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RAFAEL ILLESCAS AND UNCITRAL WORKING GROUP III

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In April 2002 Rafael Illescas was elected Chairman of the UNCITRAL Working Group (Working Group III) on Transport Law. This Working Group had been established by the UNCITRAL Commission to consider a project to reform the maritime transport law regime and to work towards the preparation of an international instrument which would modernise the law of carriage. Under Rafael Illescas's chairmanship and guidance the Working Group was able six years later in January 2008 to approve the text of a long and detailed draft convention on contracts for the international carriage of goods wholly or partly by sea. This draft, with some revisions, was approved by the Commission, again under Rafael Illescas's chairmanship, in July 2008 and the Convention, which contained rules to be known as "the Rotterdam Rules", was adopted by the UN General Assembly in December. The successful conclusion of the project in a relatively short timescale was in no small part due to Rafael Illescas's skilled chairmanship of the Working Group.

The project was both substantial and complex. At the outset there was a general consensus in the Working Group that the purpose of the work was to end the multiplicity of the liability regimes applying to the carriage of goods by sea and to adjust maritime transport law better to meet the needs and realities of international maritime transport practices. This was a formidable task. No one could have chaired the Working Group and guided the work who did not have a complete mastery of this extensive subject matter. There can be no doubt that Rafael Illescas had the necessary authority, which was derived from his vast knowledge and experience of all the issues involved.

However one of his many skills was not seeking to impose his own views, although he must undoubtedly have had them, but to guide the government representatives and observers to resolve the issues themselves. Thus at an early stage the Working Group adopted a proposal made by a group of delegations to proceed by grouping matters into core issues. Later an informal consultation group was established for continuing the discussions, largely by emails, between the formal sessions. It was in this way that a number of very difficult issues were resolved. Rafael Illescas fully supported and encouraged these methods of work which greatly contributed to the completion of the project within the desired timescale.

Rafael Illescas's skill in guiding the Working Group to reach its conclusions was very largely derived from his sensitivity to the atmosphere in the room and to the informal influence which various delegations had on particular issues outside it. On the middle weekend during the sessions in New York Chester Hooper from the US delegation and his wife, Stephanie, used to invite delegates to an informal supper party at their home in Hastings-on-Hudson. These very agreeable social occasions away from

* Observer at the sessions of Working Group III for the Comité Maritime International.

the city were greatly appreciated by all who enjoyed their generous hospitality, including Rafael Illescas. On one occasion he was asked what he proposed to place on the agenda for the following Monday. He replied that he had not yet made a plan, but he might have an idea later in the evening. When asked again later, he replied that he had enjoyed some good Californian red wine and had not thought about an agenda. His sensitivity was allied to a sharp political nose.

Traditionally levels of limitation of liability tend to be agreed in the final stages of the negotiation of a draft convention. So it was that this issue, and certain related issues, came to be considered at the final session of the Working Group in January 2008. In this rare instance Rafael Illescas imposed his authority as Chairman to press for a compromise. His intervention was successful, a compromise was reached and the draft Convention was approved.

All government representatives and observers who participated in the various sessions of the Working Group have reason to be grateful to Rafael Illescas for his leadership and guidance, and for his unfailing courtesy and good humour. It is to be hoped that other states will soon follow Spain's lead and ratify the Convention, so that it comes into force internationally, and that Rafael Illescas will have the satisfaction during his retirement of seeing the successful fulfilment of his work.