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REGISTER OF ORGANIZATIONS AND REGISTER OF TEXTS

Note by the Secretary-General

I. INTRODUCTION

1. At its first session the United Nations Commission on International Trade Law, on the proposal of the representative of the United Kingdom,^{1/} approved a recommendation regarding the establishment within the Secretariat of a register of organizations and a register of texts. The recommendation reads as follows:^{2/}

I

1. The Commission requests the Secretary-General to set up a register of organizations, together with their work, and a register of certain international instruments, texts and related documentation. These registers would be maintained in accordance with paragraphs 2 to 5 below.

Register of organizations

2. The register of organizations would contain the names of:

- (a) Organs of the United Nations;
- (b) Specialized agencies and intergovernmental organizations; and
- (c) International non-governmental organizations in consultative status with the Economic and Social Council of the United Nations;

^{1/} A/CN.9/L.5.

^{2/} Report of the United Nations Commission on International Trade Law on the work of its first session, Official Records of the General Assembly, Twenty-third Session, Supplement No. 16 (A/7216), para. 60 at pp. 27-29.

which are actively engaged in work, in the fields mentioned in paragraph 5 below, towards the progressive harmonization and unification of the law of international trade by promoting the adoption of international conventions, uniform laws, standard contract provisions, general conditions of sale, standard trade terms and other measures of a legal nature.

3. This register would be compiled in consultation with the organizations concerned and would contain a summary of work relating to the fields referred to in paragraph 5 below, which has been accomplished or is being undertaken by the organizations referred to in the register.

Register of texts

4. The register of texts would contain material relating to the fields mentioned in paragraph 5 below as follows:

(a) The text of existing international conventions, model and uniform laws, customs and usages of a multilateral nature which have been published in written form;

(b) A brief summary of proposed international conventions, model and uniform laws, customs and usages of a multilateral nature which are in preparation and have been published in written form.

Fields to be covered

5. The registers envisaged above would, in the first instance, be concerned with the following fields:

- (a) The law of sale of goods (corporeal movables);
- (b) Standard trade terms;
- (c) Arbitration law;
- (d) Negotiable instruments;
- (e) Documentary credits and the collection of commercial paper.

Publication

6. The information contained in the registers would be published and disseminated in the English, French, Spanish and Russian languages.

Bibliography

7. The Secretary-General should inquire whether one or more universities, research or similar institutions in the States Members of the United Nations

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would be willing to compile and disseminate a list of published books, articles and commentaries on 4 (a) and (b) above, and should report on this matter to the Commission at its second session.

II

Continuity of registers

In order that the scope of the registers mentioned in section I may be reviewed and expanded, the Commission recommends that the agenda of the second session of the Commission should include the following item:

"Register of organizations and register of texts".

2. In approving the inclusion of the recommendation in its report, the Commission also decided to draw the attention of the General Assembly to the financial implications of the proposal and requested the Secretary-General to make a detailed study of the financial implications of the proposal for submission to the General Assembly.^{3/}

3. Finally, as regards paragraph 4 (a) of the recommendation, the Commission decided that the register should indicate the status of signatures, ratifications, accessions, date of entry into force, reservations and depositaries of the conventions, as well as the existence of explanatory notes.^{4/}

4. Pursuant to the request of the Commission referred to in paragraph 2 above, the Secretary-General submitted a report to the twenty-third session of the General Assembly on the financial and administrative implications of the recommendation.^{5/}

5. The Sixth Committee, to which the consideration of the Commission's report on its first session had been allocated, considered this item at its 1083rd to 1085th and at its 1096th and 1097th meetings. The report of the Sixth Committee to the General Assembly contains the following paragraph on the recommendation of the Commission regarding the registers:

^{3/} Idem, para. 62 at p. 29.

^{4/} Idem, para. 63 at p. 29.

^{5/} A/C.6/L.648 and Add.1.

"There was general recognition of the importance of a register of organizations, containing a survey of their activities, and a register of international instruments in certain fields of international trade law. The view was expressed that this would permit UNCITRAL to keep abreast of the latest developments and collect the information necessary for its work. It was also stated that such registers would no doubt be useful to Governments and other organizations. Several representatives, however, expressed their hesitations in view of the financial implications and were of the opinion that UNCITRAL should further consider the scope of the register of texts at its second session, taking into account the report of the Secretary-General on the financial and administrative implications of the registers and the observations made thereon during the debates in the Sixth Committee. Some representatives were of the opinion that the aim pursued by UNCITRAL could perhaps also be achieved by other means, such as by publishing a list of the titles and sources of the various instruments and documents, without reproducing the texts thereof. One representative entered a strong protest at the omission of Chinese from the list of official languages in which the registers were to be published."^{6/}

6. The General Assembly, on the recommendation of the Sixth Committee, adopted resolution 2421 (XXIII) on the report of the United Nations Commission on International Trade Law. The parts of the resolution relating to the establishment of organizations and a register of texts read as follows:

"The General Assembly,

"Having considered the report of the United Nations Commission on International Trade Law on the work of its first session,

...

