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NITL COUNTERS ARGUMENTS OPPOSING CARGO LIABILITY RULES

Arlington VA—The National Industrial Transportation League (NITL) today released a comprehensive response to a recent paper published by the European Shippers' Council (ESC) which criticized a new international maritime cargo liability convention known as the "Rotterdam Rules," and advocated its rejection.

In sharp contrast, the NITL strongly supports ratification of the Rotterdam Rules both in the U.S. and globally. This new convention takes into account present day ocean shipping arrangements and commercial practices and would replace the outmoded, decades old patch-work of liability regimes currently applied by trading nations. The new Rules carefully balance the legitimate commercial interests of all affected parties, and reflect a package of reforms that will result in significant benefits for everyone connected with the maritime movement of goods including shippers, carriers, and other freight stakeholders.

The NITL's response is a comprehensive, point-by-point rebuttal of the assertions presented by the ESC. In its paper, the NITL respectfully counters the European shippers' group's views as they impact:

- conflict with other conventions;
- charges that the Rules would create unequal obligations;
- volume contracts and derogations;
- claims for compensation; and,
- shippers' obligations.

The NITL makes clear that the Rotterdam Rules will result in clear benefits to the shipper community including:

- Eliminating the nautical defense which currently permits carriers to escape fault and liability based on negligent handling of the vessel;
- Expanding the carriers' due diligence for the entire voyage by sea, not just at the beginning of the sailing;
- Increasing the liability protections afforded to shippers at levels higher than under existing maritime cargo liability regimes, including Hague, Hague-Visby, and Hamburg Rules;
- Eliminating limits of liability if the contracting carriers or maritime performing party engages in reckless or intentional acts;
- Including liability protection for shippers arising from economic losses incurred as a result of deliveries delayed beyond an agreed upon time in the amount of two and one-half times freight;
- Allowing shippers and carriers to contract for customized liability arrangements that reflect the shippers' individual business requirements;
- Permitting countries to opt-in to applying new rules governing jurisdiction and arbitration which would allow the claimant to select the place of adjudication of cargo claims in certain cases, based on a list of potential locations which bear some relationship to the involved contract of carriage;

- Extending the statute of limitations applicable to civil claims from one to two years; and,
- Recognizing the increasing use of electronic commerce for shipping transactions.

Taken as a whole, these benefits to the shipping community in the NITL's view directly contradict the ESC's contentions that shippers would be better served by the status quo and that the new convention would place shippers in a worse position than that of the pre-1924 environment when the Hague Rules were first adopted.

Finally the NITL paper tackles the ESC's desire for development of a European multimodal convention by stating it would "...be a giant step backwards, and would undermine the international community's attempt to update cargo liability rules applicable to sea carriage and increase efficiencies and harmony through the widespread adoption of a uniform regime. The Rotterdam Rules provide a readily obtainable opportunity to achieve these important objectives."

Speaking on behalf of the League, Executive Vice President Peter J. Gatti said, "Our organization is the only shipper-based group which is uniquely qualified to speak to the provisions contained in the new Rules. We have been actively engaged since before the beginning of this decade in fashioning this new maritime liability convention which is responsive to today's global commercial needs. This includes our work over the past decade within the Organization for Economic Cooperation and Development (OECD); the Comité Maritime International (CMI); the League's 2001 Memorandum of Agreement with the World Shipping Council (WSC) which represents most maritime liner carriers in the U.S. international trades; and as a private industry advisor to the U.S. government delegation to the United Nations Committee on International Trade Law's (UNCITRAL) Working Group Number III."

For a full copy of the paper, [click here](#).

The League is an association of companies that conducts industrial and/or commercial shipping throughout the United States and internationally. Founded in 1907, the League is one of the oldest and largest associations representing some 700 member companies involved with the transport of all kinds of freight, using all modes, in both domestic and international commerce.