

V. ACTIVITIES OF OTHER ORGANIZATIONS

Report of the Secretary-General: current activities of international organizations relating to the harmonization and unification of international trade law (A/CN.9/82) *

INTRODUCTION

1. The United Nations Commission on International Trade Law at its third session requested the Secretary-General "to submit reports to the annual sessions of the Commission on the current work of international organizations in matters included in the programme of work of the Commission".¹

2. In accordance with the above decision reports were submitted to the Commission at the fourth session in 1971 (A/CN.9/59) and at the fifth session, in 1972, (A/CN.9/71). The present report, prepared for the sixth session (1973), is based on information submitted by international organizations concerning their current work.² In many cases, the present report includes information on progress with respect to projects for which background material is included in earlier reports.³

* 27 March 1973.

¹ Report of the United Nations Commission on International Trade Law on the work of its third session, *Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 17* (A/8017), para. 172; UNCITRAL Yearbook, vol. I: 1968-1970, part two, III, A.

² Information received from some international organizations has not been included because that information concerned activities unrelated to the work of UNCITRAL or because it described activities other than current projects.

³ Background material may be found in the reports presented to the fourth session (A/CN.9/59) and the fifth session (A/CN.9/71) and in the following: *Digest of legal activities of international organizations and other international institutions*, published by the International Institute for the Unification of Private Law (UNIDROIT); Progressive development of the law of international trade, report by the Secretary-General (1966), *Official Records of the General Assembly, Twenty-first Session, Annexes*, agenda item 88, document A/6396, paras. 26-189. (UNCITRAL Yearbook, vol. I, part one, II, B); Survey of the activities of organizations concerned with harmonization and unification of the law of international trade, note by the Secretary-General, 19 January 1968 (A/CN.9/5); and replies from organizations regarding their current activities in the subjects of international trade within the Commission's work programme, note by the Secretariat, 1 April 1970 (UNCITRAL/III/CRP.2).

I. UNITED NATIONS ORGANS AND SPECIALIZED AGENCIES

A. United Nations Economic Commission for Europe (ECE)

General conditions for sale of agricultural products

3. Progress on various projects of the ECE has been described in earlier reports.⁴ Draft texts referred to in paragraph 3 of document A/CN.9/71 have been acted upon by the Group of experts on international trade practices relating to agricultural products as follows: (a) the draft text on general conditions for international dealings in fresh fruit and fresh vegetables has been adopted (October 1972) and will be published under the symbol AGRI/WP.1/GE.7/35; (b) the greater part of the draft text on general conditions for international dealings in dry and dried fruit has been adopted. The text will be officially adopted by April 1973 and will be published under the symbol AGRI/WP.1/GCS/16/Rev.2; (c) the text on general conditions for international dealings in potatoes will be examined in a second reading in 1973 (AGRI/WP.1/GCS/24/Rev.1). The general conditions for international sale of citrus fruit adopted in 1958 will also be re-examined (No. 312). When all these general conditions are adopted, it is envisaged that they be published in one document which would list clauses usable for all categories of products and additional clauses for each of the particular categories of products. It is expected that this will provide a basis for further extension of these general conditions to other agricultural products which have not heretofore been considered. Rules of evaluation to supplement the above drafts have been the subjects

⁴ See note by the Secretary-General A/CN.9/5, paras. 14-16; replies from organizations regarding their current activities in the subjects of international trade within the Commission's work programme, UNCITRAL/III/CRP.2; reports of the Secretary-General on current activities of international organizations related to the harmonization and unification of international trade law, A/CN.9/59, para. 4 and A/CN.9/71, paras. 3 and 4.

of examination in regard to trade in potatoes, fresh fruit and fresh vegetables (AGRI/WP.1/GCS/29), and adoption of some rules for these two categories are expected in 1973. These rules would also be examined in relation to trade in dry and dried fruit and citrus fruit.

Arbitration

4. Rules of arbitration for international dealings in agricultural products have been under study and will be re-examined in October 1973 with a view to eventual adoption for all sales of agricultural products which are subject to general conditions.

Contracts for establishment of industrial complexes and for industrial co-operation

5. The group of experts on international contract practices in industry adopted in November 1972 a guide on drawing up contracts for establishment of large industrial complexes (TRADE/WP.5/23). A guide on drawing up contracts for industrial co-operation will be considered after discussions at the next session of ECE (April 1973).

