangements among major liner operators in order to provide the

frequencies required by shippers and consignees, and to reduce costs. Probably the most recent example of this would be the ownership of the 12 ex-United States Lines' 4 458 TEU econoships by Sea-Land Service (SLS), while container slots on those vessels are allocated to SLS, Trans Freight Lines (TFL), a wholly-owned subsidiary of Peninsular & Oriental Containers Limited (P&OCL), and Nedlloyd. Each carrier will remain responsible for its own bills of lading, marketing, sales, customer service, documentation, inland transport operations and computer-based information and communications systems.^{41/} If the Code definition of a national shipping line were revised to encompass NVOCCs it would not only reflect commercial reality, as liner shipping involves many important activities other than vessel operations, but also strengthen the bargaining position of small countries vis-a-vis operators of liner vessels.

The rights acquired under bilateral shipping agreements are important to many countries of this region. For example, Argentina has such agreements with five Latin American countries and two outside the region,^{42/} while those of Brazil are with seven Latin American countries and nine others.^{43/} In recognition of the role such agreements play in trade relations worldwide, Article 5 of EEC Council Resolution 4055/86 specifically provides that they are permitted in those exceptional circumstances where there exist no other means for EEC vessel operators to participate in a trade. While the Code does not explicitly address shipping services between countries which are regulated under such agreements, the definition of a liner conference contained in Chapter I provides:

"A group of two or more vessel-operating carriers ... which has an agreement or arrangement, whatever its nature, within the framework of which they operate under uniform or common freight rates and any other agreed conditions with respect to the provision of liner services."

This clause defines liner conferences, and generally it can be stated that any cooperative agreement which fulfills its conditions would be subject to Code provisions, irrespective of the organizational form of cooperation chosen. This leads one to believe that bilateral transport agreements would be subject to the Code. As a result, certain governments adopting the Code have made express reservations excluding from its provisions their liner trades governed by bilateral shipping agreements.

It can be posed that express reservations are merely a means to introduce operational flexibility in the Code so that differences between commercial parties, trades and routes can be recognized between liner operators. This would be true if there were other clauses in the Code which stipulated circumstances under which reservations would be appropriate or inappropriate. Unfortunately, the drafters of the Code did not include such guidelines, and reliance must be placed on the Vienna Convention on the Law of Treaties (1969), which entered into force in 1986. The Vienna Convention provides at Article 19 that reservations may be formulated unless they are totally prohibited, or are beyond those permitted or are incompatible with the object and purpose of the convention in question. In these circumstances, each reservation has to be evaluated individually to ensure its compatibility with the object and purpose of the Code.

The combined effect of reservations and bilateral agreements has been to alter the nature and scope of the Code, and some consider that it can no longer play its role as a universally acceptable instrument, as called for in its preamble. Whether and to what extent such reservations and agreements should be allowed, in the light of their impact on the cargoes which would otherwise be subject to Code provisions, is a complex question but one that must be answered to ensure its broad application as well as uniform interpretation. One possible answer would be that bilateral agreements should be subject to the Code, and formulated to take into account its principles regarding cargo sharing, consultations, freight-rate increases, third country participation, etc.

b) Efforts to implement the Code

Of the 88 countries participating in the second part of the United Nations Conference of Plenipotentiaries on a Code of Conduct for Liner Conferences, which took place from 11 March to 6 April 1974, 18 were from the Latin American and Caribbean region and all voted in favor of the Code. Based upon information provided by UNCTAD, as of 27 April 1988 71 countries had become Contracting Parties to the Code -- 56 developing countries, nine developed countries, five from Eastern Europe and China. Of the Contracting Parties to the Code, 13 are from this region -- Barbados, Chile, Costa Rica, Cuba, Guatemala, Guyana, Honduras, Jamaica, Mexico, Peru, Trinidad and Tobago, Uruguay and Venezuela. A major impediment to implementation of the Code results from the lack of its adoption by major trading nations of North America (Canada and the U.S.) and Asia (Hong Kong, Japan, Singapore and Taiwan).

