

VIII. ACTIVITIES OF OTHER ORGANIZATIONS

Report of the Secretary-General on current activities of international organizations related to the harmonization and unification of international trade law (A/CN.9/106)*

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), at the fifth session in 1972 (A/CN.9/71), at the sixth session in 1973 (A/CN.9/82), and at the seventh session in 1974 (A/CN.9/94 and Add.1-2). The present report, prepared for the eighth session (1975), 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 Some of the international organizations, whose activities were described in the earlier reports to the Commission, either did not submit statements as to their current activities or reported that they were not currently engaged in work related to the work programme of the Commission.

I. UNITED NATIONS ORGANS AND SPECIALIZED AGENCIES

A. UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE (ECE)

General conditions of sale, standard contracts and standard trade terms

(a) *ECE General Conditions of Sale, established before 1970*

3. At its sixth session in 1973 the Group of Experts on International Contract Practices in Industry was

informed of the decision taken by UNCITRAL to concentrate its work on the study of uniform general conditions and to defer final action on the promotion of the general conditions of sale drawn up under the auspices of ECE.

4. In the course of the discussion in the Group of Experts the view was expressed that, while the preparation of uniform general conditions might certainly be useful, such conditions serve a different purpose from that of the ECE general conditions, which are adapted to the requirements of special products or groups of products, e.g. plant and machinery. It was therefore decided that an attempt should be made to promote the use of the general conditions in regions other than Europe. It was suggested that this could be carried out in stages, beginning in Asia and the Far East where the UNCITRAL investigation had indicated that there was an interest in certain States. The Executive Secretary of ECE was asked to draw the attention of the Executive Secretary of the Economic and Social Commission for Asia and the Pacific (ESCAP) to this problem. The Executive Secretaries of the other regional commissions have also been informed about the views expressed by the Group of Experts and will be kept continuously informed about the action taken in other regions.

5. Furthermore, the ECE Group of Experts has been informed that the Asian-African Legal Consultative Committee is reviewing the ECE General Conditions with a view to a later discussion and comparison of all relevant texts at a joint meeting convened by the Asian-African Legal Committee, in which experts from the ECE region would participate, to be held late in 1975 or early in 1976.

Documentation:

Report of the Group of Experts on International Contract Practices in Industry on the sixth session, TRADE/GE.1/25.

Idem, report on the seventh session, TRADE/GE.1/27.

Measures to make the ECE General Conditions in the 188/574 series better known and more widely accepted; note by the secretariat, TRADE/GE.1/R.7.

26-189 (UNCITRAL Yearbook, vol. I: 1968-1970, 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).

* 1 April 1975.

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 at the fourth UNCITRAL session (A/CN.9/59), the fifth session (A/CN.9/71), the sixth session (A/CN.9/82; UNCITRAL Yearbook, vol. IV: 1973, part two, II, V) and the seventh session (A/CN.9/94 and Add.1-2; UNCITRAL Yearbook, vol. V: 1974, part two, II, V) and in the following: *Digest of legal activities of international organizations and other international institutions*, published by the International Institute of Private Law (UNIDROIT); *Progressive development of the law of international trade*, report of the Secretary-General (1966), *Official Records of the General Assembly, Twenty-first Session, Annexes*, agenda item 88, document A/6396, paras.

(b) *ECE General Conditions of Sale, established after 1970 (fruit and vegetables)*

6. UNCITRAL has been kept regularly informed about progress in the work on the general conditions of sale for international dealings in certain fruits and vegetables, and the rules of survey (valuation) pertaining thereto, that has been undertaken by the Group of Experts on International Trade Practices relating to Agricultural Products. Seven different texts have now been agreed since the work started in 1969 and have been put at the disposal of European traders and trade organizations dealing in the relevant products. They are as follows:

General Conditions for International Dealings in Fresh Fruit and Vegetables AGRI/WP.1/GE.7/35

Rules of Survey (Valuation) in Fresh Fruit and Vegetables AGRI/WP.1/GE.7/35/Add.1

Special Provisions Applicable to Citrus Fruit AGRI/WP.1/GE.7/35/Add.2

General Conditions for International Dealing in Potatoes AGRI/WP.1/GE.7/42

Rules of Valuation for Potatoes AGRI/WP.1/GE.7/42/Add.1

General Conditions for International Dealings in Dry Fruit (Shelled and Unshelled) AGRI/WP.1/GE.7/53

Rules of Survey for Dry and Dried Fruit AGRI/WP.1/GE.7/53/Add.1.

7. The Group of Experts is presently working on draft United Nations/ECE arbitration rules for international dealings in the products mentioned above. At a meeting in 1976 the seven texts that have been agreed will be studied with a view to harmonizing certain parts that are common to all of them.

(c) *Guide for drawing up contracts on industrial co-operation*

8. In 1974 the Group of Experts on International Contract Practices in Industry continued its work on a draft guide for drawing up contracts on industrial co-operation.

(d) *Standard trade terms*

9. After consultations with the International Chamber of Commerce the ECE Working Party on Facilitation of International Trade Procedures⁴ adopted a Recommendation in October 1974 on standard abbreviations of "INCOTERMS 1953" to be used temporarily also for coding purposes (document TRADE/WP.4/INF.34).

