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UNITED NATIONS COMMISSION ON  
INTERNATIONAL TRADE LAW  
Fifth session  
New York, 10 April 1972

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; tentative schedule of meetings
4. International sale of goods
  - (a) Draft convention on prescription (limitation) in the international sale of goods
  - (b) Uniform rules governing the international sale of goods
  - (c) General conditions of sale and standard contracts
5. International legislation on shipping
6. International payments:
  - (a) Negotiable instruments
  - (b) Bankers' commercial credits
  - (c) Bank guarantees (contract and payment guarantees)
  - (d) Security interests in goods

7. International commercial arbitration
8. Training and assistance in the field of international trade law
9. Yearbook of the Commission
10. Future work
11. Date of the sixth session
12. Adoption of the report of the Commission

## II. ANNOTATIONS TO THE PROVISIONAL AGENDA

### Item 1. Opening of the session

The Commission at its fourth session decided that the fifth session should be held in New York from 10 April to 3 May 1972 with the possibility of an extension until 5 May 1972. 1/ The fifth session of the Commission will be convened at 10.30 a.m. on 10 April at the United Nations Headquarters in New York.

### 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. 2/

### Item 3. Adoption of the agenda; tentative schedule of meetings

A tentative schedule of meetings, which was sent to the members of the Commission with the announcement of the session, appears herein as section III. In view of the volume of work ready for consideration at the session, which includes the examination of the draft convention on prescription (limitation) in the international sale of goods (item 4 (a)), the tentative schedule contemplates that the Commission may find it necessary to extend the session until 5 May.

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1/ Report of the United Nations Commission on International Trade Law on the work of its fourth session, Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 17 (A/8417), herein cited as UNCITRAL, report on the fourth session (1971), para. 162.

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.

At the second and third sessions the Commission set up two Committees of the Whole. At the fourth session the Commission found it unnecessary to establish a Committee of the Whole, since the provisions of proposed legislative texts were in the course of preparation by working groups, and the Commission decided that it would be premature to take decisions about such provisions until a final text is proposed by a working group. <sup>3/</sup> The Working Group on Prescription has now submitted to the Commission a draft convention, and it is expected that the Commission will wish to give detailed consideration to its provisions. In view of the time required for such consideration, it is expected that it will be necessary to establish a Committee of the Whole which would meet simultaneously with plenary meetings of the Commission for at least part of the second week of the session. The tentative schedule of meetings (section III) makes provision for such a Committee of the Whole. It would also be possible for the Committee of the Whole to meet during the third week of the session if the Commission finds that it requires more time for the consideration of certain items than is envisaged in the tentative schedule.

Item 4. International sale of goods

(a) Draft convention on prescription (limitation) in the international sale of goods

The Working Group on Prescription at its third session (30 August to 10 September 1971) completed a draft convention on prescription (limitation) in the field of international sale of goods. The text of the draft convention appears in annex I to the report of the Working Group (A/CN.9/70). A commentary on the draft convention appears in addendum 1 to this report. Studies and proposals considered by the Working Group and comments submitted by Governments after the session of the Working Group are set forth in addendum 2. The Commission will also have before it a note concerning consideration of the report of the Working Group (A/CN.9/R.11), a note concerning alternative methods for final adoption of a convention in this field (A/CN.9/R.12), and amendments proposed by Norway to the text of the draft convention (A/CN.9/R.9).

To facilitate final action on the draft convention at the present session, the Commission may wish to request the Working Group to meet during the session to take account of the Commission's comments on the provisions of the draft. The tentative schedule provides for a period late in the session for a report by the Working Group to the Commission.

(b) Uniform rules governing the international sale of goods

The Commission at its fourth session decided that the Working Group on the International Sale of Goods should, inter alia, continue its work and "until the new text of a uniform law or the revised text of ULIS has been completed, the Working

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<sup>3/</sup> UNCITRAL, report on the fourth session (1971), paras. 92-1(c), 111.

Group should submit a progress report on its work to each session of the Commission...". 4/

The Working Group at its third session (17 to 28 January 1972) considered articles 1 to 6 and 18 to 55 of ULIS. The Commission will have before it the progress report of the Working Group (A/CN.9/62) containing the decisions taken by the Working Group at this session.

(c) General conditions of sale and standard contracts

The Commission at its fourth session decided to request the Secretary-General (a) to continue with the programme of implementation of the decision taken by the Commission at its second session concerning the promotion of the wider use of the general conditions prepared under the auspices of the Economic Commission for Europe, and (b) to continue its study on the feasibility of developing general conditions embracing a wider scope of commodities. The Commission will have before it a progress report by the Secretary-General (A/CN.9/69) on the implementation of this decision.

Item 5. International legislation on shipping

The Working Group on International Legislation on Shipping, at a session held from 31 January to 11 February 1972, considered the topics of the work programme approved by the Commission at its fourth session. 5/ The Commission will have before it the Working Group's report (A/CN.9/63) and the report by the Secretary-General on "Responsibility of ocean carriers for cargo: bills of lading" which served as the working document for the Working Group (A/CN.9/63/Add.1). 6/

In examining the report of the Working Group, the Commission will note the recommendation, in the section of the report on future work (paras. 71 to 75), that a special two-week session of the Working Group should be held in the autumn of 1972. 7/

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4/ UNCITRAL, report on the fourth session (1971), para. 92-1(c).