Article 47 (1) of the Code requires each Contracting Party to adopt legislation and take such other measures as may be required for its implementation. The general structure of the Code is one of self-regulation through actions of commercial parties. Only an indirect role is foreseen for governments, inasmuch as the existence of state-owned lines or shippers' councils would bring them into the application process. As far as the consultation and conciliation procedures are concerned, the role of governments under the Code is largely confined to that of an interested observer. Specific national laws or administrative regulations are required to: designate the ministry or governmental department which will be "the appropriate authority" for purposes of the Code; grant legal status to shippers' organizations and councils so that they might participate in freight-rate proceedings; provide the means for settlement of disputes between national lines and organizations; and designate the court or competent authority to which applications for enforcement of recommendations of conciliators might be directed.

Even though 13 countries of this region have become Contracting Parties to the Code, some have not fully complied with the requirements of Article 47 for its implementation. The reasons for this range from the lack of clarity of numerous concepts such as "self-regulation," "military equipment for national defense purposes" and "reasonable profit" for ship operators, to whether it should apply only to conference cargoes or to the entire liner trade and from reliance on national cargo reservation legislation, to how variations in the cost structure of trades are to be included in calculations of freight rates.^{44/} This vagueness gives rise to the question of how the

commercial aspects of liner shipping, which are international in nature and scope, will be harmonized with national economic security and defense requirements in order to bring about "self-regulation." Even though Latin American and Caribbean governments often play a strong and initiator role in many economic and commercial activities, the concept of "self-regulation" by commercial parties is not new; nonetheless, in liner shipping it is viewed with some reserve.

c) Possible amendments that might be considered by Latin American and Caribbean countries

In the light of the structural changes which have occurred to the liner industry since 6 April 1974, the date when the Code was adopted, to a large extent the realization of its previously described objectives must be perceived from the amendments which might be made to the Code. To orient the deliberations of Latin American and Caribbean governments, ship operators and shippers concerning possible amendments, earlier parts of this document sought to provide a basis from which appropriate responses might be formulated to questions such as: Will containers follow the historical trend to separate homogeneous cargoes from liner shipping? Will containers be carried under contractual arrangements instead of under liner tariffs? What will be the role of liner conferences if containers are transported under contractual arrangements? And, finally, are Latin American and Caribbean cargo reservation regimes compatible with export-oriented macroeconomic policies?

The Code has many well documented imperfections, but one of its major weaknesses relates to its scope of application; that is, the Code does not contain any provisions which clearly determine the scope of its application. From the Code itself, and in the light of Article 34 of the Vienna Convention on the Law of Treaties, it would appear that the Code does not apply to liner trades, but rather (i) only to liner conferences and rate agreements, which means their members and the cargoes carried by them, and (ii) only if the governments at the opposite ends of a trade are Contracting Parties. The need to rectify this weakness can be seen from the well-known position of the U.S. Government not to become a Contracting Party, even though approximately two-thirds of all liner vessels participate in its trades; the adoption of the Brussels' Package (Council Regulation No. 954/79 of 15 May 1979) which exempts intra-EEC liner trades, as well as those of the EEC/OECD if reciprocal agreements are executed between them; the wide range of opinions concerning how to deal with the expanding participation and influence of non-conference carriers in liner trades; and the growing use of contractual transport arrangements in liner trades. Without a carefully defined and agreed scope of application for the Code, it may prove difficult to reconcile the different views concerning the fundamental nature and purpose of the instrument.

The Brussels' Package of the EEC member states is more than a multi-country reservation against Code articles 2 (trade participation), 3 (conference decision making procedures) and 14(9) (dealing with the minimum period of time between freight-rate increases) to reduce the impact on their trades. The Brussels' Package permits the EEC to employ the Code in a modified fashion, and together they became the first expression of a common EEC policy in ocean transport. As such, it forms part of one of at least five

overlapping regimes which regulate international liner shipping; that is, (1) application of the Code to the trade between Contracting Parties, (2) the application of the national laws of trade partners where the Code has not been adopted by both of them, (3) the application of the Code, the Brussels' Package and Council Resolutions 4055/86, 4056/86, 4057/86 and 4058/86 to EEC trade with countries which have adopted the Code, (4) the application of Council Resolutions 4055/86, 4056/86, 4057/86 and 4058/86, and the national laws of trade partners to EEC trade with non-Code countries, and (5) the application of Council Resolutions 4055/86, 4056/86, 4057/86 and 4058/86 to intra-EEC liner trade.

