



UNITED NATIONS

ECONOMIC  
AND  
SOCIAL COUNCIL



*E. unia*

GENERAL

E/CN.12/L.103  
3 December 1973

ORIGINAL: ENGLISH

ECONOMIC COMMISSION FOR LATIN AMERICA

INTERNATIONAL INTERMODAL TRANSPORT  
STATEMENT OF THE IMMEDIATE PROBLEM FOR LATIN AMERICA  
AND ACTION PROGRAMME FOR AFFECTED INSTITUTIONS

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Background

1. The issue of international intermodal transport has acquired special urgency for the Latin American countries. Important changes are taking place and proposed in the region both with regard to the transport technologies and as to the institutional aspects of international transport and trade documentation. The Latin American countries can meet this challenge by reviewing the information at hand and by insisting on adherence to policy guidelines consistent with their social and economic objectives. Otherwise, they will find their options in this regard curtailed and the important decisions defaulted to others.

2. Many groups and individuals of the region have become aware of the importance of the new tendencies in the transport field, not only as regards the impact of such tendencies on the transport policies of the Latin American nations, but with regard to the implications for general commercial objectives in the fields of trade, banking, and insurance. Inter-sectoral working groups are being formed in some countries to deal generally with the problem of facilitation of trade, and specifically with the challenge of new technologies and institutions for international intermodal transport to current transport, trade documentation, banking and insurance practices.

3. The calendar is a very tight one. It is considered necessary to try to bring together as much data as possible, to carry out some specific studies on particularly vexing problems for the region, and to set out policy options in preparation for a regional meeting in June of 1974. This hurriedness is necessary due to the swiftness by which the region is being invaded by new technologies and institutions, due to the organization of "rules of the game" for international intermodal transport in arenas where the region's own

/ interests are

interests are not considered explicitly, and due to the timetable set out in resolution 1734 (LIV) of the United Nations' Economic and Social Council for the drawing up of a convention on international intermodal transport.

4. The importance of this issue for the region is evident when it is considered that nearly 100% of the trade of land-locked countries and Caribbean countries moves by more than one mode of transport, as does over 90% of the trade of the other countries of the region.

5. Through the present document, the Economic Commission for Latin America wishes to inform both governmental and non-governmental organizations of the region as to nature and importance of the issue and to indicate lines of action being taken in the region wherein the cooperation of these organizations is invited. Specifically, this document deals with the following topics:

What is the combined transport operator, and what are the commercial objectives sought in creating this operator?

How is Latin America affected by new combined transport operations?

What "rules of the game" are being developed for combined transport operations, and what challenge do these present for existing customs; banking, insurance and transport procedures or objectives in Latin America?

What are the lines of collaboration being developed between the Economic Commission for Latin America and the governmental or non-governmental organizations or persons which are concerned about this issue?

/ What is

What is the combined transport operator?

6. With the objectives of more rapid or regular dispatch of international cargo movements and of greater security for this cargo, such transport technologies as containerization, LASH, and palletization, have been rapidly diffused throughout the world. These have, in many instances, led to the creation of new transport organizations, (e.g. the Combined Transport Operator and container consortia) which in some cases replaced older transport structures (e.g. the maritime conference), to the creation of new customs procedures (e.g. inspection at internal groupage centres), to the creation of new documentation formalities (e.g. evidence of movement of cargo recognized before the cargo is placed on board ship), and to other institutional changes. The developing countries are being forced to take positions with regard to the new technologies, institutions and procedures. Although the new institutions and procedures are often directly associated with new technologies, these institutions and procedures can be implemented independently of the transference of such technologies. Thus the Combined Transport Operator can be created to organize not only container transport but all forms of international intermodal transport.

7. The term "combined transport operator" (CTO), as used in this document, means the individuals, bodies, corporations or entities that assume responsibility for organizing and/or performing international intermodal transport. "Intermodal transport" takes place when a cargo is carried by more than one mode of transport, excluding pickup or delivery services operated or contracted by a carrier. "Combined transport" is unitized intermodal transport.

/8. Traditionally

8. Traditionally the consignor (shipper) contracts with a carrier or with a forwarding agent.<sup>1/</sup> If the consignor concludes a traditional contract for intermodal transport with a forwarding agent, and if loss or damage occurs, the consignor or consignee normally will have to claim against the carrier who actually performed the carriage during which loss or damage occurred. The liability of such carrier is then governed by the international convention relating to that particular mode of transport. This is the case even where the forwarding agents have "open policies" with insurance companies. If the consignor contracts with a carrier, the latter only assumes liability for the carriage performed by himself and, in certain cases, subsequently by other carriers by the same mode of transport.<sup>2/</sup> As regards the other modes of transport the carrier typically acts as a forwarding agent only, thereby bringing the consignor into direct contractual relationship with the other carriers, and assumes liability for that part of the carriage as a forwarding agent only (usually a liability for "culpa in eligendo").