International commercial arbitration

10. See paragraph 7 above.

Projects in related areas of international trade law

11. The Working Party on Facilitation of International Trade Procedures also agreed on a questionnaire, sent to ECE Governments in January 1975, on

⁴ The Working Party is a subsidiary body of the Committee on the Development of Trade which is a principal subsidiary body of the Commission.

signatures in external trade documents and transmission or production of signatures by automated means (document TRADE/WP.4/GE.2/R.28). On the basis of the replies received the Working Party's Group of Experts on Data Requirements and Documentation will initiate work on the item of the Working Party's work programme entitled: "Purpose and modalities of signature in international trade documents".

12. Many international governmental and non-governmental organizations participate in the work of the Working Party and its two groups of experts. At its third session in October 1974 the following international bodies were represented:

Inter-Governmental Maritime Consultative Organization (IMCO), General Agreement on Tariffs and Trade (GATT), Central Office for International Railway Transport (OCTI), International Chamber of Commerce (ICC), International Air Transport Association (IATA), International Organization for Standardization (ISO), International Union of Railways (UIC), International Chamber of Shipping (ICS), International Federation of Forwarding Agents Associations (FIATA). Staff officials of the Council for Mutual Economic Assistance (CMEA), European Communities (EC) and the European Free Trade Association (EFTA) also took part at the invitation of the secretariat.

The method of "Reference to standards"

13. The ECE secretariat also draws UNCITRAL's attention to a recommendation which does not relate directly to a project of international trade law, but is a new method of harmonizing certain parts of national legislation. This is the method of making reference in national regulations to standards, the text of which has been agreed multilaterally, i.e. international standards adopted by governmental or non-governmental international organizations. The recommendation was adopted by the Third Meeting of Government Officials Responsible for Standardization Policies in June 1974 (document ECE/STAND/14, annex II). The fourth meeting is expected to take place in 1976. A Group of Experts on Standardization Policies prepares the meetings at sessions held once or twice a year.

14. The method of "reference to standards" has been defined as: "a method of drafting a regulation in such a way that a detailed statement of technical specifications is replaced in the text by referring to one or more standards". The term "regulation" used in the present context means a binding document which contains legislative, regulatory or administrative rules and which is adopted and published by an authority legally vested with the necessary power".

B. UNITED NATIONS ECONOMIC COMMISSION FOR LATIN AMERICA (ECLA)

International land transport in South America

15. The Economic Commission for Latin America has recently completed a project undertaken jointly with the Institute for Latin American Integration (INTAL) of the Interamerican Development Bank to analyse the problems and possibilities of establishing regular and efficient land transport services between the southern

Andean countries (Bolivia, Chile and Peru) and the River Plate countries (Argentina, Brazil, Paraguay, and Uruguay). Special attention was given to legal requirements and administrative procedures which affect railway and highway cargo movements between the two subregions, including those applied by transit countries. The project report includes an analysis of the two multinational highway transport conventions in South America: that applied to transport among Argentina, Brazil, Chile, Paraguay, and Uruguay and that embodied in Decision 56 of the Commission of the Agreement of Cartagena for application among Bolivia, Chile, Colombia, Ecuador, Peru, and Venezuela.

16. The preliminary version of the report of the joint project was published in September 1974 with the title, *Servicios de transporte terrestre internacional en los corredores Lima-Buenos Aires y Lima-Sao Paulo* (E/CN.12/L.107).

17. As a complement to its work on the joint project, ECLA has collaborated closely with the Latin American Railways Association (ALAF) on the preparation of a draft convention for multinational railway transport in South America which should be finalized during 1975.

18. ECLA is presently beginning work on a new project, similar to that carried out in collaboration with INTAL, which would analyse land transport problems in the Andean corridor from Chile to Venezuela.

International intermodal transport

19. The Economic Commission for Latin America has been active in advising the Latin American countries on the preparation of a Convention on International Intermodal Transport. The Commission has carried out a number of interrelated activities, including attending national and subregional seminars and meetings affecting the majority of Latin American countries, providing documentation and advice to the national intersectorial working groups on international intermodal transport, soliciting and publishing articles on specific technical aspects of the problems by Latin American experts in commercial and transport law. These activities have been set out by the Latin American Group of the Intergovernmental Preparatory Group on a Convention on International Intermodal Transport (Geneva, October 1973 and November, 1974), and by the First Meeting of Latin American Governments on the preparation of a Convention on International Intermodal Transport (Mar del Plata, Argentina, October 1974). At the present time, the focus of attention of the region is on the liability and insurance aspects of intermodal transport and on the preparation of a standardized intermodal document consistent in format with international norms and in content with the social and economic objectives of the region. A second meeting of Latin American Governments will be held to consider the results of the work of the Commission on these subjects and to prepare more definite proposals regarding the Convention.

The pertinent documents prepared by the Commission include the following:

Economic and institutional implications of the new transport technologies in Latin America, E/CEPAL/L.113, 17 September 1974

Institutional aspects of international intermodal transport, E/CEPAL/L.111, 17 September 1974

Liability and insurance in international intermodal transport, E/CEPAL/L.112, 17 September 1974

Documentation forms relevant to international intermodal transport, E/CEPAL/L.114, 4 October 1974

Intermodal transport in the Caribbean region, 1973, ECLA/POS 74/75, 27 May 1974

Informe del Relator, Reunion regional de expertos en seguros de transporte (Mexico, 28-31 January 1975).