In this situation, there could be numerous conflicts of laws problems resulting from the application of multiple regimes to different parts of the same activity. It is not unreasonable to assume that liner vessel operators could have all five overlapping regimes applicable to their operations and cargoes. As an instance of this, a round-the-world liner vessel might be operating between Code countries, between non-Code countries, in EEC trades, in those of the U.S. and others on different legs of the same voyage. In these circumstances, liner operators would probably need computer-based information systems to classify which legal regimes are applicable to which cargoes and expert legal counsel to determine their legal rights and duties under each. Of course, problems of this nature could be avoided through a revision of the scope of application of the Code so that it is made paramount to other regimes. Substantial worldwide support for this suggestion already exists, as the Code was negotiated with the participation of 88 countries and has been accepted by 71.

It will be remembered that, at the close of the plenary session on 6 April 1974, a resolution was adopted which provides, at paragraph 2 of part 2., that:

"Non-conference shipping lines competing with a conference should adhere to the principle of fair competition on a commercial basis."

Certain Contracting Parties from the developing world believe that non-conference carriers should be included within the scope of application of the Code, while those from industrialized nations think just the opposite. This problem becomes even more complex when one considers that "tolerated non-conference carriers" have an understanding with conferences and are virtually associate members. Should it be presumed that "tolerated non-conference carriers" are in compliance with the above resolution? Rather than attempt to formulate an internationally agreed set of principles on the regulation of non-conference carriers, it might be more fruitful to define the scope of application of the Code.

The need to harmonize numerous legal regimes and control non-conference carriers is really part of a much larger question facing Contracting Parties; that is, which carriers, cargoes and services should be subject to Code provisions? As was brought out earlier, the Code is structured to be applicable to liner conference carriers operating between Contracting Parties. With the continuing evolution of the liner shipping industry, even in the short term it would be difficult to utilize specific vessel technologies, categories of services or cargo classifications to define the scope of application of the

Code. In the paragraphs that follow, possible approaches for a revised scope of application will be presented in the areas of cargoes and services.

Due to the historical trend to separate homogeneous cargoes from liner shipping, and their subsequent carriage in specialized vessels under contractual arrangements, it is most difficult to define which cargoes are "liner cargoes." In fact, the Code makes no attempt to define "liner cargoes," but in Chapter I defines "goods carried by the conference" as:

"Cargo transported by shipping lines members of a conference in accordance with the conference agreement."

If one were to go back to 1880, when there were no specialized vessels, all goods transported by sea were "liner cargoes;" and if the separation trend is applicable to containers, then possibly by the year 2010 there might be very few or no "liner cargoes" as we know them today. One alternative would be to define the Code as applicable to all ocean-borne trade. Some might claim that such a measure would distort the market mechanisms of supply and demand for shipping services and increase transport costs. This might have been true in a world of semi-isolated economies, but it can no longer be taken as a certainty in a global economy with multiple sources of goods being traded in international markets.

The entitlement of trade partners to transport all ocean-borne trade moving between them probably would not become a reality unless it would result in either equal or greater support for national macroeconomic policies than could be obtained from the use of non-national lines. The impact of export-oriented macroeconomic policies on cargo reservation regimes can be seen from the alteration of such regimes by the governments of Brazil, Chile and Colombia, which was presented earlier, in order to permit the carriage of national cargoes by non-national as well as non-conference vessels. In effect, due to the domination of the external sector, the macroeconomic policies of Latin American and Caribbean countries seem to act as a mechanism which guides and controls the exercise of cargo reservation entitlements.

In an economically interdependent world the probability of a nation being able to isolate itself and transport all of its ocean-borne trade would be minimal. The reason for this is that the macroeconomic policies of Latin American and Caribbean countries now focus on the external sector in order to earn foreign exchange for needed national investments and for payments on external indebtedness. For those countries which might seek to transport all of such cargoes, their ocean-transport systems would have to be highly cost-effective and efficient or the delivered prices of goods would be so expensive that receipts of foreign exchange would decline and the national economy as a whole would suffer. If such a cargo entitlement is only a theoretical possibility and not a practical reality, then what benefits would it provide Latin American and Caribbean countries? The answers can be found in the stronger negotiating position it would give them vis-a-vis liner and tramp carriers, whether conference, non-conference, "tolerated non-conference" or charter, and in the support it would provide in the formulation of a common ocean-transport policy as well as for the establishment of regional consortia.