9. A Combined Transport Operator (CTO) is created as a legal entity which not only promises to perform or procure the whole transport, and to guarantee delivery of the cargo, but at the same time assumes liability, similar to that of a carrier, for the whole transport. The obligations thus assumed by him are more far-reaching than those of a forwarding agent. This does not mean that he becomes a carrier in the traditional sense of the term. He assumes liability for loss or damage when the place where loss or damage occurred cannot

<sup>1/</sup> Paragraphs 8-11 are in great part paraphrased from a document prepared by the Government of Sweden, CTC/2 of 5 January 1971 (distributed by the Intergovernmental Maritime Consultative Organization).

<sup>2/</sup> In some cases, carriers assumes liability for subsidiary trucking services which carry the cargo between shipper and terminal.

be established (concealed damage) or when loss or damage occurred during terminal operations. These are responsibilities not assumed by forwarding agents.

10. The Combined Transport Contract, as presently used on some major trades, differs from the traditional transport contract in that the consignor enters into the contractual relationship with the CTO exclusively. The CTO, in his turn and as a principal, concludes the contracts necessary for the performance of the carriage with the different carriers. On one journey, this may involve a railway, a shipowner, an air carrier, and a trucker. The contracts concluded between the CTO and the carriers do not bring the consignor into contractual relationship with the carriers.

11. There might be cases when the CTO may himself perform part of the carriage. This is common at the present time. The CTO would then be carrying out two separate functions. If a shipowner performing the sea voyage himself has at the same time acted as CTO and given the consignor a CT Document, this should not bring about a result different from that which would follow if he had formed a separate CTO company of his own (and thus split himself up into two legal entities).

12. The intent, then, is to create a situation whereby the shipper may have the advantages which are offered by forwarding agents, in arranging through transport of goods on various modes of transport, and in addition may have assurance that his contracting party is liable for loss and damage to the cargo during the entire journey. Ideally, if loss or damage should occur, the shipper need only claim against the CTO, and the latter would have the responsibility for trying to identify the place where the damage occurred and the responsible carrier.

/Commercial goals

Commercial goals

13. The commercial goals sought by the creation of the Combined transport Operator are the following: the facilitation of documentation related to transport and to payments for the goods and services (including the transport) and otherwise required for international shipments, certification of the shipments' condition for international movement, an adequate insurance cover on international intermodal traffic, and the greatest possible security and ready dispatch of the cargo itself. The Combined Transport Contract has seemed especially needed and appropriate for sealed unit loads, (containers, LASH barges, etc.), although the Contract could be extended to cover all international traffic involving more than one means of transport.

14. The CTO must make sure that the shipper is well informed of the documentation requirements for the trade. The complexity of this task is evident upon considering that an average international shipment to or from the U. S. requires 46 separate documents resulting in 64 hours of preparation and processing in the United States alone.<sup>3/</sup> More specifically, the CTO must be concerned that any conflicts among requirements or preferences as regards transport or cargo insurance coverage are worked out (as when the importing country's requirements conflict with the exporter's blanket policy coverage); that stipulations by the buyer and by the governments as to modes, carriers, ports or airports are consistent with each other, do not result in costs that exceed the limits of the letter of credit, and can be met by the transport services which are available; that commodity descriptions are made according to the requirements of the different parties and so as to

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3/ United States' National Committee on International Trade Documentation, Paperwork or Profits? in international trade (New York, 1971).

/ obtain the



obtain the lowest tariff and transport rates; that carriers in the exporting or intransit countries do not delay freight bills when the freight charges are needed for commercial invoices; that packing lists are prepared according to the regulations of the importing country; that the diversion clauses are policed; that dock receipts arrive ahead of the cargo to the shipline; and that evidence of the movement of goods will be issued in time to meet the deadline on the letters of credit. The CTO can facilitate many of these tasks by giving sound advice to his clients during the drawing up of the shippers' and importers' letters of instruction. While other parties than the CTO might assume direct responsibility for some of the above tasks, the CTO is an interested party to the compliance of the regulations attached to all of these tasks, in the sense that the CTO's own ability to carry out his other tasks could be compromised.