Transnational enterprises

20. The ECLA secretariat has initiated a study on transnational enterprises in some Latin American industries (bauxite, bananas and manufactures). This study will be carried out in a number of countries representative of the region with the co-operation of official bodies and will deal with the subsidiaries of transnational enterprises. Its main object will be to assess the impact of the activities of such enterprises on the economic development of the countries concerned, with particular reference to effects of major importance for the policies of Latin American countries, such as effects on employment, labour productivity, consumption, distribution of income, utilization of local resources and balance of trade. Working assumptions and methods have been formulated for this study, which for certain countries is to be completed in the course of 1975 so as to enable the first report to be submitted by the end of this year.

21. The ECLA secretariat is also preparing a preliminary report on the activities of transnational enterprises in Latin American manufacturing industries during the 1960s; the report will deal with principal investor and beneficiary countries, distribution of capital by sector and other important aspects.

C. INTERNATIONAL CIVIL AVIATION ORGANIZATION (ICAO)

Revision of the Warsaw Convention of 1929 as amended by the Hague Protocol of 1955: documentation; carrier's liability

22. The early stages of ICAO work on revision of the Warsaw Convention of 1929, as amended by the Hague Protocol of 1955, were described in the report submitted to UNCITRAL at its sixth session (A/CN.9/82, para. 6).*

23. The Legal Committee of ICAO, at its 21st session held at Montreal 3-22 October 1974, approved draft articles on documentation related to cargo and to the system of the carrier's liability (document 9122; LC/172). The Council of ICAO decided to convene a diplomatic conference, to be held at Montreal next September, to consider these draft articles with a view towards adoption of a further protocol to the Warsaw Convention of 1929.

* UNCITRAL Yearbook, vol. IV; 1973, part one, II, B.

D. UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD)

Activities in the field of international shipping legislation

(a) *International intermodal transport*

24. The 58-member Intergovernmental Preparatory Group on a Convention on International Intermodal Transport held its second session at the Palais des Nations, Geneva, from 11 to 24 November 1974.

25. The Intergovernmental Preparatory Group was established by the Trade and Development Board on 10 May 1973 in Board decision 96 (XII), in response to the request by the Economic and Social Council, paragraph 2 of its resolution 1734 (LIV) of 10 January 1973.

26. During the first session of the Intergovernmental Preparatory Group held in Geneva from 29 October to 2 November 1973, the UNCTAD secretariat was requested to prepare reports on certain aspects of international intermodal transport, namely: institutional aspects; documentary; insurance and liability; customs; the scope of application of the rules on international intermodal transport; and other related legal aspects. The reports are contained in documents TD/B/AC.15/7 and TD/B/AC.15/7/Add.1-7; TD/B/AC.15/L.9 and TD/B/AC.15/L.11.

27. These reports were discussed at the second session and it was decided that further in-depth studies by the UNCTAD secretariat on the technical, economic, legal and institutional implications of intermodal transport operations were necessary before the Group could adopt firm decisions on the issues before them. It was contemplated that in some areas drafting might commence at the third session, and that a fourth session in the latter part of 1976 would be required (document TD/B/533 dated 31 December 1974 contains the report of the second session of the Group).

(b) *Charter-parties*

28. The Working Group on International Shipping Legislation held its fourth session at the Palais des Nations, Geneva, from 27 January to 7 February 1975. For its discussion, the Working Group had before it the UNCTAD report entitled "Charter-parties" (TD/B/C.4/ISL/13).

29. The main discussion by the Working Group focused on the UNCTAD secretariat recommendations: (a) that with respect to the most important clauses in charter-parties a review should be made with a view to standardization, harmonization and improvement; (b) that the basic responsibility of the carrier under a charter-party to provide a seaworthy ship, his responsibility for loss, damage or delay of goods should be subject to the same international mandatory legislation as was applicable to liner trade carriers.

30. The Working Group felt that the task of identification and selection of clauses for standardization, harmonization or improvement required further study. It therefore considered that if it were to make significant progress on charter-parties within the framework of its programme of work, it would have to seek further

assistance from the UNCTAD secretariat. The Working Group requested the UNCTAD secretariat to carry out two major studies: (a) a comparative analysis of clauses based on three main time charter contracts and (b) a similar comparative analysis of clauses in voyage charter contracts.

31. Based on these studies the UNCTAD secretariat would prepare and submit additional material which would assist the Working Group to identify which of the main clauses on time and voyage charter-parties are susceptible to standardization, harmonization and improvement and to select areas in chartering activities that may be suitable for international legislative action.

(c) *Co-operation with UNCITRAL*

32. Members of the UNCTAD Shipping Legislation Section assisted the UNCITRAL secretariat in servicing the seventh session of the UNCITRAL Working Group on International Legislation on Shipping.

33. The Chief of the UNCTAD Shipping Legislation Section attended the seventh and eighth sessions of the UNCITRAL Working Group on International Legislation on Shipping.

(d) *Attendance at conferences*

34. The Lebanese National Committee of the International Chamber of Commerce invited a member of the UNCTAD Shipping Branch to participate in a round table discussion on transport by containers and combined transport. The subject of combined transport, sometimes referred to as intermodal transport, is of interest to UNCTAD since it is under the auspices of UNCTAD that the convention on international intermodal transport is being elaborated.

(e) *Technical assistance*

35. The UNCTAD secretariat, as part of its programme of technical assistance and in co-operation with other bodies in the United Nations systems, participated in various programmes to assist developing countries in legal matters connected with maritime transport.

E. UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION (UNIDO)

Multinational enterprises

36. UNIDO initiated at the end of 1974, with the help of consultants, a study entitled "The evaluation of multinational projects". The objective of this study is to investigate methods for measuring the distribution of costs and benefits of industries or groups of industries established for regional co-operation purposes.

Contract planning

37. UNIDO published in 1974 a manual entitled "Contract planning and organization" (United Nations publication, Sales No. E.74.II.B.4). UNIDO is currently working on the preparation of "Guidelines for the formulation of contractual agreements for industrial projects".

F. INTERNATIONAL MONETARY FUND (IMF)

International negotiable instruments

38. Members of the staff of the Fund have been participating in the UNCITRAL project to develop a negotiable instrument to be governed by uniform rules for use in international transactions.

39. A preliminary draft uniform law on international bills of exchange (A/CN.9/67) was prepared and submitted to the fifth UNCITRAL session. Thereafter, it was revised to include international promissory notes (A/CN.9/WG.IV/WP.2) and, pursuant to the request of UNCITRAL, was submitted to the Working Group on International Negotiable Instruments for the preparation of a final draft.

Fund staff members have attended meetings held under UNCITRAL auspices concerned with the preparation of questionnaires, the analysis of responses, and the consideration and drafting of provisions of the draft uniform law. Members of the Fund's staff will continue to assist in the preparation by UNCITRAL of a final draft uniform law on international bills of exchange and promissory notes.

G. WORLD BANK (INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT-IBRD)

Procurement training courses

40. In the past few years the International Bank for Reconstruction and Development has taken an active interest in procurement training courses and the curricula and contents thereof for officials in developing countries.

II. INTERGOVERNMENTAL ORGANIZATIONS

A. ASIAN DEVELOPMENT BANK

Credit and security research project

41. For the past four years, the Asian Development Bank has been associated with the Law Association for Asia and the Western Pacific (LAWASIA) in a credit and security research project. This project involves a study of the security arrangements available to national development banks and similar financial institutions situated in the region.

B. BANK FOR INTERNATIONAL SETTLEMENTS

Co-operation with UNCITRAL

42. Through its Legal Advisers, the Bank for International Settlements has participated in various consultative meetings that have been held in connexion with the work on a draft uniform law on international bills of exchange and promissory notes undertaken by the UNCITRAL Working Group on Negotiable Instruments.

43. The Bank for International Settlements has participated in the preliminary work undertaken by UNCITRAL with regard to multinational enterprises. The Bank is also following closely the work of UNCITRAL and other developments in the field of international commercial arbitration.

C. COUNCIL OF EUROPE

Recognition and enforcement of foreign judgements in private and commercial matters

44. The text of a practical guide on this subject has been finalized and is to be published in July 1975.

Liability of producers

45. At its meeting in March 1975, the Committee of Experts was to draw up a draft Convention on civil liability for products. The draft convention is then to be submitted to Governments and to the Legal Affairs Committee of the Consultative Assembly for comments, before being transmitted to the European Committee on Legal Co-operation and the Committee of Ministers for final approval and opening for signature.

Penalty clauses in civil law

46. The Committee of Ministers has set up a Committee of Experts to study the various aspects of the subject and to draw up an international instrument which might take the form of a convention on uniform legislation designed to harmonize the domestic law of member States in this field.

D. COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE (CMEA)

Convention on the application of standards of the Council for Mutual Economic Assistance

47. The Convention was elaborated by the CMEA Standing Commission on Standardization, was approved at the twenty-eighth session of CMEA, and on the recommendation of the session on 21 June 1974 was signed by the CMEA member countries concerned (Bulgaria, Cuba, Czechoslovakia, German Democratic Republic, Hungary, Mongolia, Poland and USSR).

48. The Convention provides, *inter alia*, that member countries shall ensure the compulsory and rigorous application of CMEA standards, elaborated and confirmed by CMEA, through references to those standards in the multilateral and bilateral agreements, treaties and contracts concluded by States parties to the Convention and by their economic organizations on questions of specialization and co-operation in production, reciprocal deliveries and other questions which arise in the process of economic, scientific and technical co-operation between States parties to the Convention.

49. As at 1 February 1975 the Convention had been ratified by Bulgaria, Hungary, the German Democratic Republic, Mongolia, Poland and the USSR, and in accordance with article III the Convention will enter into force on 27 March 1975.

Agreement on general conditions of international carriage of goods by road

50. The Agreement was elaborated by the CMEA Standing Commission on Transport, and on this Commission's recommendation on 29 June 1974 it was signed by the CMEA member countries concerned (Bulgaria, Czechoslovakia, German Democratic Republic, Hungary, Mongolia, Poland and USSR).

51. The Agreement provides that international carriage of goods by road between States parties to the

Agreement shall be performed in accordance with the "General conditions of international carriage of goods by road", which form part of the above-mentioned Agreement. The general conditions regulate, *inter alia*, the procedure for the conclusion and performance of the contract of carriage, the liability of the carrier, questions of claims and actions, carriage performed by successive carriers, the basic principles of a system of international road freight rates, and other matters.

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

52. The Legal Conference of representatives of CMEA member countries worked out proposals for revising the section of the "General conditions of delivery of goods between organizations of the member countries of CMEA" concerning the material responsibility of economic organizations for non-performance or unsatisfactory performance of mutual obligations. In October 1974, these proposals were approved by the CMEA Executive Committee, which entrusted the CMEA Standing Commission on Foreign Trade with the task of making appropriate changes and additions to the CMEA General Conditions of Delivery, 1968, so that the revised General Conditions could enter into force by 1 January 1976.