Joint operations in liner consortia are not new for Latin American and Caribbean countries. Evidence of this can be found from their participation in numerous consortia such as CAROL, EUROANDINO, EUROSAL and others. What all of these consortia have in common is that they have participants from both developed and developing nations. Ship operators have gone from total independence and loose combinations in the form of general cargo conference to tighter relationships such as consortia, slot chartering and joint marketing arrangements. If the trend towards ever tighter and more extensive relationships among liner shipping companies continues, lines of this region face the very real risk of becoming part of large consolidated lines in which their participation could be limited to stock ownership. To avoid this risk and at the same time provide cost-effective services which support macro-economic goals, serious consideration must be given to the establishment of regional consortia.

The applicability of the Code to cooperative agreements between two or more vessel-operating carriers such as the consortia cited in the preceding paragraph is clear, as they become a liner conference for purposes of the Code. However, when a consolidated line is established the relation between participating vessel-operating carriers changes from one of coordinating their independent liner shipping activities through a conference arrangement to the joint direction of a commonly owned enterprise. Just as the Code is not applicable to an individual vessel-operating carrier, unless it enters into cooperative agreements with other vessel-operating carriers, it is not applicable to a consolidated line without such cooperative agreements. The trend towards establishment of ever larger liner shipping companies, with an extensive network of services, means that the economic basis for a viable liner operation has enormously expanded since the advent of containerization and will probably continue to do so. Similarly, the conference framework might be avoided if governments were to assign cargo shares directly to vessel-operating carriers. In this context it must be questioned if the Code definition of a liner conference is sufficiently flexible to encompass large consolidated lines and the assignment of cargo shares by governments.

Recently the national lines of Argentina and Brazil (ELMA and Lloyd Brasileiro) established a joint venture called Europe South America Container Service (EUROSACS). Each shipping line initially will provide one container vessel for a service between the east coast of South America and northern Europe. As the demand for this service grows each line will contribute a second vessel.^{45/} Other examples of joint services established by shipping lines of this region would be a service between the west coast of South America and the Mediterranean ^{46/} and the Caribbean short-sea and interisland service of WISCO. Despite these laudatory efforts most governments of the region continue to focus the activities of shipping lines registered in their jurisdictions on satisfying national needs. This focus means that international objectives which could be utilized to support those of a domestic nature, in terms of earnings and experience, are not incorporated into national liner policies.

On the other hand, the Code might be defined as applicable to a specific range of ocean-transport services. It is generally understood that liner vessels offer services on designated routes according to frequencies in published schedules for the transport of non-homogeneous or general cargoes.

With the growing use of contract carriage arrangements and the distinct possibility of liner carriers becoming integrated into the production and distribution functions of manufacturers,^{47/} that perception of the industry might have to be broadened to include those as well as other possible services. Due to the continuing evolution of the content of liner services, any definition would be subject to perpetual revisions so that it might reflect current practices.

The reasoning that liner services are in a state of constant evolution is correct, but it does not mean that they cannot be utilized to define the scope of application of the Code. Nearly all liner services are rendered pursuant to conditions on bills of lading. By means of a paramount clause on such bills of lading, they are made subject to the International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading, (also known as the Hague Rules), adopted 25 August 1924 in order to define the rights and duties of ship operators and cargo owners. Similarly, many tramp vessel operators utilize a paramount clause to incorporate the Hague Rules into their charter parties (the contract of carriage between ship operators and cargo owners), so that they might have the same civil liability regime towards charterers as under a bill of lading -- and the same exemptions from and limitations of liability.^{48/}

Even with the specter of a separation of containers from liner shipping, due to the multiple ownership of goods in movement, their individualized handling and storage requirements -- whether by the vessel operators, manufacturers or terminal operators -- international banking and insurance requirements, as well as their high unit values, it would seem safe to assume that shippers, consignees and carriers will continue to utilize bills of lading and the Hague Rules. A scope of application tied to use of the Hague Rules would include conference, non-conference and "tolerated non-conference" carriers, as well as those tramp operators which issue bills of lading subject to those Rules, thereby eliminating enormous definitional problems. Thus, the scope of application of the Code could be defined to encompass those cargoes which are included in bills of lading and subject to the Hague Rules, or any modification thereof, as well as other unimodal or multimodal conventions which might replace it.