B. International Civil Aviation Organization (ICAO)

Question of revision of the Warsaw Convention of 1929 as amended by the Hague Protocol of 1955: ((a) cargo; (b) mail; (c) automatic insurance)

6. The Sub-Committee on Revision of the Warsaw Convention of 1929 as amended by the Hague Protocol of 1955: (a) cargo; (b) mail; (c) automatic insurance, was established at the nineteenth session of the Legal Committee in May 1972. The Sub-Committee met in Montreal from 20 September to 4 October 1972. The following problems were discussed by the Sub-Committee: (A) *cargo*: (1) The system of liability for damage and carrier's defences; (2) the limit of liability for damage, including the question whether or not this limit will be unbreakable; (3) the system of liability for delay; (4) the limit of liability for delay, including the problem as to whether or not this limit will be unbreakable; (5) the documentation problem (articles 5-11 of the Warsaw Convention); (6) the rights of the consignor and consignee, especially the carrier's right to diversion (articles 12-15 of the Warsaw Convention); (7) possible conflicts between the Warsaw/Hague system as revised and the forthcoming convention on international combined transport of goods, including the question of amendments to the Warsaw Convention in order to prevent such conflicts; (8) whether the new instrument should be (a) a protocol to amend the Warsaw Convention or (b) a new convention which would incorporate the wording of the Warsaw Convention as amended at The Hague and at Guatemala City, including also forthcoming amendments concerning cargo; (B) *air mail*; (C) *automatic insurance*. The report of this Sub-Committee (LC/SC. Warsaw (1972)—report) will be placed before the Legal Committee for further action.

C. United Nations Conference on Trade and Development (UNCTAD)

Liner conference practices

7. The UNCTAD secretariat prepared a report entitled "The regulation of liner conferences (a code of conduct for the liner conference system)"⁵ which was submitted at the third session of the UNCTAD Working Group on International Shipping Legislation, held from 5 to 18 January 1972. This report analysed the history of the regulation of liner conferences, described various systems of regulation and suggested basic elements for a code of conduct for liner conferences.

8. On the basis of this report, the Working Group on International Shipping Legislation passed a unanimous resolution which transmitted the question to the third session of the United Nations Conference on Trade and Development, held in Santiago, Chile, from 13 April to 21 May 1972. At this Conference a draft code of conduct for liner conferences prepared by developing countries was submitted for consideration by the Fourth Committee of the Conference.

9. The Conference subsequently adopted by majority vote resolution 66 (III),⁶ which noted that there was an urgent need to adopt and implement a universally acceptable code of conduct for liner conferences which took fully into account the special needs and problems of developing countries. This resolution also recommended that the General Assembly at its twenty-seventh session convene, as early as possible in 1973, a conference of plenipotentiaries for the purpose of adopting a code of conduct for liner conferences, and it recommended to the General Assembly certain other guidelines for the preparation of such a code of conduct.

10. In response to these recommendations of the UNCTAD Conference, the General Assembly, at its twenty-seventh session, adopted resolution 3035 (XXVII), which requested the Secretary-General of the United Nations to convene, under the auspices of UNCTAD, a conference of plenipotentiaries as early as possible in 1973 to consider and adopt a convention or any other multilateral legally binding instrument on a code of conduct for liner conferences. The resolution further established, under the auspices of UNCTAD, a preparatory committee of 48 members for the purpose of preparing a draft convention on a code of conduct for liner conferences for submission to the conference of plenipotentiaries. The Secretary-General of UNCTAD subsequently scheduled the first session of the Preparatory Committee for 8-26 January 1973, the second session for 4-29 June 1973, and the conference of plenipotentiaries for 14 November to 12 December 1973.

Charter parties

11. The next priority subject on the work programme of the UNCTAD Working Group on International

⁵ United Nations publication, Sales No. E.72.II.D.13.

⁶ TD/III/RES/66.

Shipping Legislation is that of charter parties, which will be discussed at the fourth session of the Working Group, scheduled to take place in 1974. A report on the legal, commercial and economic aspects of charter parties and chartering practice is currently being prepared by the UNCTAD secretariat for submission to the UNCTAD Working Group at its fourth session.

