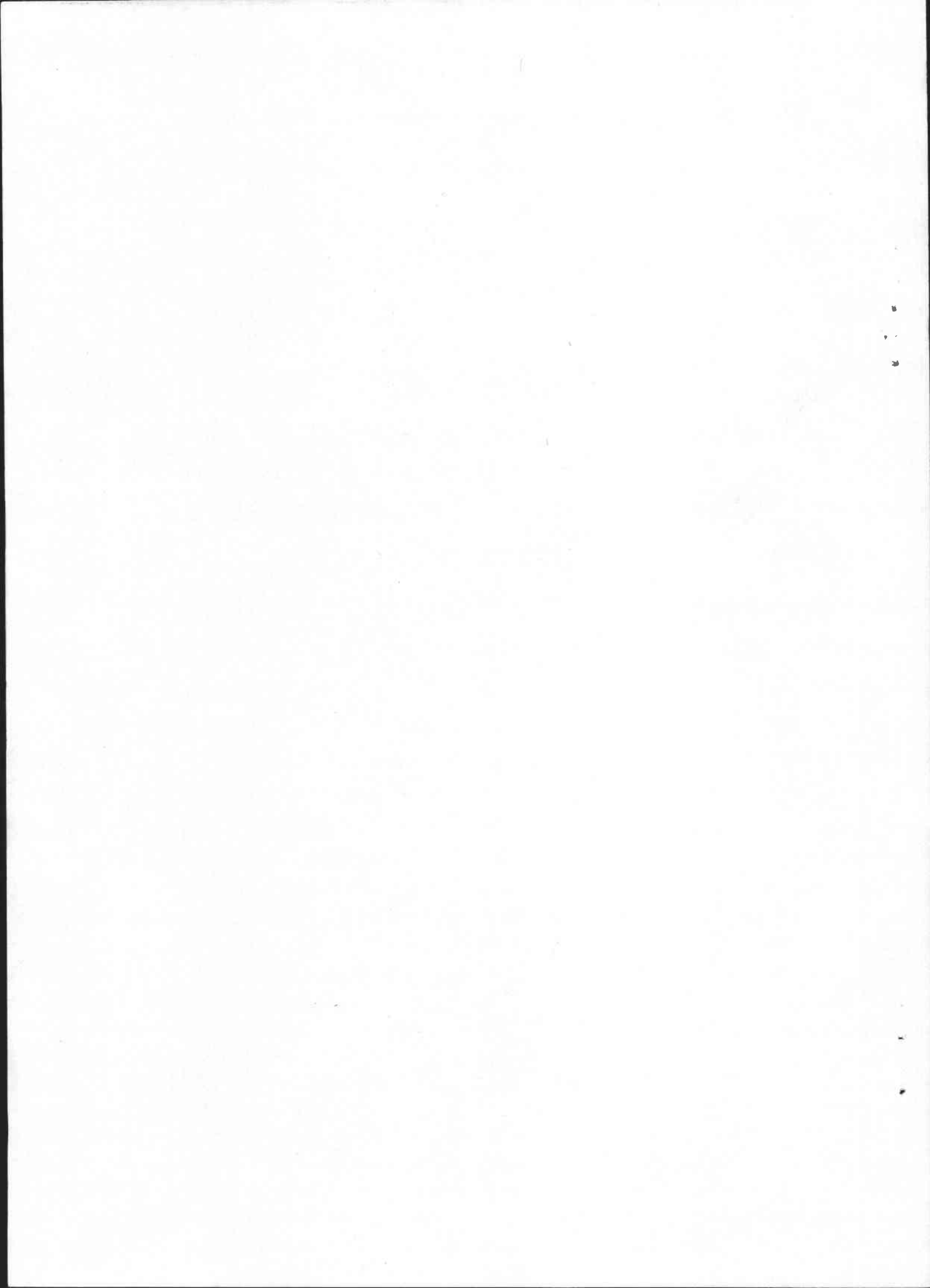


**UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT**  
Geneva

**Guidelines towards the application  
of the Convention on a Code of  
Conduct for Liner Conferences**



**UNITED NATIONS**



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*Prepared by the UNCTAD secretariat*



**UNITED NATIONS**  
New York, 1986

FOREWORD

(i) From the time the Convention on a Code of Conduct for Liner Conferences came into force in October 1983 the UNCTAD secretariat has been receiving requests from developing country Contracting Parties for guidance in the clarification, interpretation, and application of its provisions. Consequent to the ratification of the Convention by several Western European States in the last quarter of 1985, it is expected that the Code will soon be applied actively in an increasing number of conference trades. In such a situation the requests from interested parties, including Governments, conferences, shippers' organizations and shipping lines, particularly from developing countries, for guidance with regard to the application of the Code will no doubt increase.

(ii) The Committee on Shipping, at its eleventh session held in Geneva in November 1984, reiterated that "the Secretary-General of UNCTAD, in co-operation with the Office of the Registrar as appropriate, should continue to give guidance and assistance, on request, to developing countries in regard to the implementation of the Convention in conformity with its scope and provisions, give such requests high priority in the work programme on shipping and report to the Committee on such guidance and assistance" (decision 50 (XI)).