The advantages of defining the scope of application in this manner are numerous. For example, this would mean that, after the Code came into force on 6 October 1983, it would have applied not just to the carriage of goods between Contracting Parties, but also to those transport operations throughout the world where liner and tramp carriers had issued bills of lading subject to the Hague Rules. Such a global and immediate application of the Code might be thought unusual, but its requirements for entry into force must be viewed as extremely stringent -- it had to be accepted by not less than 24 states, with a combined tonnage of at least 25% of the world general cargo fleet. When those criteria were met on 6 April 1983, 58 countries had become Contracting Parties, which is slightly more than one third of all member countries of the United Nations. The justification for such requirements was to ensure as wide a support for the Code as possible, as it would profoundly affect the liner shipping industry.

II. CONCLUSIONS

The existence of a global economy and international markets is not new, but during the last decade they have come to influence, and in many cases dominate, the commercial exchanges of almost every nation. For Latin American and Caribbean countries this process has been accelerated by their large external indebtedness. With the increasing integration of Latin American and Caribbean countries into a global economy, producers have had to look far beyond their historical market boundaries not only for new markets but also for competitive influences from other producers or national requirements which might limit their access to such markets. To participate in such markets, liner shipping, including ports and inland transport operations, plays a fundamental role. Any attempt to formulate liner shipping policies for Latin American and Caribbean countries which are compatible with that role requires an awareness that the historical pillars of such policies --the liner conference system and cargo reservation-- can be relied upon only with caution, that national economic goals must be supported, that trade and transport are in constant evolution and that an adequate cargo base must be obtained to ensure that cost-effective services can be offered.

Liner shipping seeks to respond to the material needs of the world, but its role and goals must be continuously redefined as those needs change. The current problems of liner shipping reflect crises both within as well as outside of the industry. Within liner shipping, the two pillars which were utilized as the basis of policies for countries of this region have been weakened not from criticisms, legislation or even political pressure of industrialized countries, but from the internal evolution of the industry itself. Outside liner shipping, one can cite factors such as increases in external indebtedness, export-oriented macroeconomic policies and contraction of investments in productive capacity, all of which contribute to the changes now taking place in liner shipping. It is both within and outside of liner shipping that responses to the crisis facing the industry must be sought, but whatever liner policies are adopted, whether national, regional or international, they must fully support efforts to expand trade and increase capital investments.

A. LINER SHIPPING AND NATIONAL ECONOMIC GOALS

The capacity of the transport industry, acting as a whole, to sterilize or alternatively to actively support the "transmission mechanisms" of macroeconomic policies seems to be little understood. Excessive transport costs reduce the quantities of goods which can be exported and the amounts of foreign exchange earned. A reduction in foreign exchange earnings translates into fewer capital investments and intermediate goods required in domestic production. These concepts represent a generalization, but a truth nonetheless: that the consequences of macroeconomic policies are determined at the microeconomic level, that ocean transport has numerous "support mechanisms" which can be utilized to strengthen macroeconomic "transmission mechanisms,"

and that new and rigorous thinking needs to be carried out to further close the gap between sectoral and macroeconomic goals.

Probably the most important result of this evaluation is that a subser-vient, derived-demand sector like liner shipping can make a major contribu-tion to the achievement of macroeconomic goals. This idea, despite its sim-plicity, can be used by governments to strengthen the effectiveness of their macroeconomic policies. Thus, the challenge facing Latin American and Carib-bean governments in the last years of the twentieth century is to focus the "support mechanisms" (price, routes, frequencies and technologies) of liner shipping so that they might strengthen macroeconomic "transmission mecha-nisms" and national economic goals.

B. THE CODE OF CONDUCT AND NATIONAL ECONOMIC GOALS

The Code of Conduct establishes a new relationship between the members of a liner conference and the cargoes they carry, and seeks to ensure that appropriate rates and services are offered through the competition of third country lines. This new relationship is seen by Latin American and Caribbean shipping lines as a means which can be utilized to secure an adequate cargo base for their operations. The proposals to extend the Code to all ocean transported cargoes or to those which are covered by bills of lading and subject to the Hague Rules would do much to provide the needed cargo base. If the Code were extended to all ocean-transported cargoes, it would link the transport services that can be provided by trading partners directly to their commercial exchanges.

The advantages of such a linkage are numerous and would include the strengthening of the bargaining position of Latin American and Caribbean shipping companies vis-a-vis liner and tramp carriers, and in the support it would provide for the establishment of a common ocean-transport policy as well as for the establishment of regional consortia. Such a scope of appli-cation would be governed by global economic realities, as is clear from the formulation by Latin American and Caribbean countries of export-oriented macroeconomic policies, which seek to respond to their growing integration into the global economy, modifications of national cargo reservation regimes, their large external debt and the need to trade in very demanding interna-tional markets.