15. Whether or not the CTO assumes direct responsibility for the packing of the goods, especially in the case of unitized loads, the transporters, banks and insurers generally presume that the CTO takes both preventative and corrective measures to assure that the shipments are adequately prepared for international movement. A major concern of insurers regarding unitized loads has been the inadequacy of packing,<sup>4/</sup> and this has been a key element of conflicts between shippers and transporters when the latter disclaim responsibility when packing might be the cause of damages. The CTO can assume responsibility for the packing itself-- common in the cases of LCL (less-than-containerload) shipments-- or can advise or educate shippers in this regard.

16. The intervention of the CTO in assuring adequate total insurance cover for the goods is complex, since in most cases his own insurance

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<sup>4/</sup> The Insurance Institute of London Containerization and Marine Insurance. Report by Advanced Study Group N.o 196 (London, 1972).

cover is added to the carriers' liability and cargo insurance. The need for an insurance cover for the CTO, in addition to the other types, has been most apparent in the case of sealed unit loads.

17. The problem of placing responsibility for damage to cargo in sealed unit loads is often difficult or impossible. Shippers, or more often their insurance companies, find it very difficult to get carriers to assume responsibility for damage to unitized goods, especially since the carriers are unable to thoroughly check the condition of the goods immediately before and after the carriage. It is argued that the CTO resolves this problem by assuming responsibility for concealed damage.

18. One of the advantages of the sealed unit load, and especially the container, is that goods are more secure during those intervals when no carrier has responsibility for those goods (e.g. when they are in ports). Proponents of containerization have contended that full advantage of containers cannot be taken unless some agency assumes responsibility for the container during these intervals. It is argued that the CTO resolves this problem by assuming responsibility for loss and damage during the entire journey of the container.

19. Present CTO practices are not uniform as regards the amount of supervision exercised by the CTO over the carriers with which he contracts. The grade of responsibility that the CTO assumes, and presumably the amount the shipper is charged for the CTO's services, depend on a number of factors: whether or not the shipper packs a full container himself, thus in some cases being eligible for FAK (freight-all-kinds) rates, or at least special FCL (full container load) rates, but with the shipper or consignee assuming responsibility for damages associated with poor packing; whether or not the CTO packs the container at the point of origin of the goods or at an

/intermediary point

intermediary point; and whether or not the CTO or CTO-carrier can closely supervise all his sub-contractors which carry out the transport and ancillary services. <sup>5/</sup>

International intermodal transport operations in Latin America

20. In this section, a brief summary will be made of activities in Latin America oriented to greater security and more rapid or regular movement of international cargo by intermodal transport. These activities include the establishment of regular intermodal services on determined routes, the establishment of new institutions with the purpose of promoting or implementing an efficient intermodal transport service and State action in favor of new procedures and facilities for international intermodal transport.

21. There are a number of routes over which intermodal transport movements are made regularly. These include the movement of automobile parts between Buenos Aires, Argentina and Arica, Chile and between Germany and Mexico, the movement of a variety of products across the South American continent by Transportadora Coral S. A., <sup>6/</sup> the movement of bananas between Honduras and the United States by United Fruit Co. <sup>7/</sup> containership and connecting operations between

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<sup>5/</sup> The amount the shipper is charged depends also on characteristics of the cargo and the overall operations of the shipper himself.

<sup>6/</sup> Jaime Undurraga, Servicios Multinacionales de Transporte en el Cono Sur: El caso de Transportadora Coral S. A., Seminario sobre transporte internacional por carretera en América del Sur, 27 Nov. - 1 Dic. 1972 (Washington: BID, 1972).

<sup>7/</sup> UN, FAO, Comité de problemas de productos básicos, "Transporte marítimo de bananas", CCP:BA 73/4, Abril 1973; Report of the Empresa Nacional Portuaria de Honduras (Puerto Cortés), dated September 1970.

the United States and the Caribbean countries, <sup>8/</sup> the roll-on-roll-off system which "has taken over almost completely the trade between the South East United States" and Jamaica, <sup>9/</sup> and LASH operations between Gulf Coast United States (and interior points) and East Coast South America. The development of "export corridors" in Brazil, including groupage centers in the interior, while in the first instance oriented to bulk cargoes, will have considerable impact on the handling of general cargo on the affected routes. <sup>10/</sup>

22. A number of institutions have been or are being developed in Latin America for the purpose of promoting and implementing more efficient and secure intermodal transport operations not necessarily geared to particular routes. Banks of the region advertise services to potential clients including the "prompt handling of all import documents". Import/export institutes or chambers campaign for more security measures and more appropriate packing procedures by shippers. Railways and freight forwarders are adding to their traditional functions in terms of the responsibilities assumed for packing, inspections of the condition of the cargo, etc. State and private commercialization agencies for determined products or types of products, and cargo insurers, have increasingly joined with port authorities and transporters in implementing greater security measures especially at the points of transshipment of cargo. The World Food Program not only has continued to give attention to improving the

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<sup>8/</sup> Via Port of New York, September 1970, page 5; also see next footnote.

