

use of existing infrastructures (e.g., industry associations-government consultation). The association could support the formation of the Shipping Advisory Council referred to by several other panelists. The consultative process which government undertook with industry on Freedom to Move was an example of good cooperation and advance preparation. However industry associations are often not given sufficient time by government to solicit inputs from their membership, thus weak policy can result which does not respond to industry's real needs.

On the question of government involvement, the CMA believes that the initial approach to solving maritime transportation problems adversely affecting trade should be through consultation between the buyer, seller and carrier. He noted that small shippers are often less capable than larger companies in "going it alone" and in such instances should use assistance of a good freight forwarder, the Trade Commissioner in the country of export, and if possible, their industry association. These channels should be used before there is formal government involvement. The Canadian manufacturing industry should learn to more aggressively seek its own remedies wherever possible.

In conclusion, Mr. Wiersma proposed that the GATT mechanism should be given greater emphasis when seeking solutions to maritime transportation and other service related trade problems. "More and more, services are part of trade negotiations and it is somewhat surprising that people very frequently talk about 'free trade', while the transportation aspect of that freer trade is not discussed. **Services** tend to get a lower order of priority, and this is an area where progress may be possible in terms of the current negotiations in Uruguay."

The moderator called upon Mr. Roy Humphrey, Head of the Maritime Transport and Tourism Division, Organisation for Economic Cooperation and Development (OECD) to provide his personal perspective on cargo reservation, the UNCTAD Liner Code, the "Brussels Package" and the OECD Shipping Policy.

Mr. Humphrey observed that the cornerstone of OECD Shipping Policy — the principle of "free circulation in free and fair competition" —

has been under pressure since the 1960's. Both the developing world and state trading countries have restricted the operation of this principle through national flag measures and bilateral agreements that primarily affected the general cargo liner trades. Measures are often justified for transitory reasons, such as balance of payments problems, but once introduced, "they have rarely been dismantled." These practices have "the effect of increasing the cost to the shipper, reducing the efficiency of the services and imposing a heavy layer of bureaucratic procedures upon commercial parties".

Particular pressure was directed at closed conferences which to a considerable extent "brought it upon themselves, because of their lack of sensitivity to the growing demands from the developing countries and their **frequently autocratic approach to shippers**, who were usually much less well organized." Remedial opportunities were missed, and in the early 1970's the UN Liner Code was formulated. Although "a flawed instrument", the Code today "is a fact of life and the operation of the closed conference system is now inextricably tied to its provisions, even in trades where it is not formally in force".

The Code's entry into force was long delayed because it is far more than a "code of conduct" creating a more balanced relationship between shippers and conferences. The Code is a compromise containing a cargo allocation element, the so-called 40/40/20 formula. The prescribed right to a large part of the transport "regardless of their ability to compete for it on a commercial basis" clashed with the OECD shipping philosophy.

The European Community countries contemplated the issue of reconciling the Code and non-discrimination on the basis of national flag. The "Brussels Package" emerged, which recognizes the cargo rights of developing countries while opening the rights accruing to the developed country to all the lines of any OECD country on a commercial basis subject to reciprocity within the OECD. Furthermore, the Package disregards cargo sharing within the OECD, but allows the provisions controlling the relationship between conferences and shippers. European contracting