"Having considered the report of the Secretary-General concerning the financial and administrative implications of the establishment of a register of organizations and a register of texts in the field of international trade law,

...

"3. Authorizes the Secretary-General to establish a register of organizations in accordance with directives laid down by the United Nations Commission on International Trade Law;

"4. Approves in principle the proposal to establish a register of the international instruments and other documents referred to in chapter V of the report of the United Nations Commission on International Trade Law, and

requests that the Commission should consider further at its second session the precise nature and scope of such a register in the light of the report of the Secretary-General and the discussions at the twenty-third session of the General Assembly on the registers;

"5. Authorizes the Secretary-General to establish the register referred to in paragraph 4 above in accordance with the further directives to be given by the United Nations Commission on International Trade Law at its second session;"

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II. NATURE AND SCOPE OF THE REGISTER OF TEXTS

7. It follows from resolution 2421 (XXIII) that the General Assembly authorized the establishment of both the register of organizations and the register of texts, but qualified its authorization regarding the establishment of the register of texts by requesting the Commission to "consider further at its second session the precise nature and scope" of that register and to lay down further directives in regard to it.

8. In considering the nature and scope of the register of texts, the Commission may wish to bear in mind, firstly, that the determination of the nature of the register would to some degree affect its scope and, secondly, that, if the identity of the fields to be covered in both registers were maintained, any decision on the scope of the register of texts would automatically apply to that of the register of organizations while it would also affect the scope of the bibliography.

A. Nature of the register

9. As to the nature, or general character and purpose, of the register of texts, the discussions in the Sixth Committee of the General Assembly revealed the existence of two main trends of thought, one emphasizing the importance of the register as a working tool of the Commission, for purposes of co-ordination and background material, the other stressing its usefulness to Governments, organizations, commercial circles, etc. in the context of international trade relations.

10. While these two approaches do not necessarily exclude one another, the Commission may consider that, if the sole raison d'être of the register is to serve the purposes of the Commission's work, it would suffice if the fields covered by it were those of the priority topics included in the Commission's programme of work. On the other hand, it would appear that, if the principal purpose of the register is to make texts of international conventions, model and uniform laws, customs and usages more accessible to those interested in the law of international trade, the scope of the register ought perhaps to be determined by criteria other than those governing the selection of priority topics.

11. It may be noted, in this connexion, that the fields to be covered by the register of texts as indicated in the recommendation do not coincide in all

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respects with those covered by the priority items. For example, priority item "guarantees and securities" does not appear among the fields to be covered by the registers.

B. Scope of the register of texts

12. Annex II of the Secretary-General's report on the financial and administrative implications of the establishment of the registers (hereinafter referred to as "the report of the Secretary-General")^{7/} lists, for purposes of cost estimation, the instruments to be included in the register of texts under the terms of the Commission's recommendation. In determining which instruments should be included, the Secretariat applied certain criteria^{8/} which may affect the scope of the register itself. The Commission may therefore wish to examine whether these criteria are consistent with its intentions and objectives in this regard.

13. The attention of the Commission is drawn in particular to the question whether general conditions of sale and standard contracts should be included in the register and, if so, whether these should comprise also formulations drawn up by non-governmental bodies.

14. The attention of the Commission is also drawn to the expression "standard trade terms" which is listed as one of the five "fields to be covered" by the registers but, unlike the other four fields, is not strictly speaking a "legal field". It is thus not immediately apparent, particularly if the expression "standard trade terms" is interpreted in a wide sense,^{9/} in relation to which fields of international trade law standard trade terms should be included in the register. The instruments listed in annex II of the Secretary-General's report are those which relate to the international sale of goods,^{10/} but the Commission may also have envisaged other fields, such as the carriage of goods and insurance.

15. While the discussions in the Sixth Committee of the General Assembly revealed a general recognition of the usefulness of the registers, several representatives

^{7/} A/C.6/L.648.

^{8/} See foot-notes ^{3/}, ^{4/}, ^{6/} and ^{7/} of annex II.

^{9/} See foot-note ^{6/} of annex II in document A/C.6/L.648.

^{10/} Ibid.

expressed the opinion that the register of texts would fulfil the same purpose if it merely listed the title and sources of the various instruments without reproducing the texts thereof. The Commission may therefore wish to consider the advantages and disadvantages of such an approach or an alternative that instruments which are readily accessible be referred to by title and source only.

C. Bibliography

16. As regards the compilation and dissemination of a list of published books, articles and commentaries on the material contained in the register of texts,^{11/} the Secretary-General made certain arrangements with the Parker School of Foreign and Comparative Law, Columbia University. Work on this project has already been started by Prof. Peter Herzog of Syracuse University (New York State) and a sample of the bibliography concerning arbitration law will be issued as an addendum to this report. In the annex to this report, Professor Herzog describes his method of work and the criteria according to which the compilation is being carried out.

17. The Commission might wish to give directives as to the scope, arrangement and other criteria of the bibliography.

^{11/} See A/7216, p. 28, para. 7.