<sup>9/</sup> The words are those of Mr. Peter Evelyn, President, Caribbean Shipping Association, before the 11th. Biennial International Conference of ICHCA in Hamburg, West Germany, 14-17 May 1973.

<sup>10/</sup> REFESA (Nov., Dec. 1972), pp. 26-7

/superintendence over

superintendence over port handling of its shipments, but has recently embarked on a programme of consolidating shipments in donor countries to all projects in the same recipient country. In Argentina, two organizations, the Camara de Empresarios de Transporte Combinado and the Camara Argentina de Contenedores, have carried out educational programmes for shippers, transporters and other institutions regarding efficient intermodal transport operations. In Brazil, trading companies and combined transport operators are being organized, with priority given to operations in the "export corridors", for the purpose of facilitating international shipments. Finally, a number of container leasing firms have extended their operations to Latin America, not only for the purpose of leasing containers, but also to open up and administrate new container operations on selected routes.

23. A number of Latin American governments have taken initiatives in favor of new procedures and facilities for international intermodal transport. There are many ports with the capacity to handle 20-foot ISO containers, and such ports as Buenos Aires, Santos, Buenaventura, Guayaquil, Callao and Asunción will soon offer ample facilities for unloading, manipulating and storing containers and other unit-loads.<sup>11/</sup> In Kingston, a new terminal is being developed as a transshipment center of containers for the Americas.<sup>12/</sup> Other ports have made considerable investments in favor of faster handling of break-bulk cargo. The Agreement on International Land Transport (Argentina, Brazil, Chile,

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<sup>11/</sup> See Cuadro N.º 3, "Instalaciones y equipos portuarios para manejo de contenedores, 1972", in Tomás Sepúlveda W. Bases para el estudio sobre transporte en contenedores (Montevideo, June 1973) ALALC/SEC/PA/44; data on Asunción from Container Leasing S. A.

<sup>12/</sup> "Major Jamaica dock expansion", The Financial Times (17/10/73).

Paraguay, Uruguay) and Decision 56 of the Andean Group countries are attempts to facilitate international transport, and these are presently being reviewed in terms of making them more adequate for intermodal transport. <sup>13/</sup> Argentina has taken the leadership in modernizing her legislation regarding the nationalization in interior groupage points of cargo in sealed containers and trailers, and in this manner implementing the norms suggested by the national customs' directors of the member countries of the Latin American Free Trade Association. <sup>14/</sup>

Search for universal "rules of the game"

24. The simultaneous and rapid expansion of intermodal transport operations and of new institutions, including Combined Transport Operators to organize these operations, has led to the adoption of widely varying "rules of the game" among the different movements which are affected. This has been the case in Europe as well as Latin America, and this led to proposals in the former continent to set out standardized rules regarding documentation, liability, scope of responsibilities of the CTO, and other commercial aspects of international transport and trade. Successive proposals were made

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<sup>13/</sup> Bernardino Arboleya, Tráfico de carga por automotor en contenedores (Buenos Aires: Cámara Argentina de Contenedores, 1973); Jaime Undurraga and Alvaro Míguez, Análisis operativo del convenio sobre transporte internacional terrestre del 19 de Octubre de 1966 (Montevideo, ALALC, 1973), ALALC/SEC/PA/39.

<sup>14/</sup> The relevant Argentine legislation and the norms recommended by the LAFTA customs' directors are reproduced in Sepúlveda, op. cit.

/for draft

for draft conventions on international combined transport. Finally it was proposed that the UN/IMCO Conference on International Container Traffic in October of 1972 consider a draft Convention on International Combined Transport of Goods (Convention TCM), <sup>15/</sup> along with two other draft conventions which were approved, dealing more specifically with containers, one with safety aspects and the other with customs' procedures. The Latin American countries, along with other developing countries, opposed the finalization of a convention so rapidly due to apparent serious shortcomings of the proposed TCM Convention both in terms of commercial objectives and in terms of broader social and economic concerns, including the desire of developing countries to increase the participation of their institutions in the transport, insurance, banking and other services linked to international trade.<sup>16/</sup> It was decided that more profound studies of the problem were needed, and the responsibility for carrying out such studies in a very short amount of time was given to the United Nations' Conference for Trade and Development (UNCTAD), in coordination with the regional economic commissions and in cooperation with other organizations which have worked or desire to work on these problems. <sup>17/</sup> At the first meeting

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<sup>15/</sup> The text of the draft TCM Convention, with three alternative proposed liability regimes, may be found in the document E/CONF. 59/17 of 23 December 1971, distributed by the Secretariat of the UN/IMCO Conference on International Containers Traffic.

