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PROVISIONAL AGENDA AND ANNOTATIONS

Note by the Secretary-General

I. PROVISIONAL AGENDA

1. Opening of the session
2. Election of officers
3. Adoption of the agenda
4. International legislation on shipping
5. International payments:
 - (a) Negotiable instruments
 - (b) Bankers' commercial credits
 - (c) Bank guarantees
 - (d) Security interests in goods
6. International sale of goods
 - (a) Uniform rules governing the international sale of goods
 - (b) General conditions of sale and standard contracts
 - (c) Time-limits and limitations (prescription) in the field of international sale of goods

7. Yearbook of the Commission
8. Register of texts
9. Bibliography on international trade law
10. Training and assistance in the field of international trade law
11. Future work
12. Promotion of ratification of UNCITRAL conventions
13. Date of the fifth session
14. Adoption of the report of the Commission

II. ANNOTATIONS TO THE PROVISIONAL AGENDA

Item 1. Opening of the session

At its third session the Commission decided^{1/} that its fourth session should be held in Geneva from 29 March to 23 April 1971. The fourth session of the Commission will be convened at 10.30 a.m. on 29 March at the headquarters of the World Health Organization in Geneva. A tentative schedule of meetings, prepared by the Secretary-General and sent to the members of the Commission, appears herein as chapter III. This schedule indicates that it may be possible to conclude the session on 20 April 1971 but arrangements have been made under which the session may be extended until 23 April if necessary.

Item 2. Election of officers

To conform with a decision of the Commission at its first session, the Commission would elect a Chairman, three Vice-Chairmen and a Rapporteur for the fourth session.^{2/}

Item 3. Adoption of the agenda

A provisional agenda appears as chapter I of this note.

At its second and third sessions the Commission set up two Committees of the Whole to examine certain agenda items involving complex documentation and to make recommendations to the plenary session of the Commission with respect to those items. In view of the considerations set out below, the Commission might wish to decide not to establish such Committees at the fourth session and to discuss all items in the plenary.

^{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), herein cited as UNCITRAL, Report on the Third Session (1970), para. 222.

^{2/} Report of the United Nations Commission on International Trade Law on the work of its first session, Official Records of the General Assembly, Twenty-third Session, Supplement No. 16 (A/7216), para. 14. With respect to the procedure for conducting the election, reference may be made to the decision of the Commission at its first session concerning the applicability of the rules relating to the procedures of committees of the General Assembly, ibid., para. 16.

With respect to item 6 (a) (Uniform rules governing the international sale of goods), the Commission at its third session decided that "before the new text of a uniform law or the revised text of ULIS is completed, the Working Group should only submit questions of principle to the Commission for consideration".^{3/} It would seem that the Commission might wish to follow a similar approach in other cases, such as that of item 6 (c) (Time-limits and limitations (prescription) in the field of international sale of goods) where a working group is in the course of preparatory work and drafting, or that of item 5 (a) (Negotiable instruments), where the Commission may consider the establishment of a working group. The adoption of this approach would, of course, reduce the time required for meetings during the annual sessions of the Commission; in addition, the Commission may conclude that it is more appropriate to consider questions of principle and working methods in the plenary than in Committees of the Whole.

International commercial arbitration has not been included as an item in the provisional agenda in view of the decision at the third session to request the Special Rapporteur to submit his final report on this subject to the fifth session of the Commission (UNCITRAL, Report on the third session (1970), para. 156). No document or communication relating to this item has been received for submission to the Commission at this session.

Item 4. International legislation on shipping

Pursuant to the decision of the Commission^{4/} the Chairman of the Working Group on International Shipping Legislation, in his capacity as Special Representative of the Commission, attended the session of the UNCTAD Working Group on Shipping Legislation, held in Geneva from 15 to 26 February 1971. In accordance with sub-paragraph 2 (d) of the decision, the Special Representative will submit his report to the first meeting of the UNCITRAL Working Group on International Shipping Legislation, to be held in Geneva from 22 to 26 March 1971, immediately prior to the opening of the fourth session.

^{3/} UNCITRAL, Report on the third session (1970), para. 72 (f).

