UNCITRAL project on negotiable cargo documents & negotiable electronic cargo records

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WHAT IS UNCITRAL?

The core legal body of the UN system in the field of private international trade/commercial law

Established by the United Nations General Assembly (Resolution 2205 (XXI) of 17 December 1966

UNCITRAL's mandate

modernization

harmonization

of international trade law
UNCITRAL project on negotiable cargo documents & negotiable electronic cargo records
Introduction: Proposal by China

- At the 52nd session of UNCITRAL in 2019, the Government of China presented a proposal on possible future work by UNCITRAL to develop a legal framework for railway consignment notes.

- The proposal noted that
  - railway transportation had many advantages, such as shorter distance, speed and less vulnerability to weather;
  - but, unlike the ocean bill of lading, international railway consignment notes do not serve as a document of title and are not used for the settlement and financing of letters of credit.
The proposal invited UNCITRAL to explore the possibility of “creating a rule on a bill of lading for one or more modes of transport, including railway, road and air, to achieve the goals of using a single bill, controlling the goods with the bill and taking delivery of goods with the bill, giving that new transport document the nature of a document of title in order to enable it to perform the financial settlement function.”
In 2019, the Commission considered that proposal had considerable practical significance for world trade, in particular for the economic growth of developing countries. The Commission agreed, as a first step, to request the secretariat to conduct research on legal issues related to the use of railway or other consignment notes and to coordinate with other relevant organizations.

In 2020 and 2021, the Commission considered the notes prepared by the secretariat on the results of its exploratory work on the topic through legal research and expert group meetings.

In 2022, the Commission commended the work carried out by the secretariat and agreed to assign the topic to Working Group VI.
The Commission

Working Groups

Secretariat

New York

Vienna
UNCITRAL Working Group VI (Negotiable Cargo Documents)

➢ Trade and finance facilitation
➢ Digitalization of transport documents
Who will issue?

• Any transport operator acting as a contractual carrier, irrespective of whether or not that person performs the carriage itself. This includes any rail/road/air carrier or freight forwarder who concludes a transport contract with the consignor and thus assumes responsibility for the performance of the contract.

How to issue?

• Default rule: The transport document (either negotiable or non-negotiable) issued by the same transport operator, who is requested to issue a negotiable cargo document, shall serve as a negotiable cargo document by inserting an appropriate reference to the draft new instrument.
Main stakeholders

**Carriers** include rail carriers, road carriers and air carriers. **Freight forwarders** arrange the transportation of goods from one place to another via a single or multiple carriers. **Banks** mainly refer to banks engaging in letters of credit transactions. **Insurance companies** refer to those who provide insurance coverage for carriers/freight forwarders.

**Shipper/consignor** (export/import companies) refer to those who conclude transport contracts with the carriers/freight forwarders.

**Commodity traders** buy and sell physical commodities with the aim to profit.

**Freight forwarders** arrange the transportation of goods from one place to another via a single or multiple carriers.

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The next session is scheduled to take place from 6 to 10 May 2024 at the UN Headquarters in New York.

The Working Group will focus on draft provisions on a legal framework for the recognition and use of **negotiable electronic cargo records**, including reliability requirements (e.g., requirements to determine the reliability of the method used to render a negotiable electronic cargo record capable of being subject to exclusive control).