<sup>16/</sup> 18 Latin American countries considered the draft TCM Convention at subregional meetings in June of 1972. The reports of these meetings are found in ECOSOC document E/AC.6/L.460/Add.4, Annexes I-III, 17 July 1972, and are summarized in UNCTAD document TD/B/AC.15/3, part III, of September 12, 1973. The Economic Commission for Latin America analyzed the draft convention in the documents E/CN.12/912/Rev. 1 and E/CN.12/912/Rev. 1/Add. 2.

<sup>17/</sup> Economic and Social Council Resolution 1734 (LIV).

of the Intergovernmental Preparatory Group on international intermodal transport in Geneva between 29 October and 2 November 1973, the developing countries and the developed free market countries set out complementary proposals on the nature of the studies which need to be made. These proposals are found in the documents TD/B/AC.15/L.6 and TD/B/AC.15/L.2, attached to this document. The former document, submitted by the developing countries, also sets out the basic objectives which are sought in this field.

25. The urgency of this matter is evident when it is considered that in commercial practice, the "rules of the game" which develop among the banks, insurance companies, transporters and other institutions can take precedence over national legislations and objectives. This has been the case with the Hague Rules in Latin America.<sup>18/</sup> In the case of intermodal shipments, one organizer of such shipments in relation to aid asserts that its operations are "guided by a policy of non-discrimination and conform closely with commercial practices", while a study of that agency's operations concludes that over "80 per cent of the freight earned on shipments in 1970 accrued to the shipping of OECD donor nations, and only some 7 per cent to the developing nations of Africa, Asia and Latin America."<sup>19/</sup> Already, the Joint Committee on Containerisation of the International Chamber of Commerce has finalized "Uniform Rules for Combined Transport Documents", explicitly based on the draft TCM Convention which was

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<sup>18/</sup> Alfonso Ansieta Nuñez, El conocimiento de embarque (Santiago: Editorial Andrés Bello, 1972).  
Theophilo de Azeredo Santos, Direito de Navegação (Rio de Janeiro: Forense, 1968).

<sup>19/</sup> Robert Mc Kinney, for UNCTAD, Trade and Development Board Committee on Shipping, Shipping practices in relation to aid (TD/B/C.4/107), 7 March 1973.

/ opposed by



opposed by the developing countries.<sup>20/</sup> While the felt need to try immediately to set out some basic norms for the rapid developments in this field is understandable, there is always the danger that these rules will become more difficult to replace by a more adequate set of norms should there be delays in the preparation and acceptance of an intergovernmental convention, or at least of regional agreements, on this matter. Combined Transport Operators, which now cover trades of some developing countries, are interested in the application of the ICC rules, especially since this would facilitate acceptance of their own documents by banks and other institutions. Delay on the preparation of alternative norms will make it difficult for developing countries to defend themselves against some of the side-effects of such operations.<sup>21/</sup> The Developing countries do not want to be put in the position of having to pressure later for a code of conduct for CTOs separate from a convention, as they have had to do in the case of the maritime conferences.

26. Of considerable importance in this regard are the particular traditions of the Latin American countries with regard to commercial and transport law. As Bernard Wheble insightfully noted, the development in Europe of norms for combined transport "is in keeping with practice in the United Kingdom, where companies are broadly free to engage in

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<sup>20/</sup> International Chamber of Commerce, Joint Committee on Containerisation, Uniform Rules for Combined Transport Documents (Document N.º 396/56 Rev.), 15 Oct. 1973.