^{4/} UNCITRAL, Report on the third session (1970), para. 166.

The Commission will have before it a report of the UNCITRAL Working Group on International Shipping Legislation on the above session (A/CN.9/55).

In view of the decision at the third session that the term of the Working Group on International Shipping Legislation will expire after it has submitted its report to the fourth session,^{5/} the Commission may wish to consider the size and composition of a Working Group on this subject.

Item 5. International payments

(a) Negotiable instruments

The Commission will have before it the following documents:

- (i) An analysis of replies to a questionnaire regarding present methods and practice for making and receiving international payments and regarding problems encountered in settling international transactions (A/CN.9/38 and Add.1);
- (ii) An analysis of replies regarding the possible content of uniform rules applicable to a special negotiable instrument for optional use in international transactions (A/CN.9/48);
- (iii) A report of the Secretary-General setting forth suggestions as to future work on negotiable instruments (A/CN.9/53).

(b) Bankers' commercial credits

The Commission took decisions at the second and third sessions with respect to certain communications concerning the Uniform Customs (1962) prepared by the International Chamber of Commerce (ICC).^{6/} In response to the communications requested by the Commission at the second session, comments on the Uniform Customs (1962) have been received both prior to and subsequent to the third session; these comments have been transmitted to the International Chamber of Commerce. The communication requested in paragraph 126 (a) of the report on the third session has been deferred pending official confirmation by the International Chamber of Commerce that it intends to revise the Uniform Customs (1962). As soon

^{5/} UNCITRAL, Report on the third session (1970), para. 166, sub-para. 9.

^{6/} UNCITRAL, Report on the second session (1969), para. 95; UNCITRAL, Report on the third session (1970), para. 126.

as this confirmation is received it will be possible to implement this decision. The Commission consequently may conclude that there is no need for further action at the present time with respect to this item.

(c) Bank guarantees

With respect to the decision of the Commission at the third session,^{7/} the questionnaire of the International Chamber of Commerce concerning performance, tender and repayment guarantees, referred to in paragraph (a) of the decision, has been addressed to Governments and to banking and trade institutions in countries not represented in the International Chamber of Commerce. Responses to the questionnaire have been received and, pursuant to the decision, these have been transmitted to the ICC. It is expected that additional replies will be received. With respect to guarantees of payment, pursuant to paragraph (b) (i) of the decision, the ICC has been invited to prepare a questionnaire. As soon as this questionnaire is received from the ICC it will be possible to take the steps specified in paragraphs (b) (i) and (ii) of the decision. The progress report from the ICC, pursuant to an invitation extended under paragraph (c) of the decision, has not yet been received. In view of these facts, the Commission may conclude that there is no need for further action at the present time with respect to this item.

(d) Security interests in goods

The Commission will have before it a note by the Secretary-General (A/CN.9/R.^{8/} on the implementation of the Commission's decision at its third session.

Item 6. International sale of goods

(a) Uniform rules governing the international sale of goods

In accordance with the Commission's decision at its third session,^{9/} the Working Group on the International Sale of Goods continued its work and held its second meeting from 7 to 18 December 1970. The Commission will have before it the

^{7/} UNCITRAL, Report on the third session (1970), para. 138.

^{8/} Ibid., para. 145.

^{9/} Ibid., para. 72.

report of the Working Group (A/CN.9/52) and a note by the Secretariat concerning consideration of the report of the Working Group on the International Sale of Goods (A/CN.9/R.4).

(b) General conditions of sale and standard contracts

The Commission will have before it a report by the Secretary-General (A/CN.9/54) containing a report on the implementation of the Commission's decision at its third session concerning promotion of wider use of ECE general conditions^{10/} and a preliminary study on the feasibility of developing general conditions embracing a wider scope of commodities.^{11/}

(c) Time-limits and limitations (prescription) in the field of international sale of goods

The Working Group on Time-limits and Limitations (Prescription), established at the second session of the Commission, met in Geneva from 10 to 21 August 1970. The Commission will have before it the report of the Working Group (A/CN.9/50) and a note by the Secretariat concerning consideration of the report of the Working Group (A/CN.9/R.5). In view of the fact that the membership on the Commission of Czechoslovakia, one of the members of the Working Group, expired as of 31 December 1970 the Commission may wish to consider what action should be taken in this regard.