To strengthen the role that liner shipping companies can and should play in the achievement of national economic goals, the Code of Conduct must be brought up-to-date to reflect the commercial and economic realities facing Latin American and Caribbean countries. For countries which have export-oriented macroeconomic policies, the objectives of the Code are the same as those for liner shipping itself; that is, to provide a cargo base which would permit national shipping companies to offer the cost-effective services desired by shippers, and which would strengthen national economic goals. If an amended Code of Conduct does this, it will have met the true test of its worth.

Notes

1/ An evaluation of these topics was recently presented in the ECLAC study entitled Structural changes in ocean-liner transport: Prospects and implications for policy formulation (LC/G.1463, 15 June 1987).

2/ Seascope, introductory issue, May 1987, pp. 28-29.

3/ Containerisation International, July 1987, pp. 45-51.

4/ Mullen, J.W., World oil prices: Prospects and implications for energy policy-makers in Latin America's oil-deficit countries, "Cuadernos de la CEPAL", 1978, pp. 15-16.

5/ Official price for mideast light. See Petroleum Intelligence Weekly, 7 March 1983, p. 6.

6/ Petroleum Intelligence Weekly, 22 February 1988, special supplement, p. 1.

7/ Blumenhagen, D., Shipping and the Balance of Payments, Institute of Shipping Economics, Bremen, No. 32, 1981.

8/ $US\$11\,587 \times 20\% = US\$2\,317.40$, and $US\$2\,317.40 \times .30 = US\695.22 . The 20% is an estimate of gross freight rate earnings of all Latin American and Caribbean liner shipping companies, and the 30% is an estimate of their net freight rate earnings.

9/ Portos e Navios, February 1987, p. 9.

10/ ALAMAR, Informativo, No. 530, 1-15 July 1987, p. 3.

11/ ALAMAR, Informativo, No. 546, 1-15 March 1988, p. 2.

12/ Special edition of El Mercurio, "Transporte Marítimo," Santiago, 22 November 1987, p. 7.

13/ ALAMAR, Informativo, No. 534, 1-15 September 1987, p. 5.

14/ ALAMAR, Informativo, No. 477, 16-30 April 1985, p. 10.

15/ ALAMAR, Informativo, No. 543, 16-31 January 1988, pp. 2-3.

16/ The International Association of Ports and Harbors, Proceedings of the Fifteenth Conference, 25 April-1 May 1987, Seoul, Korea, p. 67.

17/ ALAMAR, Informativo, No. 545, 16-29 February 1988, p. 6. For an appraisal of this situation in two other Latin American countries see: The Journal of Commerce, 7 April 1988, pp. 1B and 10B, and ALAMAR, Informativo, No. 480, 1-15 June 1985, p. 11.

18/ Shipping World & Shipbuilder, January/February 1988, p. 27.

19/ ALAMAR, Informativo, No. 542, 1-15 January 1988, p. 5.

20/ ALAMAR, Informativo, No. 518, 1-15 January 1987, p. 6, and No. 523, 16-31 March 1987, p. 6.

21/ ALAMAR, Informativo, No. 522, 1-15 March 1987, p. 5. For a comparison with another South American country, see No. 545, 16-29 February 1988, p. 6.

22/ ALAMAR, Informativo, No. 510, 1-15 September 1986, p. 3, and No. 526, 1-15 May 1987, p. 6.

23/ ALAMAR, Informativo, No. 545, 16-29 February 1988, p. 3.

24/ ALAMAR, Informativo, No. 502, 1-15 May 1986, p. 2.

25/ ALAMAR, Informativo, No. 495, 16-31 January 1986, p. 2.

26/ ALAMAR, Informativo, No. 545, 16-29 February 1988, p. 2.

27/ ALAMAR, Informativo, No. 514, 1-15 November 1986, p. 7.

28/ ALAMAR, Informativo, No. 545, 16-29 February 1988, p. 3.

29/ ALAMAR, Informativo, No. 548, 16-30 April 1988, p. 10.