<sup>21/</sup> International Chamber of Commerce, International Bureau of Transport Users, Non-containerizable cargo (Document N.º 355-1/38 Bis), 13 December 1972; UNCTAD, Unitization of cargo (TD/B/C.4/75), New York, 1970, pp.35-39.

international forwarding, transport, or Combined Transport, subject only to a relatively small number of laws --- such as safety regulations, or the CMR for international road haulage--- which are generally applicable to particular modes of transport. It also fits in with thinking in continental Europe, where companies are generally free to engage in these activities, subject to certain rules and obligations --- possibly somewhat more elaborate ones--- applicable to people engaging in particular activities. But elsewhere --- especially in some countries of the Americas--- there would appear to be difficulty in understanding the difference between the relatively free circumstances for which the TCM Convention was designed, and the closely regulated circumstances in which their own transport industry operates." <sup>22/</sup> This is not to say that "rules of the game" acceptable to all interested countries cannot be found, but the difficulties involved should not be underestimated. For the legal systems which do not use judicial precedent, the responsibilities in commercial transactions should be specified with considerable detail and care. Also, neither national nor foreign CTOs should be able to abuse their special position of intermediacy between the shipper and the transporters, or to reduce the ability of the government to regulate the activities of the shippers or the transporters. The national or regional CTOs could be active partners with the governments in facilitating compliance with reserve clauses, the contracting of national insurance, greater use of FOB on imports and CIF on exports, assuring that increased costs to the user are associated with real increases in the

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<sup>22/</sup> "International Combined Transport: how and why Canadian and European views differ", Canadian Transportation and Distribution Management (June 1972), pp. 25-29, 40.

costs of services and other national objectives. The contracting of transport and ancillary services by foreign CTOs should not result in special difficulties for the developing countries to obtain compliance with these objectives.

27. "Rules of the game" on combined transport operations will affect all the services to exporters and importers, including shipping, banking, insurance and the sources of commercial information. A developing country, by not being organized to offer shippers a world-wide cooperative arrangement involving all four of these factors, is at a comparative disadvantage in promoting its own trade objectives or in assuring an ever increasing retention of funds from the services associated with its trade, no matter how well developed it might be with regard to one or another of the factors. The CTO could be a fifth factor of potential weakness with regard to the developing country's position in commercial transactions, or it could be organized to assure for the developing country greater coordination among the other four factors. The CTO, complementing the work of other agencies (such as trading companies) in the financial and merchandising fields, could assume the representation of the exporter's or importer's interests abroad. If this possibility is not considered explicitly, the CTO may just be one more agent for the shipper to deal with.

Action programme for the Latin American region

28. The activities of the region should not be limited to considering the content of a possible convention on international intermodal transport. Attention is drawn to the document of the Group of 77, where in the list of basic questions set out on the topic, specific reference to such a convention is not made until the sixth question.

/The implication

The implication is that there exist broader concerns than the content of a convention which must be defined before the desirability of an international convention can be ascertained. Also, the existence of a convention, without complementary measures necessary to make it viable would not meet the needs of the region. For these reasons, three objectives are sought at the regional level:

- a) A regional position as to the content of a possible international convention.
- b) A specification of aspects which might be more appropriately incorporated in regional or subregional agreements, and the possibility of a regional position on the conditions for application of the 1972 Customs Convention on Containers.
- c) A specification of measures which national governments would need to take with regard to documentation and procedures in order to take advantage of the new technologies in function of social and economic objectives of the region, and which would complement and make viable the international convention or regional or subregional agreements on international intermodal transport.

29. The Latin American delegations at the first meeting of the Intergovernmental Preparatory Group on international intermodal transport discussed lines of action, including collaboration between the Economic Commission for Latin America (ECLA) and the relevant governmental and non-governmental institutions. Action by all affected sectors-- all transport modes, freight forwarders, customs' authorities, port authorities, insurance, banking, commercialization agencies, trade institutes, users-- is important in two ways: this would help assure that all affected sectors are considered as important decisions are made, and help is needed in collecting and interpreting materials within the short amount of time available.

/Among the

Among the lines of action which were suggested are the following:

- a) Formation of inter-sectorial working groups on facilitation in each of the countries where these do not exist as yet.
- b) Sending to ECLA the required data on topics of major importance to the Latin American region.
- c) Summaries and recommendations on specific topics by Latin American experts on international transport law.
- d) Seminars in individual countries or subregions to inform the different sectors and to collect ideas and information.
- e) Specific research projects of ECLA and of the governments.

30. The calendar of activities is the following:

1 April 1974	Deadline for completion of the UNCTAD study.
15 May 1974	Latest date for reception of materials at ECLA.
late June 1974	Regional meeting on international intermodal transport.
29 July 1974	Beginning of the second meeting of the Intergovernmental Preparatory Group, Geneva, to consider the results of the UNCTAD study.

