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*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping(Liner Conferences) Act 1982, ANNEX TO THE CONVENTION. (See end of Document for details)*

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## SCHEDULE

### THE TEXT OF THE CODE

#### ANNEX TO THE CONVENTION

##### MODEL RULES OF PROCEDURE FOR INTERNATIONAL MANDATORY CONCILIATION

###### *Rule 1*

- 1 Any party wishing to institute conciliation proceedings under the Code shall address a request to that effect in writing, accompanied by a statement of claim to the other party, and copied to the Registrar.
- 2 The statement of claim shall:
- (a) Designate precisely each party to the dispute and state the address of each;
  - (b) Contain a summary statement of pertinent facts, the issues in dispute and the claimant's proposal for the settlement of the dispute;
  - (c) State whether an oral hearing is desired and, if so, and to the extent then known, the names and addresses of persons to give evidence, including experts' evidence, for the claimant;
  - (d) Be accompanied by such supporting documentation and relevant agreements and arrangements entered into by the parties as the claimant may consider necessary at the time of making the claim;
  - (e) Indicate the number of conciliators required, any proposal concerning the appointment of conciliators, or the name of the conciliator appointed by the claimant in accordance with article 32, paragraph 2; and
  - (f) Contain proposals, if any, regarding rules of procedure.
- 3 The statement of claim shall be dated and shall be signed by the party.

###### *Rule 2*

- 1 If the respondent decides to reply to the claim, he shall, within 30 days following the date of his receipt of the statement of claim, transmit a reply to the other party and copied to the Registrar.
- 2 The reply shall:
- (a) Contain a summary statement of pertinent facts opposed to the contentions in the statement of claim, the respondent's proposal, if any, for the settlement of the dispute and any remedy claimed by him with a view to the settlement of the dispute;
  - (b) State whether an oral hearing is desired and, if so, and to the extent then known, the names and addresses of persons to give evidence, including experts' evidence, for the respondent;
  - (c) Be accompanied by such supporting documentation and relevant agreements and arrangements entered into by the parties as the respondent may consider necessary at the time of making the reply;
  - (d) Indicate the number of conciliators required, any proposal concerning the appointment of conciliators, or the name of the conciliator appointed by the respondent in accordance with article 32, paragraph 2; and

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(e) Contain proposals, if any, regarding rules of procedure.

3 The reply shall be dated and shall be signed by the party.

#### *Rule 3*

1 Any person or other interest desiring to participate in conciliation proceedings under article 34 shall transmit a written request to the parties to the dispute, with a copy to the Registrar.

2 If participation in accordance with (a) of article 34 is desired, the request shall set forth the grounds therefor, including the information required under rule 1, paragraph 2 (a), (b) and (d).

3 If participation in accordance with (b) of article 34 is desired, the request shall state the grounds therefor and which of the original parties would be supported.

4 Any objection to a request for joinder by such a party shall be sent by the objecting party, with a copy to the other party, within seven days of receipt of the request.

5 In the event that two or more proceedings are consolidated, subsequent requests for third-party participation shall be transmitted to all parties concerned, each of which may object in accordance with the present rule.

#### *Rule 4*

By agreement between the parties to the dispute, on motion by either party, and after affording the parties an opportunity of being heard, the conciliators may order the consolidation or separation of all or any claims then pending between the same parties.

#### *Rule 5*

1 Any party may challenge a conciliator where circumstances exist that cause justifiable doubts as to his independence.

2 Notice of challenge, stating reasons therefor, should be made prior to the date of the closing of the proceedings, before the conciliators have rendered their recommendation. Any such challenge shall be heard promptly and shall be determined by majority vote of the conciliators in the first instance, as a preliminary point, in cases where more than one conciliator has been appointed. The decision in such cases shall be final.

3 A conciliator who has died, resigned, become incapacitated or disqualified shall be replaced promptly.

4 Proceedings interrupted in this way shall continue from the point where they were interrupted, unless it is agreed by the parties or ordered by the conciliators that a review or rehearing of any oral testimony take place.

#### *Rule 6*

The conciliators shall be judges of their own jurisdiction and/or competence within the provisions of the Code.

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#### Rule 7

- 1 The conciliators shall receive and consider all written statements, documents affidavits, publications or any other evidence, including oral evidence, which may be submitted to them by or on behalf of any of the parties, and shall give such weight thereto as in their judgement such evidence merits.
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  - (a) Each party may submit to the conciliators any material it considers relevant, and at the time of such submission shall deliver certified copies to any other party to the proceedings, which party shall be given a reasonable opportunity to reply thereto;
  - (b) The conciliators shall be the sole judges of the relevance and materiality of the evidence submitted to them by the parties;
  - (c) The conciliators may ask the parties to produce such additional evidence as they may deem necessary to an understanding and determination of the dispute, provided that, if such additional evidence is produced, the other parties to the proceeding shall have a reasonable opportunity to comment thereon.

#### Rule 8

- 1 Whenever a period of days for the doing of any act is provided for in the Code or in these rules, the day from which the period begins to run shall not be counted, and the last day of the period shall be counted, except where that last day is a Saturday, Sunday or a public holiday at the place of conciliation, in which case the last day shall be the next business day.
- 2 When the time provided for is less than seven days, intermediate Saturdays, Sundays and public holidays shall be excluded from the computation.

#### Rule 9

Subject to the provisions relating to procedural time-limits in the Code, the conciliators may, on a motion by one of the parties or pursuant to agreement between them, extend any such time-limit which has been fixed by the conciliators.

#### Rule 10

- 1 The conciliators shall fix the order of business and, unless otherwise agreed, the date and hour of each session.
- 2 Unless the parties otherwise agree, the proceedings shall take place in private.
- 3 The conciliators shall specifically inquire of all the parties whether they have any further evidence to submit before declaring the proceedings closed, and a noting thereof shall be recorded.

#### Rule 11

Conciliators' recommendations shall be in writing and shall include:

- (a) The precise designation and address of each party;
- (b) A description of the method of appointing conciliators, including their names;
- (c) The dates and place of the conciliation proceedings;

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- (d) A summary of the conciliation proceedings, as the conciliators deem appropriate;
- (e) A summary statement of the facts found by the conciliators;
- (f) A summary of the submissions of the parties;
- (g) Pronouncements on the issues in dispute, together with the reasons therefor;
- (h) The signatures of the conciliators and the date of each signature; and
- (i) An address for the communication of the acceptance or rejection of the recommendation.

#### *Rule 12*

The recommendation shall, so far as possible, contain a pronouncement on costs in accordance with the provisions of the Code. If the recommendation does not contain a full pronouncement on costs, the conciliators shall, as soon as possible after the recommendation, and in any event not later than 60 days thereafter, make a pronouncement in writing regarding costs as provided in the Code.

#### *Rule 13*

Conciliator's recommendations shall also take into account previous and similar cases whenever this would facilitate a more uniform implementation of the Code and observance of conciliators' recommendations.

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