53. The incorporation in the 1968 General Conditions of the changes and additions approved by the Executive Committee of CMEA will make it possible to broaden the sphere of operation of the unified legal regulation of relations between economic organizations of CMEA member countries in the delivery of goods.

Model licence agreements

54. The Legal Conference worked out a model licence agreement of a general nature, a model licence agreement on the transfer of "know-how", a model licence agreement on the free transfer of scientific and technical findings and a model licence agreement on trade marks. The model agreements cover a wide range of questions concerning the concession of rights to the utilization of certificates of invention, patents and "know-how" needed for the production, utilization and sale of goods under licence, rights to the utilization of trade marks, and also questions concerning the free transfer of scientific and technical findings.

55. These model agreements were approved by the Legal Conference with a view to their utilization by the appropriate organs and organizations of the CMEA member countries at their discretion.

General conditions of specialization and co-operation in production

56. In 1973, the Executive Committee of CMEA approved a report on legal questions connected with the conclusion and implementation of agreements on specialization and co-operation in production.

57. In accordance with a resolution of the Executive Committee, the Legal Conference, on the basis of the provisions of the above-mentioned report and of current practice, is preparing a draft for the uniform regulation of questions concerning the conclusion and implementation of agreements on specialization and co-operation in production. The draft is being prepared in

the form of general conditions concerning agreements for international specialization and co-operation in production.

Uniform legal regulation of organizational and legal questions involved in the establishment and operation of international economic organizations

58. In 1973, the Executive Committee of CMEA approved model provisions on conditions for the establishment and operation of international economic organizations in member countries of CMEA.

59. In accordance with a resolution of the Executive Committee, the Legal Conference, taking into account the above-mentioned "model provisions" and past experience, is preparing a draft for the uniform legal regulation of organizational and legal questions involved in the establishment and operation of international economic organizations in CMEA member countries. It is envisaged that the draft will contain uniform norms on such subjects as the establishment and membership of international economic organizations, property, the organizational structure of associations and joint enterprises, the establishment and operation of international economic associations, and the legal status of workers employed in international economic organizations.

E. COMMISSION OF THE EUROPEAN ECONOMIC COMMUNITIES (EEC)

Abusive clauses

60. The problem of abusive clauses in contracts of adhesion is now the subject of reform projects in several States. In order to prevent further divergencies in the legislation on this matter and to strengthen legal safeguards within the Common Market, the Commission of the European Communities believes that it would be desirable, considering the work that has been done by other international organizations, to issue a directive defining the clauses whose inclusion in contracts and more particularly in general conditions of sale, specifications to be met or any similar regulatory terms would be prohibited or rendered null and void. The achievement of this objective will primarily serve the economically weaker party. It is, moreover, for this reason that the elimination of abusive clauses figures in the preliminary draft programme of the European Communities for consumer protection and information.

Security interests in movables

61. As part of the unification of the rules of conflict in the matter of real rights, the services of the Commission, in co-operation with governmental experts, are preparing uniform rules to allow recognition of security interests in goods moving within the Community. These rules will specify all the movables concerned, the conditions for recognition of preferential rights and security interests, their publicity, their effects and their status in the country of destination in which they are to be enforced.

62. The services of the Commission are also considering the desirability of introducing "European-type" security interests, i.e., of creating equivalent security interests through the legislative processes of the member States.

Law of suretyship

63. With a view to harmonizing the law on contracts of suretyship and contracts of guarantee, work is in progress on the drafting of a directive to change certain provisions in the legislation of the various member States.

64. The draft directive lays down mandatory rules concerning, *inter alia*, the right to stand surety, the form of the commitment of the surety, while respecting commercial usage and current business practices, and the conditions for release from surety.

65. The rules of conflict of laws are being prepared in conjunction with the work being done on private international law.

Multinational enterprises

66. The Commission has not submitted to the Council and is not preparing any directive or other legal instrument on the subject of multinational enterprises. However, many of the Commission's proposals in the field of company law are of direct interest to multinational enterprises and have as one of their aims the creation of a legal framework for the European multinational enterprises. (The problems of these enterprises have been illustrated by the Commission in the communication "Multinational undertakings and community regulations" of 7 November 1973.)

(a) Amended proposal for a fourth Council directive for co-ordination of national legislation regarding the annual accounts of limited liability companies, submitted to the Council on 21 February 1974 (Bulletin of the European Communities, Supplement 6/74).

(b) Proposal for a fifth Council directive for co-ordination of national legislation as regards the structure of public limited liability companies and the powers and obligations of their organs, submitted to the Council on 27 September 1972 (OJ No. C 131, 13 December 1972).

(c) The Commission will during the first part of 1975 submit to the Council an amended proposal for a Statute for the European Company.

(d) The Commission is preparing a proposal for a Council directive on take-over bids.

(e) The Commission is preparing a proposal for a Council directive on consolidated accounts.

(f) The Commission is preparing a proposal for a Council directive on groups of companies.

Products liability

67. The Commission of the European Communities has resumed the work, started in 1968 and interrupted in 1970 because of negotiations for entry, for the approximation of laws relating to "products liability". It established a working group of national experts which held its first meeting from 7 to 9 January 1975. The purpose of the work is to prepare a proposed directive which the Commission would submit to the Council as soon as possible.

