UNCITRAL - International Carriage of Goods Wholly or Partly by Sea

The United Nations Commission on International Trade Law (UNCITRAL) has been developing a Convention on Contracts for the International Carriage of Goods wholly or partly by Sea, based on text originally drafted by Comité Maritime Internationale (CMI). The Convention text has now been finalised. It is intended that the Convention will replace the Hague, Hague-Visby and Hamburg Rules and the US Carriage of Goods by Sea Act of 1936 but is more extensive than these, in that it not only contains provisions in respect of carrier responsibility, liability and limitation but also includes provisions relating to the use of electronic ‘documents’, rights of control over and transfer of rights to cargo and delivery of cargo, and liability of sub contractors employed by the contracting carrier (performing parties).

The International Group has worked closely with other industry organisations and has taken an active part in all of the Uncitral Working Group III sessions. Written submissions to the working group have in the main been made jointly with BIMCO and ICS and presentations on behalf of the industry at meetings of Working Group III have been made in line with prior strategy agreed with those organisations.

The text of the draft convention will be considered by the UNCITRAL Commission in June 2008. It seems unlikely that the June session will result in changes of substance to the Convention, although drafting changes may be made to improve clarity. If approved by the Commission, the Convention will be passed to the UN Assembly for adoption in November 2008. Whether and when the Convention will come into force will depend on the ratification process and in particular, which states ratify in the early stages. The United States have participated very actively in the drafting process and it appears that a significant body of United States carriers and shippers support the latest draft. If they ratify early then a significant number of other states may well follow. The number of ratifications required in order for the Convention to come into force has been set at 20. It is possible, but unlikely, that this will change during its passage through the Commission. If the Convention is to have any real impact it will need to be adopted by a large number of States. In this regard it is worth noting that approximately 90 states have ratified the Hague / Hague-Visby Rules but only about 30 the Hamburg Rules and in the latter case no major trading nations.

A summary of the draft convention provisions has been prepared by the International Group UNCITRAL Working Group and can be downloaded below.