



Diplomatic Conference on Arrest of Ships



Distr.
LIMITED

A/CONF.188/L.1
9 March 1999

Original: ENGLISH

Geneva, 1 March 1999
Agenda item 11

DRAFT REPORT OF THE UNITED NATIONS/INTERNATIONAL MARITIME ORGANIZATION DIPLOMATIC CONFERENCE ON ARREST OF SHIPS

Held at the Palais des Nations, Geneva,
from 1-12 March 1999

Rapporteur-General: Mr. Walter de Sa Leitaó (Brazil)

Speakers:

The Deputy Secretary-General of UNCTAD
The Director, Legal and External Relations Division, IMO
President of the Conference

Note for delegations

This draft report is a provisional text circulated for clearance by delegations.

Requests for amendments to statements of individual delegations should be communicated by **Wednesday, 17 March 1999, at the latest** to:

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INTRODUCTION

1. The Joint UNCTAD/IMO Intergovernmental Group of Experts on Maritime Liens and Mortgages and Related Subjects, having completed the preparation of the draft articles for a convention on arrest of ships at its ninth session, in December 1996, recommended to UNCTAD's Trade and Development Board and the IMO Council to propose to the General Assembly of the United Nations the convening of a diplomatic conference to consider and adopt a convention on arrest of ships on the basis of the articles prepared by the Joint Group (see document JIGE(IX)/4-TD/B/IGE.1/4-LEG/MLM 41, annex I).
2. This recommendation was endorsed by the IMO Council at its seventh-eighth session and by UNCTAD's Trade and Development Board at its fifteenth executive session. The General Assembly, by its resolution 52/182, endorsed the convening of the Conference within the budget level proposed by the Secretary-General for the biennium 1998-1999.
3. The Trade and Development Board, at its sixteenth executive session, endorsed the arrangements for the Diplomatic Conference proposed by the UNCTAD secretariat in document TD/B/EX(16)/4, to the effect that the Secretaries-General of UNCTAD and IMO would make the necessary arrangements, in accordance with General Assembly resolution 52/182, to hold the Conference and to submit to the Conference all relevant documentation, including draft rules of procedure of the Conference, as well as to arrange for all required facilities for the Conference (TD/B/EX(16)/5, para. 12 (b)).
4. The UN/IMO Diplomatic Conference on Arrest of Ships was thus held from 1 to 12 March 1999 at the Palais des Nations, Geneva.

Chapter I

PREPARATION AND ADOPTION OF A CONVENTION ON ARREST OF SHIPS

(Agenda item 8)

5. For its consideration of this item, the Conference had before it the following documentation:

“Draft articles for a convention on arrest of ships” (TD/B/IGE.1/5);

“Compilation of comments and proposals by Governments and by intergovernmental and non-governmental organizations on the draft articles for a convention on arrest of ships” (A/CONF.188/3 and Add.1-3);

“Report of the Joint UNCTAD/IMO Intergovernmental Group of Experts on Maritime Liens and Mortgages and Related Subjects on its ninth session” (TD/B/IGE.1/4).

Opening statements

6. The **Deputy Secretary-General of UNCTAD** stressed the importance of the cooperation between UNCTAD and IMO in achieving international uniformity in respect of arrest of ships. The work of the Conference was undoubtedly of paramount importance to the international shipping and trading community, since the establishment of up-to-date rules and regulations governing the arrest of ships would clearly play an important role in facilitating maritime transport and world trade. It was essential that any new instrument should succeed in striking a balance between the interests of owners of cargo and owners of ships in securing the free movement of ships and the right of claimants to obtain security for their claims. This might not be an easy task bearing in mind the differences in approach adopted by common law, which allowed arrest of a ship only in respect of certain maritime claims raised against it, and civil law systems, permitting the claimant to arrest any ship for claims against the owner regardless of the nature of such claims. This goal could only be achieved if a spirit of cooperation and compromise prevailed among delegations. He was confident that the Conference would be able to adopt the final text of a Convention on arrest on ships.