(iii) This report has been prepared by the UNCTAD secretariat in co-operation with the Registrar appointed under the Code with the principal objective of assisting interested parties, including Governments, shippers' organizations and shipping lines, particularly of developing countries, in understanding and applying the provisions of the Code. While it is hoped that these "Guidelines" will fulfil the needs of such parties to a considerable extent, it is also intended to use them as material for training seminars on the application of the Code which may be conducted in developing countries.

(iv) It need hardly be emphasized that, if the full benefits of the Convention are to be obtained, all parties involved, namely Governments, conferences, shipping lines, and shippers' organizations, should not only be fully conversant with their rights and obligations under the Code, but should also put into effect without delay the actions necessary for the application of its provisions. It is equally important that all parties, from the outset, treat the Code as a total package consisting of both rights and obligations, rather than seeking partial application of those provisions which are favourable to them. At the same time, where it has become accepted and established practice for Governments to play a larger role than intended in the Code, it would be a pragmatic approach for the parties concerned to agree to apply the Code provisions, within the framework of such accepted and established practice, where practicable. Similarly, it behoves all parties to interpret the provisions of the Code in a flexible manner, taking into account the real changes that have occurred in the nature and structure of liner shipping on account of technological changes such as the development of multimodal transport services, slot chartering arrangements, etc., since the Code was adopted.

(v) There may, however, be fundamental differences between Contracting Parties with regard to the interpretation of specific articles of the Code. For example, there appears to be a fundamental difference with regard to the interpretation of article 2 of the Code on "Participation in trade". While the developed market-economy countries, the socialist countries of Eastern Europe and some developing countries treat this article as being applicable only to cargo carried by conferences operating in liner trades between Contracting Parties, several developing countries treat the provisions of article 2 as being applicable to the entire cargo carried in liner trades between Contracting Parties. To the extent that differences of interpretation of the provisions of the Code cannot be resolved through consultations between Contracting Parties which are trading partners, they will no doubt have to be taken up for consideration by the Review Conference which is required to be held five years after the Code comes into force, namely in the autumn of 1988, as provided for under article 52, paragraph 1. \*/

(vi) In any event, particularly in the present context of the substantial overtonnaging of liner trades, many developing country Contracting Parties may wish to take measures towards the implementation of the Code within the broader context of a national policy on liner shipping which covers both conference and non-conference services. Accordingly, some relevant issues relating to non-conference lines are examined in chapter III.

(vii) It would seem to be appropriate in this foreword to recapitulate the actions that require to be taken by the various parties concerned in order to bring about a speedy implementation \*\*/ of the Code in the relevant trades,

- (a) Firstly, it would be the responsibility of Governments of Contracting Parties to establish the necessary national legislation and/or other measures as are required to enable the commercial parties concerned to exercise their rights and obligations under the Code. These measures are examined in chapter VIII. Governments may also take action, where appropriate, through consultations with liner conferences, to assure themselves that the necessary practical measures towards the implementation of the Code are being taken by the relevant conferences. The scope of such government action and the role of government in the practical application of the Code provisions are examined in chapter VI of part one and further elaborated in part two;
- (b) Secondly, an equally important responsibility devolves upon conferences to ensure that the conference administrative structures and consultation machinery required to give effect to the provisions of the Code are established and made known to the parties concerned. The conference responsibilities vis-à-vis the application of the Code provisions are set out in chapter IV of part one and elaborated in part two;

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\*/ See also chapter I, paragraph 17.

\*\*/ For an examination of practical experience with regard to the implementation of the Code by Contracting Parties see "Implementation of the United Nations Convention on a Code of Conduct for Liner Conferences - Report by the UNCTAD secretariat" (TD/B/C.4/300).

- (c) Thirdly, shippers' organizations, which have the potential capacity to gain substantially from the provisions of the Code, should ensure that they have the appropriate structures to apply the provisions of the Code in their relations with conferences. These provisions are examined in chapters XIII to XVI. Consultation machinery needs to be structured on a formal basis and shippers' councils, with the support of Governments, as appropriate, should take the necessary steps to build up the requisite consultation capability, particularly through the establishment of freight investigation or research units, if they are to reap the full benefits of the Code provisions.

A check list of the items that require to be covered in conference agreements, as well as of items required to be agreed between conferences and appropriate authorities or shippers' organizations, as the case may be, is set out in chapter XVII.

(viii) Finally, it must be emphasized that in order that all parties concerned gain the optimum benefits from the Code, the application of its provisions should be carried out, as far as possible, through mutual discussion and co-operation, bearing in mind the overall spirit and flexible nature of most of the provisions of the Code.

(ix) Further direct assistance to developing countries with regard to the implementation of the Code may be provided upon request through country visits of the Registrar appointed under the Convention and of staff members of the Shipping Division of the UNCTAD secretariat. Copies of the national legislation enacted by some countries to implement the Code are also available from the Registrar. All such requests should be addressed to:

The Director,  
Shipping Division,  
United Nations Conference on Trade and  
Development  
Palais des Nations  
1211 Geneva 10  
Switzerland

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