68. What makes the approximation of laws in this field of particular importance for the establishment and operation of the Common Market is the fact that such

divergencies between national laws impede the free movement of goods, distort the conditions of competition in the Community, and render consumer protection, which varies in the different member States, almost always inadequate.

F. INTERNATIONAL BANK FOR ECONOMIC CO-OPERATION (IBEC)

Payments in transferable roubles

69. In 1974, the International Bank for Economic Co-operation continued to study matters related to improving the system of payments in transferable roubles for its member countries (the bank has not undertaken any new project relating to the unified rules on matters which might be of interest to UNCITRAL).

70. The most important event in the activities of the bank in 1974 was the accession of the Republic of Cuba to the agreement on multilateral payments in transferable roubles and Cuba's joining of the International Bank for Economic Co-operation as a member. The membership of the Republic of Cuba in the bank was formalized by a decision at the extraordinary 37th meeting of the Bank Council on 22 January 1974 in Moscow.

G. ORGANIZATION OF AMERICAN STATES (OAS)

Inter-American Specialized Conference on Private International Law

71. The Inter-American Specialized Conference on Private International Law, held at Panama City, Republic of Panama, from 14 to 30 January 1975, approved the following three conventions on matters that have been under consideration by UNCITRAL:

(a) Inter-American Convention on Conflict of Laws Concerning Bills of Exchange, Promissory Notes, and Invoices;

(b) Inter-American Convention on Conflict of Laws Concerning Cheques; and

(c) Inter-American Convention on International Commercial Arbitration.

72. The said Conference also approved the following three conventions dealing with questions of international procedural law:

(a) Inter-American Convention on Letters Rogatory;

(b) Inter-American Convention on the Taking of Evidence Abroad; and

(c) Inter-American Convention on the Legal Régime of Powers of Attorney to be Used Abroad.

H. INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW (UNIDROIT)

Progressive codification of the general part of the law of contracts

73. Following the preparation by the secretariat of UNIDROIT of a comparative law study on non-performance of contracts (UDP 1973, Etudes: L-Droit des obligations, document 4), the Governing Council

at its 52nd session in 1973 authorized the continuation of the work in this field and decided to set up a restricted committee of experts with special knowledge of the different common law systems, of the civil law system and of those of the socialist States and, moreover, directly interested in the problems of international trade.

74. This Committee met in Rome on 8 and 9 February 1974 on which occasion it gave particular consideration to two documents prepared by the secretariat, namely a comparative chart showing provisions in existence in some uniform laws and codes on the formation, validity, interpretation, performance and non-performance of contracts (Etudes: L-Document 5, UNIDROIT 1973) and a note concerning the future work of the Committee on unification of the general part of the law of contract within the larger framework of a progressive codification of international trade law (Etudes: L-Document 6, UNIDROIT 1974).

75. The Committee decided that its work should begin with the question of formation and that the first step to be taken should be for the secretariat to circulate to qualified institutions and personalities a revised version of the draft concerning the formation of contracts, based on the uniform law of UNIDROIT, with some adaptations proposed by Professor Popescu, in the framework of a Draft Uniform International Commercial Code (UDP 1972, Etudes: L-Document 3) together with a questionnaire prepared by the secretariat, designed to discover to what extent the above-mentioned draft could prove acceptable as a future uniform law governing the formation of international contracts in general and to elicit suggestions for modifying or completing it.

Draft convention providing a uniform law on the acquisition in good faith of corporeal movables

76. At its third meeting, held in June 1974, a Committee of Government Experts approved the text of a draft uniform law on the acquisition in good faith of corporeal movables. The text of the draft uniform law and the accompanying draft convention (Study XLV, document 56, UNIDROIT 1974) and an explanatory report, prepared by the Rapporteur to the Committee, Professor J. G. Sauveplanne (Study XLV, document 57, UNIDROIT 1974) have been circulated to the member Governments of UNIDROIT and it is hoped that the draft convention will be submitted for the approval of Governments at a diplomatic conference for its adoption in the near future.

Agency

77. The draft Convention providing a uniform law on agency of an international character (Etude XIX, document 55, UDP 1973) should be submitted for the approval of Governments at a diplomatic conference for its adoption in the near future.

Harmonization of the legal régimes relating to the liability of the carrier of goods and persons—Study of the gold clause in international conventions in connexion with transport

78. In the framework of the general theme, included with priority status in the work programme of UNIDROIT by the Governing Council at its 53rd session as a result of a wish expressed at the special Day

on the Unification of Transport Law (Rome, 27 April 1973), the secretariat drew up a report and a questionnaire studying the problem posed by the various monetary units (gold clauses) contained in international conventions, in particular as regards transport, and the conversion of these units into national currencies (Etudes: LVII, document 1/Rev. and document 2, UDP 1973). The first results of the enquiry are to be found in an interim report prepared by the secretariat of UNIDROIT (Study LVII, document 3, UNIDROIT 1974).

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

79. A committee of governmental experts has completed its first reading of a preliminary draft Convention on the Registration and Nationality of Air-Cushion Vehicles. This draft, together with an explanatory report prepared by the secretariat of UNIDROIT (Study LII, document 7, UNIDROIT 1974) has been circulated to the member Governments of UNIDROIT for observations with a view to the second reading at the second session of the Committee of Governmental Experts, to be held in Rome from 3 to 8 March 1975. The Committee will, on that occasion, also begin work on the question of liability in tort for damage caused by air-cushion vehicles to third parties, on the basis of a report prepared by the secretariat (Study LII, document 8, UNIDROIT 1975).