Item 7. Yearbook of the Commission

The first volume of the UNCITRAL Yearbook, containing documents of the first three sessions (1968-1970), is expected to be available shortly before or during the fourth session. The Commission will have before it a report of the Secretary-General (A/CN.9/57 and A/CN.9/57/Corr.1 (English only)) concerning timing and content of subsequent volumes of the Yearbook.

^{10/} Ibid., para. 102 (a).

^{11/} Ibid., para. 102 (b).

Item 8. Register of texts

The first volume of the Register of texts is expected to be available shortly before or during the fourth session. The Commission will have before it a report of the Secretary-General (A/CN.9/56) on the proposed contents and financial implications of a second volume of the Register of texts.

Item 9. Bibliography on international trade law

The Commission will have before it a report of the Secretary-General (A/CN.9/L.20 and Add.1) reporting on the implementation of the decision on this subject at the third session of the Commission.

Item 10. Training and assistance in the field of international trade law

The Commission will have before it a report of the Secretary-General (A/CN.9/58) on the progress in the implementation of the decision taken on this subject at the third session of the Commission. It is expected that a register of experts and scholars in international trade law (A/CN.9/L.21) will be available for distribution during the session.

Item 11. Future work

The Commission will wish, under this item, to take account of General Assembly resolution 2635 (XXV) on the report of the Commission on the work of its third session. Copies of this resolution and the report of the Sixth Committee (A/8146) will be available at the fourth session. In this connexion, the Commission may wish to consider the effect of increases in the work-load involved in servicing the Commission on the staffing requirements of the Secretariat.

Item 12. Promotion of ratification of UNCITRAL conventions

Pursuant to a proposal submitted by the French delegation concerning a basic convention establishing a common body of international trade law (UNCITRAL/III/CRP.3) the Commission, at its third session, decided^{12/} to include in the agenda of its fourth session an item concerning possible measures which may ensure that

^{12/} Ibid., para. 217 (b).

conventions drawn up by the Commission will enter into force, without delay, in the largest possible number of countries. No document or communication has as yet been received with respect to this item.

Item 13. Date of fifth session

In accordance with paragraph 6 of General Assembly resolution 2205 (XXI) the fifth session of the Commission is expected to be held at the Headquarters of the United Nations in New York. In accordance with usual practice, the date would be fixed by the Commission in the light, inter alia, of the available conference facilities.

Item 14. Adoption of the report of the Commission

The General Assembly, in paragraph 10 of resolution 2205 (XXI), decided that the Commission should submit an annual report, including its recommendations, to the General Assembly, and that the report shall be submitted simultaneously to the United Nations Conference on Trade and Development for comments. Under a decision by the Sixth Committee,^{13/} the report of the Commission is introduced to the General Assembly by the Chairman of the Commission or by another officer designated by him.

^{13/} A/7408, para. 3.

III. TENTATIVE SCHEDULE OF MEETINGS

	<u>Morning</u>	<u>Afternoon</u>
29 March	Opening of session. Election of officers.	Adoption of agenda.
30 March	International legislation on shipping.	International legislation on shipping.
31 March	"	"
1 April	Negotiable instruments.	Negotiable instruments.
2 April	"	"
5 April	Bankers' commercial credits. Bank guarantees. Security interests in goods.	Uniform rules governing the international sale of goods.
6 April	Uniform rules governing the international sale of goods.	"
7 April	"	"
8 April	General conditions of sale and standard contracts.	General conditions of sale and standard contracts.
13 April	Time-limits and limitations (prescription).	Time-limits and limitations (prescription).
14 April	"	"
15 April	"	Yearbook. Register of texts. Bibliography on international trade law.
16 April	Register of texts. Bibliography on international trade law. Training and assistance.	Training and assistance. Future work; promotion of acceptance of UNCITRAL conventions.
19 April	Date of fifth session. Adoption of the report.	Adoption of the report.
20 April	Adoption of the report.	"