Combined transport convention

12. The Committee on Shipping of UNCTAD, at its second special session, held in July 1972, adopted a resolution entitled "The draft Convention on the International Combined Transport of Goods" ("TCM Convention").⁷ That resolution stated *inter alia* that, prior to the adoption of any combined transport convention, its implications for developing countries should be studied thoroughly. It also noted that the draft TCM Convention, prepared by the Joint IMCO/ECE meetings, had been elaborated without the full and adequate participation of the developing countries, and any future discussion of a convention on international combined transport must fully meet certain specified criteria.

13. In a resolution of 23 January 1973,⁸ the Economic and Social Council endorsed the recommendations of the United Nations/IMCO Conference on International Container Traffic⁹ that further studies, bearing in mind particularly the needs and requirements of developing countries, be carried out and completed by the end of 1974 by UNCTAD on all the relevant aspects of international combined transport of goods; these studies are to be done in co-ordination with the regional economic commissions and with the co-operation of the appropriate regional and subregional bodies and other international organizations, in particular the Inter-Governmental Maritime Consultative Organization and the International Civil Aviation Organization. The resolution also requests the Trade and Development Board of UNCTAD to establish an intergovernmental preparatory group for the elaboration of a preliminary draft convention on international intermodal transport, and to authorize that group to meet as early as possible in 1973. The preparatory group is to make its conclusions available to the Economic and Social Council early in 1975, with a view to the convening by the end of 1975 of a plenipotentiary conference to finalize a convention on international intermodal transport on the basis of the draft prepared by the preparatory group.

Co-operation with UNCITRAL

14. Members of the joint UNCTAD/United Nations Office of Legal Affairs Shipping Legislation Unit prepared studies on the subjects of "The period of ocean carrier's responsibility", and "Responsibility for deck

cargoes and live animals", which were among the subjects included in the working paper entitled "Responsibility of ocean carriers for cargo: bills of lading".¹⁰ This working paper was submitted to the third and fourth (special) sessions of the UNCITRAL Working Group on International Legislation on Shipping. Members of the Joint Unit also prepared studies on the subjects of "Unit limitation of liability", "Definitions under article 1 of the Convention", "The period of limitation", and "Invalid clauses", which were among those subjects included in the working paper entitled "Second report on responsibility of ocean carriers for cargo: bills of lading",¹¹ which was submitted to the fifth session of the UNCITRAL Working Group on International Legislation on Shipping.

15. The Chief of the Joint Unit attended, as observer for UNCTAD, the third, fourth (special) and fifth sessions of the UNCITRAL Working Group on International Legislation on Shipping, and the fourth and fifth sessions of the UNCITRAL Commission. Members of the Joint Unit assisted the UNCITRAL secretariat in servicing the third and fourth (special) sessions of the UNCITRAL Working Group on International Legislation on Shipping.

Technical assistance

16. The secretariat of UNCTAD, as part of its programme on technical assistance, and in co-operation with other bodies in the United Nations system, participates in a programme to assist developing countries in legal matters connected with maritime transport.

D. Inter-Governmental Maritime Consultative Organization (IMCO)

International legislation on shipping

17. Earlier stages of work on this subject were described in the reports submitted to the fourth and fifth sessions of UNCITRAL (A/CN.9/59 para. 12 and A/CN.9/71 paras. 9 and 10). IMCO continues to participate in the work of UNCITRAL on this subject.

[E. International Monetary Fund (IMF)]¹²

International negotiable instruments

18. Members of the staff of the Fund have been participating in work in respect to a draft uniform law on international bills of exchange and promissory notes which is under preparation by UNCITRAL.¹³

¹⁰ A/CN.9/63/Add.1; UNCITRAL Yearbook, vol. III: 1972, part two, IV, annex.

¹¹ A/CN.9/76/Add.1, reproduced in this volume, part two, IV, 4, above.

¹² The activities of the IMF in the area of training and assistance were set out in the report of the Secretary-General, submitted to the fifth session of UNCITRAL, on training and assistance in the field of international trade law (A/CN.9/65, para. 12 (d)).

¹³ For participation of international organizations in the preparation of the draft uniform law, see A/CN.9/WG.IV/WP.2, introduction at para. 3, note 6 and A/CN.9/77, para. 5, reproduced in this volume, part two, II, 1, above.