31. Working groups on facilitation. Many of the more industrialized countries and several developing countries have working groups on facilitation. It is natural that many of these working groups are presently focusing on the immediate problems presented by international intermodal transport, although their long-term objectives are broader: to study and modify documentation systems and procedures related to international trade. The working groups vary in composition as to the weight of presence of governmental and non-governmental agencies. Recognizing that trade documentation is one of the major problems of promoting trade, these groups have contributed to the clarification of documentation sequences and requirements.

32. Information solicited from the governments and non-governmental organizations. The Economic Commission for Latin America is collecting data on each of the subjects which are mentioned in the document TD/B/AC.15/L.6 (annexed to this report), this document containing the recommendations of the developing countries (Group of 77) as to the studies which should be carried out by UNCTAD with collaboration of the regional economic commissions and with cooperation from other organizations. ECLA will make available to UNCTAD the information which is pertinent to the studies which the latter organization will carry out. ECLA is, in addition, making a number of in-depth studies of some of the points raised in the mentioned document, and would like to summarize the available data on many of the other points. As was mentioned several times during the first meeting of the Intergovernmental Preparatory Group, the success of UNCTAD and the regional economic commissions in carrying out the required studies depends largely on the cooperation of the governments and non-governmental organizations in sending the information necessary for these studies. In order to facilitate this task, Annex I of this report lists the most important data needed in order for studies to be made of the items listed in the document of the Group of 77. Naturally, not all Governments can be expected to send all of the data which are listed in Annex I. However, it is in every Government's interest to assure that its special needs are taken into account in the reports which are drawn up. It is suggested that the Governments concentrate on information which is readily available in most cases, although interest in one or another topic for a country could be motivation to look for data which are harder to find. At any rate, the Governments should send data on those topics which have one

/or more

or more of the following characteristics:

- (a) The topic is of special concern in the country.
- (b) Some interesting ideas or innovations on the topic have been proposed or implemented.
- (c) Studies by individuals, consultants or study groups are available or are being carried out on the topic (with copies of the studies themselves where possible).

This selectivity among the topics on which to concentrate is especially advisable given the short amount of time available before conclusions have to be drawn.

Naturally, it will greatly facilitate communication if there is consultation among all persons or groups in a country who are knowledgeable about the problem at hand, possibly through working groups on facilitation or special seminars, and if these people can divide responsibilities for data gathering and for transmitting this data to ECLA. Of course, these persons may individually or collectively decide to add their interpretation to the data as it relates to one or another item of the document of the Group of 77. This seems highly positive. To facilitate the consultations and coordination in each country, ECLA can provide a list of the persons who have represented their countries at the major meetings which have dealt with international intermodal transport.

It would greatly help if the data were sent as it were collected, rather than wait until a complete set of the data on each topic is made. It is appreciated that there can be considerable difficulties in obtaining such data within a reasonable amount of time.

33. Summaries of the situation in Latin America and recommendations.

The Economic Commission for Latin America has started to compile a list of Latin American experts on the law or economics of international transport, and in accord with the work which has been carried out by these experts and their known interests, has asked a number of them to contribute to the task of summarizing the situation in Latin America and of making recommendations as regards one or more of the topics listed in the document of the Group of 77. These summaries and recommendations would be made in short papers to be used as working documents at the regional meeting on international intermodal transport, and to be sent to UNCTAD.

Undoubtedly, there are a number of studies in this field which are not known to the Commission, and persons who know of such studies are invited to make these known in order that their authors might be contacted for the purpose indicated above. This is an important manner to assure taking advantage of the considerable intellectual resources in the region for analysis of the problems of international intermodal transport.

34. Seminars. An inter-sectoral seminar is one of the most effective manners to assure that all affected sectors are duly considered and that advantage is taken of available information and ideas for the studies being carried out. The document of the Group of 77, TD/B/AC.15/L.6, could serve as a basic working document of the seminar, with the participants commenting on each of the aspects which are listed in terms of the seven basic questions which are posed.

35. Specific studies. A number of institutions in Latin America have initiated studies on one or more of the subjects which are listed in the document of the Group of 77. Naturally, it would

/ be helpful



be helpful for the Governments of the region if special attention could be given to the implications for international intermodal transport.

The Economic Commission for Latin America, in collaboration with other regional organizations including the Institute for Latin American Integration (INTAL) and the Organization of American States (OAS), has initiated studies which should clarify some of the key issues for the region. Results of these studies will be presented at the regional meeting in June 1974.