5/ Ibid., paras. 22 and 23.

6/ The report of the Secretary-General was presented to the Working Group as document A/CN.9/WG.III/WP.4.

7/ The members of the Commission will also receive copies of the report of the UNCTAD Working Group on International Shipping Legislation on its third session held at the Palais des Nations, Geneva, from 5 to 18 January 1972 (TD/B/C.4/931, TD/B/C.4/ISL/12). Attention is drawn to the resolution adopted by the UNCTAD Working Group on the Work of UNCITRAL on Bills of Lading. This resolution is set out in annex I, appendix II, pp. 9 to 10 of the report of the UNCTAD Working Group.

Item 6. International payments

(a) Negotiable instruments

Pursuant to the decision of the Commission, 8/ the Secretariat, after consultation with interested international organizations including banking and trade organizations, has prepared a preliminary draft uniform law on international bills of exchange, accompanied by a commentary (A/CN.9/67). By the same decision, the Commission decided "to establish at its fifth session a small working group entrusted with the preparation of a final draft to be submitted to the Commission". The Commission may wish to refer the preliminary draft to the Working Group for its consideration.

The Commission may also wish to consider whether it is desirable to extend the application of the proposed uniform law to promissory notes.

The Secretariat has consulted banking and trade organizations with respect to this question; the results of this consultation are set forth in the introductory part of document A/CN.9/67. A decision on this question at the present session would facilitate the preparatory work by the Secretariat for the first session of the Working Group.

(b) Bankers' commercial credits; (c) Bank guarantees (contract and payment guarantees); (d) Security interests in goods

The Commission will have before it a note by the Secretary-General (A/CN.9/R.10) on the work in progress on these items. In connexion with items (b) and (c) the Commission may wish to consider methods of co-operation with the International Chamber of Commerce (ICC). During the session there will be available a note transmitting a proposal by the ICC with respect to this matter (A/CN.9/R.13).

Item 7. International commercial arbitration

The Commission at its second session appointed Mr. Ion Nestor (Romania) as Special Rapporteur for the subject as defined in the decision. 9/ The Special Rapporteur submitted a preliminary report to the third session of the Commission.

The Commission will have before it the final report of the Special Rapporteur (A/CN.9/64).

Item 8. Training and assistance

The Commission will have before it a report by the Secretary-General (A/CN.9/65) on the progress made in the implementation of the decision taken on this subject at the fourth session of the Commission.

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8/ UNCITRAL, report on the fourth session (1971), para. 35.

9/ UNCITRAL, report on the second session (1969), para. 112.

Item 9. Yearbook of the Commission

The second volume of the UNCITRAL Yearbook, containing documents of the fourth session of the Commission (1971), has been prepared for publication; the printing of one of the language versions is expected to be completed shortly before or during the fifth session. The Commission will have before it a report by the Secretary-General (A/CN.9/66) concerning the contents of volume three of the Yearbook and the frequency of publication of future volumes of the Yearbook.

Item 10. Future work

The Commission will wish, under this item, to take account of General Assembly resolution 2766 (XXVI) on the report of the Commission on the work of its fourth session. Copies of this resolution and the report of the Sixth Committee (A/8506) will be available at the fifth session. 10/

Item 11. Date of sixth session

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

Item 12. 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 should be submitted simultaneously to the United Nations Conference on Trade and Development for comments. Under a decision by the Sixth Committee, 11/ the report of the Commission is introduced to the General Assembly by the Chairman of the Commission or by another officer designated by him.

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10/ During the session there will be available for the information of the Commission, a report by the Secretary-General on current activities of organizations related to the harmonization and unification of international trade law (A/CN.9/71).

11/ A/7408, para. 3.

### III. TENTATIVE SCHEDULE OF MEETINGS

<u>Date</u>	<u>Plenary</u> <u>(morning and afternoon)</u>	<u>Committee of the Whole</u> <u>(morning and afternoon)</u>
Monday, 10 April	Election; agenda	
Tuesday, 11 April	Draft convention on prescription	
Wednesday, 12 April	"	
Thursday, 13 April	"	
Friday, 14 April	"	
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Monday, 17 April	"	
Tuesday, 18 April	"	
Wednesday, 19 April	"	Election of officers; bankers' commercial credits; guarantees
Thursday, 20 April	Negotiable instruments	Yearbook; training and assistance; international commercial arbitration
Friday, 21 April	"	International commercial arbitration
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Monday, 24 April	International legislation on shipping	
Tuesday, 25 April	"	
Wednesday, 26 April	Uniform rules governing international sales of goods	
Thursday, 27 April	Uniform rules (continued); general conditions	
Friday, 28 April	Draft convention on prescription	
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Monday, 1 May	"	
Tuesday, 2 May	Report of Committee of the Whole; future work; date of sixth session	
Wednesday, 3 May	No meeting (preparation of report)	
Thursday, 4 May	Adoption of the report	
Friday, 5 May	"	

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