⁷ Resolution 20 (S-II), contained in document TD/B/C.4/100.

⁸ E/RES/1734(LIV).

⁹ Resolution No. 7, contained in the report of the Third Main Committee of the United Nations/IMCO Conference on International Container Traffic, document E/CONF.59/39/Rev.1.

II. INTERGOVERNMENTAL ORGANIZATIONS

A. Asian-African Legal Consultative Committee

Uniform rules governing the international sale of goods

19. This topic was included in the programme of work of this Committee in 1969 at the suggestion of the Governments of Ghana and India. Since then it has been on the agenda of the Committee's annual sessions and considerable discussion on this item took place at the Committee's sessions held at Accra in 1970 and at Colombo in 1971. It has now been entrusted to a Standing Sub-Committee composed of Japan, India, Nigeria, Ghana, Egypt, Pakistan and Sri Lanka for detailed consideration. The subject was taken up by the Sub-Committee during the fourteenth session of the Committee held at New Delhi from 10 to 18 January 1973. The work of UNCITRAL on this subject was reviewed. The Sub-Committee considered the revised text of articles 1-55 of the Uniform Law on the International Sale of Goods contained in document A/CN.9/62/Add.2,* as prepared by the Working Group of UNCITRAL. It was noted that no final decision had been taken on number of articles in the revised text. The Sub-Committee therefore considered it premature to discuss the revised text, and postponed consideration of the matter until the revised text had reached a greater degree of finality.

Prescription (limitation) in the international sale of goods

20. A study of the UNCITRAL draft convention on prescription (limitation) in the international sale of goods was prepared by the secretariat (Brief of documents on international sale of goods, fourteenth session); during the fourteenth session of the Committee the Standing Sub-Committee considered this draft convention in detail. The observer for UNCITRAL was present and the commentary prepared by the UNCITRAL secretariat on the draft convention (A/CN.9/73)** was also placed before the Sub-Committee. The Sub-Committee presented a report to the Committee which included general approval of the approach of the draft convention as a workable compromise subject to certain specific suggestions with regard to the revision of the text of the draft convention. This report is now being circulated for comments to all member States and other States of the Asian-African region. Any relevant comments received from member States will be analysed and forwarded to the UNCITRAL secretariat.

General conditions of sale

21. A draft standard form of FOB contract for use by buyers and sellers of commodities of the Asian-African region has been prepared (Brief of documents on international sale of goods, thirteenth session, Lagos). The full account of this work is contained in the report

* UNCITRAL Yearbook, vol. III: 1972, part two, I, A, 5, annex III.

** UNCITRAL Yearbook, vol. III: 1972, part two, I, B, 3.

submitted to the fifth session of UNCITRAL (A/CN.9/71, paras. 12 and 13). Further comments from Governments on this project have been received and it is hoped that another draft of a standard contract dealing with the buying and selling of plant and machinery will be prepared by the secretariat during the coming year.

International negotiable instruments

22. The Committee has not taken up this subject for consideration as it is still under detailed consideration by the UNCITRAL Working Group on International Negotiable Instruments. At an appropriate stage it is the intention of the Committee to consider the final proposals made by UNCITRAL and to assist member Governments with comments and suggestions.

International commercial arbitration

23. An outline study on this subject dealing with specific topics of special interest to the Asian-African region has been prepared by the secretariat and has been circulated to member Governments. Collection of material in regard to the study is in progress and it is hoped to complete certain portions of the subject this year. It will then be submitted for consideration to member Governments.

International legislation on shipping

24. The subject of bills of lading together with the work done by UNCITRAL on this topic, is under detailed consideration. The secretariat also expects to complete a study on liner conferences.

B. Asian Development Bank

Credit and security arrangements

25. For the past three years the Bank has been associated with the Law Association of Asia and the Western Pacific (LAWASIA) in a project involving a study of the credit and security arrangements available to national development banks and similar financial institutions situated in certain member countries. All work on the project is completed except for the country report on Australia and the final integrated report, which are expected to be finalized in about April of this year. The publication of the first volume of the reports is expected soon.

C. Bank for International Settlements

International negotiable instruments

26. The Bank has been participating in work in respect to a draft uniform law on international bills of exchange and promissory notes which is being prepared by UNCITRAL.¹⁴

¹⁴ For participation of international organizations in the preparation of the draft uniform law, see A/CN.9/WG.IV/WP.2, introduction, para. 3, note 6 and A/CN.9/77, para. 3, reproduced in this volume, part two, II, 1, above.