ANNEX I

DATA NEEDED FROM THE GOVERNMENTS FOR THE STUDIES TO BE CARRIED  
OUT BY ECLA AND UNCTAD

GENERAL

1. Opinions which have been made by governments, private entities, unions, and interested individuals on the impact of international intermodal transport in their countries.
2. Programmes and capital investment projects which have been proposed or initiated in order to facilitate the dispatch and security of international cargo in the ports and the different means of transport.
3. Data on costs, tariffs and average delay of cargo movements between important points in the country and foreign points according to whether they are unitized or non-unitized. Preference might be given to data broken down by each means of transport and the ports, and to data on general or break-bulk cargo.
4. Data are needed on the costs of banking, forwarding, insurance and other services related to the trade.

DOCUMENTATION

1. Flow charts or lists of customs, transport, financial and other commercial documentation in sequence as required for a typical importation and for a typical exportation in trade with (a) the United States and (b) another country of the region, by means of maritime transport and, where relevant, land transport.

/2. Inter-relation

2. Inter-relation of this documentation, indicating the other documents that are required in order to issue, process or accept each document.
3. Copies of each transport document or other document which requires transport information.
4. Extent of use and means of advanced communication techniques for commercial information.
5. Extent of use of intermodal waybills or bills of lading for national and international traffic.
6. Legislation and/or practices and norms on evidence of the movement of goods, on information that should be included in the transport documents, on the negotiability of the transport document, on the title over the cargo carried by the document holder, and on the "clausing" of transport documents.
7. Origin of the major problems of "clausing" confronted by users and document holders.

#### RESPONSIBILITIES AND INSURANCE PROBLEMS

1. Legislation and customs' regulations on containers and LASH barges and on the cargo in containers, LASH barges and sealed trailers.
2. Legislation and regulations on the movement of containers by the different modes of transport.
3. Access and practices of agencies that verify the condition and/or care of the cargo in ports and other transfer points.
4. General studies or bibliographic references to studies of maritime, air and land transport laws of the country, and especially the attributes of the transporters and of the transport documents.

/5. Legislation

5. Legislation over insurance and liability of international transport.
6. Liability limits and exemptions from liability of the national transporters.
7. Judicial experience with respect to subrogation related to the title of goods in international commerce.
8. Legislation and reglamentation over freight forwarders and IATA agents. Relationship which are set out in practice between national freight forwarders and import agents of other countries. Legal responsibilities assumed by national forwarders with regard to these.

#### SCOPE

1. Legislation over temporary admission of containers and of international transit of goods between other countries.
2. Action taken (if pertinent) with regard to the LAFTA norms on customs' regulations of containers, or to implement the Customs' Convention on Containers.
3. Interior facilities for the customs' inspection of cargo. Who administrates these facilities. Inspections of cargo carried out at these facilities by the different State entities.
4. Existence and nature of packing services which assume liability for packing.
5. Plans for the national manufacture of containers, LASH barges, etc.

#### REQUIREMENTS OF THE CTO

1. As to bilateral or multilateral agreements of each mode of transport:
  - (a) attributes required of the transporters, (b) prohibitions against the presence and limitations on the contracting

/of transporters

of transporters of other countries, including "third" countries, (c) instruments to control that referred to in point (b), and (d) effectiveness of these measures.

2. Information related to the questionnaires sent to importers and exporters by Institutes or Ministries of Industry and Commerce, by Chambers and by other entities. Copies of the questionnaires. Results. Representativeness of the sample. (Special need is for information from the questionnaires and answers which refer to transport and documentation related to international commerce).
3. Importance of container LASH, pallets and other unitized traffic: in 1972, anticipated for 1974, estimated for 1975-80.
4. Existence of state enterprises or institutes or private associations of commercialization and promotion of trade including foreign trade of different products or types of products. Legal responsibilities and activities which are assumed by these enterprises or institutes with regard to documentation, packing, verification and inspection of the cargo, programming of the movement, and preference with respect to modes, routes, flags and transporters.
5. Existence and extent of activities of foreign or national companies for the leasing of containers and of other instruments and vehicles for transport.

Other commercial aspects

1. Restrictions on contracts for cargo movements, regarding documentation, and on through rates between national modes of transport and international transporters, especially regarding the nationality of these transporters.

/2. Experience

2. Experience with attempts to create registries of international freight charges.
3. Practices and restrictions on the use of FAK (freight-all-kinds) rates.
4. Restrictions and practices regarding the currency of the payments of international freight rates of the different modes of transport.
5. Programmes and projects of public and private entities to expand the services offered to the importer or exporter in the fields of customs, insurance, trading, leasing, verification and supervision of the movement of the cargo and documentation.
6. Difficulties found for extending the presence of national institutions in the provision of these services internationally.
7. Organizations and institutions of coordination among the services referred to under point 5. Attributes. Projects and results.