30/ Containerisation International Yearbook, 1988, p. 242, and ALAMAR, Informativo, No. 536, 1-15 October 1987, p. 3, and No. 538, 1-15 November 1987, p. 5. The acronym TEU, or twenty-foot equivalent unit, refers to a Series 1 International Organization for Standardization (ISO) container and is commonly utilized as a measure of, inter alia, vessel carrying capacity and port productivity.

31/ ALAMAR, Informativo, No. 476, 1-15 April 1985, p. 4, and Portos e Navios, February 1987, pp. 16-18.

32/ ALAMAR, Informativo, No. 487, 16-31 September 1985, p. 6.

33/ Ministry of Transport, National Superintendency of the Merchant Marine (SUNAMAM), Yearbook, 1985, p. 85.

34/ Portos e Navios, December 1987, p. 10.

35/ ALAMAR, Informativo, No. 546, 1-15 March 1988, p. 3.

36/ LC/G.1463, op. cit., pp. 38-46.

37/ Containerisation International, December 1987, p. 41.

38/ Sturmev, S.G., The application of the Code of Conduct for Liner Conferences to Egyptian trade, Journal of the Arab Maritime Transport Academy, vol. 12, No. 24, July 1987, pp. 4-12.

39/ Implementation of the United Nations Convention on a Code of Conduct for Liner Conferences (TD/B/C.4/300), Guidelines towards the application of the Convention on a Code of Conduct for Liner Conferences (UNCTAD/ST/

SHIP/1); Implementation of the United Nations Convention on a Code of Conduct for Liner Conferences: Supplemental material (UNCTAD/ST/SHIP/2); and The review conference on the United Nations Convention on a Code of Conduct for Liner Conferences, Preparatory paper on possible issues and proposals for amendments (UNCTAD/SHIP/621).

40/ ALAMAR, Informativo, No. 545, 16-29 February 1988, p. 5.

41/ Fairplay International Shipping Weekly, 11 February 1988, p. 6, and 5 May 1988, p. 14; Seatrade Business Review, March/April 1988, p. 59; Containerisation International, March 1988, p. 5, and April 1988, pp. 31-35; and The Journal of Commerce, 5 April 1988, pp. 1A and 12B, and 14 April 1988, p. 10B. The renewable three-year agreement provides that each line will take space on all 12 ships. Vessel and slot allocations are as follows: (1) four vessels dedicated to a weekly North Europe/U.S. North Atlantic service -- SLS 55.3%, TFL 25.2% and Nedlloyd 19.2%; (2) five vessels deployed on a weekly North Europe/U.S. South Atlantic and Gulf service -- SLS 62%, TFL 24% and Nedlloyd 14%; and three vessels assigned to a 10-day Mediterranean/U.S. North and South Atlantic service -- SLS 60%, TFL 20% and Nedlloyd 20%. The services were to commence during March, April and May 1988, respectively. All 12 vessels were to be registered in the U.S. and crewed by U.S. citizens, with three chartered to TFL and two to Nedlloyd.

42/ Brazil, China, Cuba, Mexico, Peru, Uruguay and the Soviet Union, and negotiations were being conducted with nine other countries. See ALAMAR, Informativo, No. 499, 16-31 March 1986, p. 4, and No. 501, 16-30 April 1986, p. 4.

43/ Algeria, Argentina, Bulgaria, Chile, China, Ecuador, France, Federal Republic of Germany, German Democratic Republic, Mexico, Peru, Poland, Portugal, Rumania, the Soviet Union and Uruguay. See ALAMAR, Informativo, No. 486, 1-15 September 1985, pp.5-6.

44/ For an interesting article which predicted these and many other implementation problems, see Containerisation International, October 1983, pp. 52-55.

45/ ALAMAR, Informativo, No. 546, 1-15 March 1988, p. 2.

46/ SEMPAS, composed of Consorcio Naviero Peruano (Peru), Empresa Marítima del Estado (Chile), Líneas Navieras Bolivianas (Bolivia) and Transportes Navieros Ecuatorianos (Ecuador), provides a monthly service between the west coast of South America and the Mediterranean. Containerisation International Yearbook, 1988, pp. 233, 242, 267 and 313.

47/ Cargo Systems, February 1987, pp. 40-41; Fairplay International Shipping Weekly, 5 November 1987, pp. 30-31; and Shipping World & Shipbuilder, December 1987, p. 423.

48/ BIMCO Bulletin, No. 1/87 February, pp. 8671-8678, and No. 2/88 April, pp. 9084-9093.