D. Commission of the European communities (EEC)

Instalment sales

27. Work on this subject has been described in the reports submitted to the fourth and fifth sessions of UNCITRAL (A/CN.9/59, para. 18 and A/CN.9/71, para. 16).

Guaranties and securities

28. Earlier stages of work on this subject are described in the report to the fifth session of UNCITRAL (A/CN.9/71, para. 18). The Community has published a comparative law study which has served as a basis for the work in progress on suretyship and personal sureties, under the title: Harmonization of legislation, 1971, number 14. Security interests in real and personal property are also presently the subject of preparatory work.

Commercial arbitration

29. The Commission has recently presented a draft relating to arbitration of disputes resulting from the making and performance of public contracts financed by the European Development Fund.

Multinational corporations

30. A Convention on Mutual Recognition of Companies and Legal Entities was signed by the six original member States of the EEC on 29 February 1968. The legal basis for this Convention is found in article 220 of the Treaty Establishing the European Economic Community (EEC Treaty).

31. A draft convention on international merger of private companies has been prepared. The legal basis for this draft convention is also found in article 220 of the EEC Treaty.

32. On 30 June 1970 a proposal was made concerning a regulation of the Council bearing on the status of private European companies. The proposal was in reference to article 235 of the EEC Treaty.

Commercial agency

33. Earlier stages of work on this subject were described in a report to the fourth session of UNCITRAL (A/CN.9/59, para. 20). A directive concerning the status of commercial agents in the Community is now in the course of preparation.

Bankruptcy

34. Work on the draft convention on bankruptcy and analogous procedures was described in the report submitted to the fifth session of UNCITRAL (A/CN.9/71, para. 17).

E. Council of Europe

International aspects of the legal protection of the rights of creditors

35. This subject has been examined by the European Committee on Legal Co-operation (CCJ) at its meeting

in December 1972. Earlier stages of the project are described in the reports submitted at the fourth and fifth sessions of UNCITRAL (A/CN.9/59, para. 21 and A/CN.9/71, para. 19). Having considered the activities in progress under the aegis of the European Community on the subject the CCJ decided not to take an official position on the subject for the time being. The Committee will await a study at the 8th Conference of European Ministers of Justice on the future role of the Council of Europe in this domain and, in particular, the problems presented by the overlapping of activities of international organizations.

Harmonization of certain rules relating to the place of payment in matters of money liabilities

36. Earlier stages in the preparation of the European Convention on the place for Payment in Matters of Money Liabilities were described in the reports submitted to earlier sessions of UNCITRAL (A/CN.9/59, para. 22, and A/CN.9/71, para. 20). The Convention was opened for signature by member States in May 1972 and has been signed by Austria, the Federal Republic of Germany, and the Netherlands.

Uniform rules in the field of "time limits"

37. Earlier stages of work on "time limits" and related areas were described in the reports submitted to the fourth and fifth sessions of UNCITRAL (A/CN.9/59, para. 23, and A/CN.9/71, paras. 21 and 22). The European Convention on the Computation of Time-Limits, was opened for signature on 16 May 1972 and has been signed by Austria, France, Belgium, the Federal Republic of Germany, Italy, Luxembourg and Sweden.

38. Work is also in progress in the matters of extinctive prescription. A sub-committee of CCJ has been assigned to study, in the light of the UNCITRAL Draft Convention on Prescription (Limitation) in the International Sale of Goods, the draft rules to extinctive prescription in civil and commercial matters—a draft prepared by the sub-committee of the CCJ in charge of harmonizing basic legal concepts—with a view to possible harmonization of the two drafts.

Recognition and enforcement of foreign judgements in private and commercial matters

39. Earlier stages of work on the preparation of a guide of practice on the subject have been described in the reports submitted at the fourth and fifth sessions of UNCITRAL (A/CN.9/59, para. 24, and A/CN.9/71, para. 23). The guide is still in the course of preparation and it is expected that the CCJ will, at its meeting in December 1973, be called on to examine the official text of the guide with a view to authorizing its publication.