Carriage by inland waterway

80. The Draft Convention on the Contract for the Carriage of Goods by Inland Waterway (CMN), drawn up on the basis of a UNIDROIT draft by the Economic Commission for Europe, and which had not been opened to the signature of Governments in 1960, is, at the request of the ECE, currently under revision by the Committee of Governmental Experts convened by UNIDROIT. At its third meeting, held in Rome from 13 to 17 January 1975, the Committee completed its first reading of the draft Convention and a revised text will be prepared by Mr. R. Loewe, member of the Governing Council of UNIDROIT.

Hotelkeeper's contract

81. On the basis of a draft prepared by the secretariat of UNIDROIT, a Working Committee of the Institute has approved the text of a preliminary draft Convention on the Hotelkeeper's Contract which, together with an explanatory report prepared by the secretariat (Study XII, document 12, UNIDROIT 1975), will be submitted to the next session of the Governing Council of UNIDROIT with a view to the convening of a committee of governmental experts.

III. INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS

A. INTERNATIONAL CHAMBER OF COMMERCE (ICC)

International sale of goods

(a) *Uniform rules governing the international sale of goods*

82. ICC is continuing to contribute to the activities of the UNCITRAL Working Group in the ways described in previous years.

(b) *Standardization of trade terms*

83. The Working Party on Trade Terms is continuing its work in the following fields:

(i) The definition of a trade term which can be used in the matter of air transport is still under consideration, and a questionnaire has been circulated to the ICC national committees in order to obtain additional information on the most widely followed practices. The need for such information arose from the fact that some of the observations regarding the draft term known as "free airport" questioned the advisability of formulating an air-freight equivalent to the trade term "FOB" used in shipping.

(ii) A set of three-letter abbreviations for each of the INCOTERMS 1953 has been brought to the attention of the United Nations Economic Commission for Europe, which has recommended that the abbreviations in question should be used, subject to one minor amendment (the replacement of "C & F" by "CFR").*

(iii) The Working Party is continuing its work on the definition of trade terms in the fields of combined and containerized transport.

International payments(a) *International bills of exchange*

84. ICC is co-operating with UNCITRAL in its work on this subject within the framework of the Commission's Study Group on International Payments (UNSGIP).

(b) *Bankers' commercial credits (documentary letters of credit and bank guarantees (contract and payment guarantees))*

85. ICC's activities in this field are described in document A/CN.9/101.

International commercial arbitration

86. On the initiative of its Court of Arbitration, ICC is revising its Rules of Conciliation and Arbitration. The object of the revision is to provide the Court with up-to-date Rules which will enable it to cope with the increasing number of cases brought before it (approximately 200 per year). The Executive Committee of the International Chamber of Commerce will be invited to adopt the revised text at its session of 18 March 1975.

87. The Secretary-General of ICC has submitted observations to UNCITRAL concerning the Commission's preliminary draft set of arbitration rules and in particular its suitability for optional use in *ad hoc* arbitration relating to international trade.

International legislation on shipping(a) *Revision of the Hague Rules*

88. ICC has participated regularly in the meetings of the UNCITRAL Working Group on International Legislation on Shipping dealing with the revision of the Hague Rules. Whenever necessary, ICC has submitted observations on various aspects of the revision exercise. Prior to the eight session of the UNCITRAL Working

Group, ICC arranged an informal meeting of the various parties and non-governmental organizations concerned with the aim of exchanging views and determining the points on which trade circles could present a joint position.

(b) *Uniform Rules for a combined transport document (ICC Brochure No. 273)*

89. ICC is currently revising its Uniform Rules in order to ensure that they are more widely used by combined-transport operators. The basic purpose of the revision is to bring liability for delay under the "network" system. The revised text is to be published in July 1975.

Multinational enterprises

90. At the July 1974 session of the United Nations Economic and Social Council, the International Chamber of Commerce submitted comments on the report of the Group of Eminent Persons on multinational corporations.

Liability of producers

91. ICC participated as an observer in the work of the Committee of Experts of the Council of Europe set up to prepare a Convention on products liability. It is also following the work of the European Communities on the harmonization of member States' laws on this subject.

B. INTERNATIONAL LAW ASSOCIATION (ILA)

International payments

92. At the 1974 New Delhi Conference of the International Law Association, its Committee on International Monetary Law considered the question of "value clauses" in international contracting practice and the legal régime applicable to them.

International commercial arbitration

93. At the above Conference, the ILA Committee on International Commercial Arbitration between Government-Controlled Bodies and Foreign-Owned Business Firms continued its work on commercial disputes "in which governments, their departments and agencies or government-controlled organizations are involved".

C. INTERNATIONAL MARITIME COMMITTEE (CMI)

Conversion of gold units into national currencies

94. In a number of international maritime law conventions initiated by the CMI the problem of the conversion of gold units into national currencies has arisen in view of the fact that, strictly speaking, there is no longer any official monetary value of gold. Since this is a general problem in transportation law it is also studied within UNIDROIT. A certain preference has been expressed in favour of replacing the gold unit by a system of weighted average of currencies (the so-called "SDR" basket) presently under consideration within the IMF. No solution has been adopted as yet and the study continues.