SOME NOTES ON A BIBLIOGRAPHY ON INTERNATIONAL TRADE LAW

Scope of the bibliography

At the request of the Parker School of Foreign and Comparative Law acting in accordance with the wishes of UNCITRAL, a bibliography on international trade law is being compiled. The bibliography will cover the following topics: the law of sale of goods (corporeal movables); standard trade terms; arbitration (commercial); negotiable instruments; documentary credits and the collection of commercial paper. In addition, the bibliography will contain a selective general section covering items dealing with more than one of the topics mentioned above or with general problems of the unification of laws. The bibliography is restricted to items dealing with international trade; items dealing exclusively with the internal law of one country have been excluded, as have materials dealing with international investment and other international matters not concerning trade. Furthermore, the bibliography is limited to materials having some bearing on the unification of law. They include discussions of existing and proposed or suggested agreements or models or uniform laws intended to unify the law between three or more countries (but not attempts at unification between two countries only) as well as more informal methods of unification, for instance through uniform customs, practices, usages and trade terms, such as those formulated by the International Chamber of Commerce. Comments on the unification of law in one country only (such as comments on the Uniform Commercial Code in the United States) have not been included. Problems dealing exclusively with choice of law problems between (non-uniform) national laws likewise have been excluded. However, many cases present borderline problems, and in numerous instances the inclusion or exclusion of materials is necessarily arbitrary.

A further limitation arises from the fact that the compilation is, at the present stage of the work, being prepared by one person only. As a result, only materials in languages with which the compiler has at least a limited familiarity (in addition to English, French and Spanish, Dutch, German, Italian, Portuguese, Scandinavian languages) are included.^{1/} In cases in which the reference sources used in the compilation of this bibliography contained translations of the titles of works in other languages, such works were also included. In

^{1/} The Secretariat is adding works in Russian and other languages.

addition, Professor Charles Szladits of Columbia University has kindly supplied the compiler with some references to works in Hungarian. In point of time, the bibliography covers the years 1920 - July, 1968. Generally speaking, a more detailed search of materials has been made for the years 1950 to date, but where, as in the case of the Geneva agreements concerning bills of exchange and cheques, much of the important writing was done before 1950, an attempt has been made at fair coverage of such materials.

Arrangement of the bibliography

Entries in the bibliography will be arranged in accordance with the topics mentioned. Within each topic (arbitration, documentary credits, negotiable instruments, sale of goods, standard trade terms and general matters), entries will be arranged by language; within each language, books and pamphlets will be listed separately from articles in journals or collections of essays. In each subdivision the arrangement is to be alphabetically by author. Titles not in French or English are translated into one of these languages, generally English. In some instances in which the coverage of an entry was not clear from the title or its location in a particular section of the bibliography, a brief indication of its contents has been given. Both translations and indications of content are given in square brackets following the entry.

To conserve space the names of all periodicals are abbreviated. In view of the large number of periodicals used, the abbreviations chosen are necessarily somewhat arbitrary in a few cases. A list of abbreviations will follow the bibliographic entries to facilitate their consultation. In the case of periodicals and multivolume works, volume and page number have been indicated by two figures separated by a colon. Thus, the symbol 10:100 following the name of a periodical or treatise would mean volume 10, page 100. In the case of periodicals not using volume numbers, the number indicating the year of publication appears in the space otherwise reserved for the volume number. In all other instances, the year of publication follows the page number in parentheses. In the case of books, the place of publication and the publisher, if available, are given.

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Sources used; method of work

The bibliography on international trade law has been culled mainly from standard bibliographic reference sources. Most helpful have been the various bibliographies published by the International Institute for the Unification of Private Law (UNIDROIT) at Rome. For materials in English, a search has also been made of the Bibliography of Foreign and Comparative Law by Dr. Charles Szladits (including the various supplements), and of the Index to Legal Periodicals (1920 - July, 1968). Additional materials in other languages, as well as some further English materials, were found in the Index to Foreign Legal Periodicals, the Harvard Legal Bibliographies and the Harvard International Law Bibliography, the Bibliography on Latin American Law published by the University of Florida and the Bibliography on European Integration published by the Documentation Service of the Court of Justice of the European Communities. Other references were found in the bibliographies contained in a number of journals, including the Revue Trimestrielle de Droit Commercial, Rabel's Zeitschrift fuer Auslaendisches und Internationales Privatrecht and the Record of the Association of the Bar of the City of New York. Also helpful were foot-note references in a number of articles, as well as a list of publications supplied by the International Chamber of Commerce.

Limitations upon the compiler's time, as well as limitations upon the materials conveniently available to him, made it in most cases impossible to verify the information gained from the sources mentioned by consulting the original volumes. However, if additional time were available, such a verification could perhaps be undertaken if UNCITRAL should find this desirable.

Sample bibliography

To provide UNCITRAL with some indication of the scope and appearance of the bibliography on international trade law, sample pages consisting of substantially all of the materials on arbitration are included herewith.^{2/} However, it is possible that a limited number of items dealing with arbitration will be added when the final version of the bibliography is completed.

^{2/} These sample pages will be issued in an addendum to this document.