Harmonization of rules on investment funds

40. Earlier stages of work on this subject were described in the reports to UNCITRAL at the fourth and fifth sessions (A/CN.9/59, para. 26, and A/CN.9/71, para. 24). On 19 September 1972 the Committee of Ministers adopted its resolution (72) 28 relating to in-

vestment funds (national). On 12 December 1972 the Committee adopted resolution (72) 50 relating to foreign institutions for collective investment.

Manufacturer's liability

41. Earlier stages of work on this subject were described in the report to the fifth session of UNCITRAL (A/CN.9/71, para. 25). The committee of experts established by the CCJ, held its first meeting in November 1972. After a general examination of the problem, the committee drew up an evaluation of all the questions which have arisen within the framework of its authority (i.e., to propose measures with a view towards harmonizing the substantive laws of the member States). The general tendency shown by the work of the first meeting was in favour of establishing a system of objective liability which takes into consideration the interests of both consumers and manufacturers.

F. Council for Mutual Economic Assistance (CMEA)

Convention on the Settlement by Arbitration of Civil Law Disputes Arising out of Relations Concerned with Economic, Scientific and Technological Co-operation

42. The above Convention, which was described in the report submitted at the fifth session of UNCITRAL (A/CN.9/71, para. 26), was signed by the CMEA member countries in Moscow on 26 May 1972 and has been ratified by Bulgaria, the German Democratic Republic, Hungary and Mongolia. The Convention will enter into force on the 90th day following the date of the deposit of the fifth instrument of ratification.

Uniform rules for arbitration courts

43. In January 1972 the Executive Committee of CMEA directed the Legal Conference of Representatives of CMEA member countries to prepare draft uniform rules for arbitration courts attached to the Chambers of Commerce of the member countries of CMEA. These rules are to cover such matters as the harmonization and unification of certain rules pertaining to such courts. The first draft of the uniform arbitration court statute has been prepared. This draft includes uniform rules relating to the following questions: the competence of arbitration courts; their working procedures; the composition of arbitration courts; the order of and time limitations in respect of arbitration proceedings; court fees for arbitration; the expenses of the arbitration body and costs borne by the parties. It is anticipated that the final text of the uniform arbitration court statute will be ready by the end of 1973.

Model provisions concerning conditions for the establishment and activities of international economic organizations in member countries of CMEA

44. The Model Provisions were prepared by the Legal Conference of representatives of CMEA member countries and were approved by the Executive Committee in January 1973. The Model Provisions contain uniform rules concerning the establishment, membership, organ-

izational structure and legal status of the property and economic activities of international economic organizations (enterprises, combines, central profit-and-loss accounting boards, scientific research and project design organizations, foreign trade organizations and other legal entities which, in conformity with the law of their countries, engage in economic activities in their own name and assume liability therefor. It is intended that the member countries of CMEA will take the Model Provisions into consideration, to the extent they see fit, in establishing international economic organizations by international agreements and in drafting national normative acts concerning matters relating to the establishment and activities of such organizations.

General conditions of servicing and assembly

45. Earlier stages of the work of CMEA in this field were described in the report submitted at the fifth session of UNCITRAL (A/CN.9/71, para. 30). CMEA's Standing Commission on Foreign Trade submitted proposals on this subject to the Council's Executive Committee for its consideration. These proposals are designed to make these general conditions responsive to the growing demands for technical servicing of machines and equipment delivered in trade among the member countries of CMEA, particularly by defining more clearly the rights and obligations of sellers and buyers, and by including the obligations of the sellers of machinery and equipment in respect of spare parts.

General conditions of delivery of goods between organizations of the member countries of CMEA

46. On instructions from the Executive Committee of CMEA, the Legal Conference of representatives of CMEA member countries is continuing work on the preparation of unified rules with respect to the substantive responsibility of economic organizations for non-performance or inadequate performance of mutual obligations; it is expected that these rules will be included in the General Conditions of Delivery, CMEA, 1968.