Hague Rules

95. The CMI has constituted an International Subcommittee for the purpose of considering the present

* See paragraph 9 above.

revision work with respect to the 1924 International Convention for the unification of certain rules of law relating to bills of lading and the 1968 Protocol thereto presently pending within the UNCITRAL Working Group on International Legislation on Shipping. The CMI takes part in the sessions of the Working Group as an observer and seeks to ascertain that the contemplated solutions are acceptable to the shipping community (shippers, carriers and insurers) so as to ensure the future success of the pending project.

96. At its 1974 Hamburg Conference the CMI adopted the resolutions known as the "Hague Rules Recommendations". First, the CMI recommended the immediate ratification of the 1968 Protocol stressing the urgent need of international commerce, and in particular shippers, to obtain the benefit of the rules embodied therein. However, at the same time the CMI considered that further amendments to the Hague Rules beyond those included in the 1968 Protocol were needed and expressed its opinion on some of the basic issues, such as the period of the carrier's responsibility, the basis of carrier liability, liability for delay in delivery, limitation of liability and the limitation (prescription) period for bringing claims.

Limitation of liability of owners of sea-going vessels

97. A revision of the 1957 International Convention relating to the limitation of the liability of owners of sea-going ships is presently pending within IMCO. The CMI was requested by IMCO to prepare a draft amending the said convention. This subject was dealt with at the 1974 Hamburg Conference resulting in two drafts, one in the form of a new draft convention, the other in the form of a Protocol to the present convention. Further IMCO invited the CMI to provide it with figures which might be considered on the basis of the principles contained in the draft articles prepared by the CMI and, in particular, to investigate into the commercial insurability of the liability to claimants. A report has been made by the chairman of the CMI International Sub-Committee, Mr. Alex Rein (Norway), and the subject will be further discussed in the meeting of the IMCO Legal Committee, 16-20 June 1975.

Carriage of passengers and their luggage by sea

98. The CMI, at its 1969 Tokyo Conference, suggested an amalgamation of the 1961 and 1967 International Conventions dealing with carriage of passengers and their luggage by sea respectively. The CMI draft has subsequently been discussed within IMCO and a diplomatic conference at Athens in December 1974 has adopted a new international convention on the subject.

General average

99. The CMI, at its 1974 Hamburg Conference, adopted a new version of the 1950 York/Antwerp Rules. The new "1974 York/Antwerp Rules" are implemented by way of contractual reference in bills of lading and charter-parties as from 1 July 1974.

Combined transports

100. The CMI, at its 1969 Tokyo Conference, adopted a draft convention relating to combined transports known as the "Tokyo Rules". This draft has been further studied together with UNIDROIT resulting in

the so-called TCM (for Transport Combiné de Marchandises) draft convention, which has subsequently been considered within IMCO and UNCTAD. The CMI "Tokyo Rules" have been embodied in the current combined transport documents (e.g. the FIATA Combined Transport Bill of Lading and the Combiconbill, the latter accepted by the Baltic and International Maritime Conference). They have also been accepted by the International Chamber of Commerce in its "Uniform rules for a combined transport document" (brochure 273, Paris 1973). The CMI has appointed an International Sub-Committee under the chairmanship of Professor Kurt Grönfors (Sweden) to follow further developments.

Study on economic implications of re-allocation of risks

101. The CMI and the International Chamber of Commerce have initiated a joint study on the above subject. The research is presently concentrated on the effect of the change of the carrier's liability presently contemplated in the draft convention to a new international convention on the carriage of goods by sea suggested by the UNCITRAL Working Group on International Legislation on Shipping.

International commercial arbitration in maritime affairs

102. The CMI presently considers the possibility to render assistance in connexion with the appointment of arbitrators in maritime law disputes as well as the elaboration of rules on maritime arbitration. The work proceeds in an International Sub-Committee under the chairmanship of Mr. Jean Warot (France).

Shipbuilding contracts

103. A study on shipbuilding contracts has been initiated within the CMI in 1973 in order to, at a first stage, investigate the legal problems arising in connexion with shipbuilding contracts and to compare the common standard forms bearing in mind the possibility, at a latter stage, to draft model clauses for such contracts. The work proceeds in an International Sub-Committee under the chairmanship of Professor Francesco Berlingieri (Italy).

Collisions at sea

104. The CMI has initiated together with the International Law Association a study of legal problems arising in connexion with collisions at sea and appointed Professor Nicholas J. Healy chairman of the CMI Working Group. The purpose of the study is to explore the possibility to achieve international consensus on the applicable law, particularly with respect to collisions on the high seas, and to obtain a broader acceptance of the 1910 International Convention for the unification of certain rules of law with respect to collision between vessels.

Liability of sea terminals

105. The CMI has initiated a study on the liability of sea terminals for the purpose of ascertaining the present position in some of the major ports. The study is inter-related to the extension of the period of the sea carrier's liability proposed in the draft convention on the carriage of goods by sea by the UNCITRAL Working Group on International Legislation on Shipping. The

subject is also studied from a more general viewpoint within UNIDROIT.

D. INTERNATIONAL UNION OF MARINE INSURANCE
(IUMI)

International legislation on shipping

106. The International Union of Marine Insurance has followed with interest the work of the UNCITRAL Working Group on International Legislation on Shipping and representatives of IUMI have attended as

observers the seventh and eighth sessions of that Working Group.

International sale of goods

107. IUMI is also following closely developments in connexion with the international sale of goods and continues its consultation with the International Chamber of Commerce regarding possible modifications of the latter's brochure 273, "Uniform Rules for a Combined Transport Document".