7. The **Director, Legal and External Relations Division, International Maritime Organization (IMO)**, speaking on behalf of the Secretary-General of IMO, referred to the importance of adopting a new Arrest Convention aimed at providing certainty of law and justice for the benefit of administrations, shipowners, owners of cargo and all those involved in the process of maritime claims. Differences between civil and common law should be overcome in order to ensure, through global international rules, the effectiveness of free trade through shipping. The mandate contained in the General Assembly resolution 52/182 was a clear expression of the will to do just that.

8. The **President of the Conference** stressed the importance of the subject of arrest of ships to the international shipping and trading community. The draft Convention was the result of the hard work and cooperation of the delegations and observers which had taken part in the three sessions of the Joint UNCTAD/IMO Intergovernmental Group of Experts on Maritime Liens and Mortgages and Related Subjects which had prepared the draft. The preparation of any international legal instrument necessarily required compromise on the part of delegations representing different legal systems. This was particularly true in relation to subjects such as arrest of ships, which received divergent legal treatment in different jurisdictions following the civil law and common law systems.

Chapter II

ORGANIZATIONAL MATTERS

A. Opening of the Conference

(Agenda item 1)

9. The Conference was opened on Monday, 1 March 1999, by the Deputy Secretary-General of UNCTAD.

B. Election of the President

(Agenda item 2)

10. At its opening plenary, the Conference elected Mr. Zhu Zenjie (China) as its President.

C. Adoption of the rules of procedure

(Agenda item 3)

11. At the same meeting, the Conference adopted its rules of procedure as contained in document A/CONF.188/2.

D. Adoption of the agenda and organization of work of the Conference

(Agenda items 4 and 5)

12. At the same meeting, the Conference adopted the provisional agenda contained in document A/CONF.188/1. The agenda was thus as follows:

1. Opening of the Conference
2. Election of the President
3. Adoption of the rules of procedure
4. Adoption of the agenda
5. Organization of the work of the Conference
6. Election of other officers
7. Credentials:
 - (a) Appointment of a Credentials Committee
 - (b) Report of the Credentials Committee
8. Preparation and adoption of a convention on arrest of ships
9. Consideration and adoption of final resolutions
10. Other business
11. Adoption of the report of the Conference

13. It further approved the organization of work proposed in document A/CONF.188/1. In so doing, it established a Main Committee to deal with the entire set of draft articles, including the final clauses. It also established a Drafting Committee entrusted with the task of redrafting articles or groups of articles on the basis of directions given by the Main Committee and reporting back to that Committee. The Drafting Committee was also entrusted with the task of drafting the Final Act and a preamble for the convention and was requested to submit the texts so drafted to the Plenary of the Conference.

14. The following countries agreed to serve on the Drafting Committee: Algeria, Argentina, China, Côte d'Ivoire, Croatia, Denmark, Egypt, France, Gambia, Germany, Ghana, Lithuania, Mexico, Russian Federation, Spain, Sri Lanka, Tunisia, Turkey, United Kingdom, and United States of America. The Drafting Committee would at the same time be open-ended.

E. Election of officers

(Agenda item 6)

15. At the same meeting, the Conference elected its officers as follows:

President:	Mr. Zhu Zengjie	(China)
Chairman of the Main Committee:	Mr. K.J. Gombrii	(Norway)
Vice-Presidents:	Mrs. Ida Barinova	(Russian Federation)
	Mr. Marc Gauthier	(Canada)
	Mr. Eladio Pena Loza	(Panama)
	Mr. Luigi Rovelli	(Italy)
	Mr. L.K. Sheri	(Singapore)
	Mr. Mahmoud Bahey Eldin Ibrahim Nasrah	(Egypt)
Rapporteur-General:	Mr. Walter de Sa'Leitao	(Brazil)

F. Appointment of a Credentials Committee

(Agenda item 7)

16. The Conference appointed a Credentials Committee consisting of the following members: Benin; Brazil; China; Haiti; Mozambique; Russian Federation; United States of America.

G. Other business

(Agenda item 10)

[To be completed]

H. Adoption of the report of the Conference

(Agenda item 11)

[To be completed]