International legislation on shipping

47. Earlier stages of work in this field were described in the report submitted to the fifth session of UNCITRAL (A/CN.9/71, paras. 28 and 29). The General Conditions for the reciprocal provision of marine tonnage and foreign trade cargoes of member countries of CMEA (drafted by the Conference of Managers of Chartering and Shipowning Organizations of Member Countries of CMEA) were approved in September 1972 by the CMEA Standing Commission on Transport. The General Conditions are to be applied in all relations between the appropriate agencies or organizations of the member countries of CMEA in conducting negotiations, signing protocols and agreements and concluding contracts and separate contractual arrangements relating to the provision of marine tonnage which may be supplied for the purpose of loading foreign trade cargoes after 31 December 1972. The Standing Commission on Transport is preparing a draft multipartite agreement on the joint use of containers in international shipping.

Legal protection of intellectual property

48. An agreement on the legal protection of inventions, industrial and generally useful designs and trademarks, in relation to economic, scientific and technical co-operation, is being drafted by the Conference of Directors of Patent Offices of the Member Countries of CMEA.

G. *Inter-American Juridical Committee
(Organization of American States)*

The Inter-American Specialized Conference on Private International Law

49. Earlier stages of work by the Committee were described in the report submitted at the previous session of UNCITRAL (A/CN.9/71, paras. 36 and 37). The general secretariat of the Organization of American States is preparing the above-mentioned Conference convoked by resolution AG/RES.48 (1-0/71). The Conference is to be held prior to 1974. Among the subjects on the agenda are the following: international buying and selling of commodities, bills of exchange, cheques and promissory notes of international circulation, international commercial arbitration, and international maritime transport with special reference to bills of lading.¹⁵

H. *The International Bank for
Economic Co-operation (IBEC)*

*International payments*¹⁶

50. The Bank submitted information on recent modifications made with respect to trade settlements in transferable roubles between the eight member countries of the Council for Mutual Economic Assistance, which are also members of IBEC.

I. *International Institute for the Unification
of Private Law (UNIDROIT)*

The progressive codification of the law of contracts

51. A preliminary report on the possibilities of unifying the rules of law concerning the formation of contracts and their conditions of validity was presented to the Governing Council of UNIDROIT by Prof. Popescu, Rapporteur, in May 1972 (document U.D.P. 1972 — Etudes: L — Droit des obligations, Doc. 3). The Governing Council requested the secretariat of UNIDROIT to continue with this preliminary research and to prepare a study of comparative law on the non-performance of contracts and the sanctions for non-performance. This study is being prepared.

¹⁵ For participation in the preparation of the draft uniform law on international bills of exchange and promissory notes which is undertaken by UNCITRAL, see A/CN.9/WG.IV/WP.2, introduction, para. 3, note 6 and A/CN.9/77, para. 3; reproduced in this volume, part two, II, 1, above.

¹⁶ For participants in the preparation of the draft uniform law, see *ibid.*

The preliminary draft law for the unification of certain rules relating to validity of contracts of international sale of goods

52. The Governing Council of UNIDROIT revised and approved the above-mentioned preliminary draft law together with the explanatory report prepared by the Max-Planck Institut für ausländisches und internationales Privatrecht (document U.D.P. 1072 — Etudes XVI/B—Doc. 20 et 21). This draft which comprises 16 articles, is a complement to ULIS and regulates the régime of avoidance for mistake, fraud and threat. It will be distributed at the next session of UNCITRAL.

Draft uniform law on the protection of the bona-fide purchaser of goods

53. This draft of 11 articles, elaborated by a Working Committee and approved in 1968 by UNIDROIT's Governing Council, sets out a certain number of rules aimed at ensuring the protection of the *bona fide* purchaser should the seller not have the right to sell the goods concerned. The text and an explanatory report of this draft (document U.D.P. 1968—Etude XLV, Doc. 37) have been sent to the Governments of the member States of UNIDROIT which were invited to express their opinion on the subject. Their observations will be examined by a committee of governmental experts which will meet in June 1973. In the event of an agreement on the revised text, this draft could be presented before a diplomatic conference for the elaboration of a convention.

Draft uniform law on agency of an international character in the sale and purchase of goods

54. This draft is the result of extended study. It was revised by a Committee of governmental experts which amalgamated two drafts previously drawn up by Working committees. This draft comprises 37 articles and defines the legal relationships deriving from the contract of agency (including the contract of "commission") between the principal, the agent and the contracting party. Its sphere of application is limited to agency for the sale of goods. A diplomatic conference to finalize the draft into a convention could be convened in the near future.

The legal status of air-cushion propelled vehicles (especially sea-going vehicles, e.g. hovercraft and naviplanes)

55. UNIDROIT has studied the situation of the law in different countries on this subject. The results obtained through this study are being examined and will shortly be laid before a working party. The working party will present a programme for international legislation to a committee of governmental experts. This programme will be elaborated with the collaboration of the Inter-Governmental Maritime Consultative Organization.

The transport of live animals

56. On behalf of UNCITRAL and within the framework of the UNCITRAL Working Group on Inter-

national Legislation on Shipping, the secretariat of UNIDROIT undertook a study of the problems connected with the transport of live animals and, in particular, of conditions in which the transport of live animals could be included in the sphere of application of the Hague Rules.

River transport

57. In close collaboration with the Economic Commission for Europe of the United Nations, UNIDROIT is progressing in the elaboration of conventions on river transport: the contract for the carriage of passengers and luggage by inland waterway (C.V.N.); the limitation of the liability of boat owners (C.L.N.); the contract for the carriage of goods by inland waterway (C.M.N.).

Road transport

58. On behalf of the United Nations Economic Commission for Europe, UNIDROIT prepared a preliminary draft convention relating to the contract for the international carriage of passengers and luggage by road (C.V.R.). The work on this subject which is now being done by the ECE/UN Inland Transport Committee is based on this text.

III. INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS

A. *International Chamber of Commerce (ICC)*

International sale of goods

59. The ICC is continuing the work on this subject as described in the reports submitted at the fourth and fifth sessions of UNCITRAL (A/CN.9/59, para. 43, and A/CN.9/71, para. 63).

International payments

60. The ICC is continuing the work outlined in the report submitted at the fifth session of UNCITRAL (A/CN.9/71, para. 64). On the subject of documentary credits, the ICC has completed a first draft revision of its uniform customs and practices for documentary credits (Brochure No. 222). The documents have been distributed for consideration and comment to the ICC national committees and to interested circles in countries not represented in ICC through the UNCITRAL secretariat.

International commercial arbitration

61. The ICC is (a) examining the results of the IVth International Arbitration Congress (Moscow, 1972) and (b) continuing studies for a revision of its Rules of Conciliation and Arbitration.

International legislation on shipping

62. Earlier stages of work on this subject were described in the reports submitted at the fourth and fifth sessions of UNCITRAL (A/CN.9/59, paras. 45

and 46, and A/CN.9/71, para. 66). The ICC's International Bureau of Transport Users has submitted a reply to the UNCITRAL's questionnaire of June 1972 on the revision of the Brussels Convention of 1924.¹⁷

Agency

63. The ICC continues to participate in the studies and meetings of UNIDROIT on the subject.

B. *International Union of Marine Insurance (IUMI)*

International legislation on shipping

64. The Union participates in the work of UNCITRAL on the subject, and also attends meetings of related sessions of the Economic and Social Council, UNCTAD, and ECE/IMCO. Among the recent publications of the Union are "Summary of Arguments in Support of the Current System of Risk Allocation between Carrier and Cargo Owner" by the Carriers Liability Committee (October 1972) and "Time-Bar on Cargo Claims" by the Cargo Loss Prevention Committee (December 1969). The Union has also published in several languages "Tables of Practical Equivalents" of cargo insurance clauses which are used in many marine insurance markets. It is hoped that this publication will assist banks, carriers and consignees as well as Governments as a reference book.

65. The subject of general average, which establishes specific responsibilities for marine insurance, has been on the agenda of the Union for many years, and several significant reports have been submitted to its annual conference.

C. *International Law Association (ILA)*

International commercial arbitration

66. The Committee on International Commercial Arbitration continues to work on the development of methods to increase the use of arbitration for the settlement of disputes arising out of government contracts with foreign-owned firms.

Foreign investments in the developing countries

67. The study of this subject has been carried on by the Committee on Foreign Investments in the Developing Countries. The final revised text of a model contract for the establishment by foreign capital of textile enterprises in a developing country will be submitted to the 56th Conference.

Extra-territorial application of restrictive trade legislation

68. The ILA, at its 55th Conference in August 1972, adopted certain principles of international law as guidelines to the resolution of problems concerning the assumption and exercise of jurisdiction by States in connexion with restrictive trade practices.

¹⁷ This reply is contained in document A/CN.9/WG.III/WP.10/Add.2.