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**United Nations Commission
on International Trade Law
Working Group III (Transport Law)
Twenty-first session
Vienna, 14-25 January 2008**

Annotated provisional agenda

I. Provisional agenda

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Preparation of a draft convention on the carriage of goods [wholly or partly] [by sea].
5. Other business.
6. Adoption of the report.

II. Composition of the Working Group

1. The Working Group is composed of all States members of the Commission, which are the following States: Algeria, Armenia, Australia, Austria, Bahrain, Belarus, Benin, Bolivia, Bulgaria, Cameroon, Canada, Chile, China, Colombia, Czech Republic, Ecuador, Egypt, El Salvador, Fiji, France, Gabon, Germany, Greece, Guatemala, Honduras, India, Iran (Islamic Republic of), Israel, Italy, Japan, Kenya, Latvia, Lebanon, Madagascar, Malaysia, Malta, Mexico, Mongolia, Morocco, Namibia, Nigeria, Norway, Pakistan, Paraguay, Poland, Republic of Korea, Russian Federation, Senegal, Serbia, Singapore, South Africa, Spain, Sri Lanka, Switzerland, Thailand, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela (Bolivarian Republic of) and Zimbabwe.
2. States that are not members of the Commission and international governmental organizations may attend the session as observers and participate in the



deliberations. In addition, invited international non-governmental organizations may attend the session as observers and represent the views of their organizations on matters where the organization concerned has expertise or international experience so as to facilitate the deliberations at the session.

III. Annotations to agenda items

Item 1. Opening of the session and scheduling of meetings

3. The twenty-first session of the Working Group will be held from 14 to 25 January 2008 at the Vienna International Centre. Meeting hours will be from 9.30 a.m. to 12.30 p.m. and from 2.00 p.m. to 5.00 p.m., except on Monday, 14 January 2008, when the session will commence at 10.00 a.m. There will be eight working days available for consideration of the agenda items at the session. The Working Group is expected to hold substantive deliberations during the first 16 meetings (that is from Monday, 14 January to Wednesday, 23 January, inclusive). No formal meeting is currently scheduled for Thursday, 24 January, to allow for the preparation of the draft report of the session, which will be presented for adoption during the seventeenth and eighteenth meetings of the Working Group on Friday, 25 January 2008.

4. At its twenty-first session, on the basis of the text as contained in A/CN.9/WG.III/WP.101, the Working Group is expected to review the entire text of the draft convention on the carriage of goods [wholly or partly] [by sea] (“the draft convention” or “the draft instrument”) and consider any outstanding issues remaining following the conclusion of its third reading. Further, the Working Group is expected to ensure the concordance of all language versions of the draft convention with a view to presenting to the Commission for consideration at its 41st session in 2008 a text that has been the subject of approval by the Working Group.

Item 2. Election of officers

5. In accordance with its practice at previous sessions, the Working Group may wish to elect a Chairman and a Rapporteur.

Item 4. Preparation of a draft convention on the carriage of goods [wholly or partly] [by sea]

(a) Previous deliberations of the Working Group

6. At its twenty-ninth session, in 1996, the Commission considered a proposal to include in its work programme a review of current practices and laws in the area of the international carriage of goods by sea, with a view to establishing the need for uniform rules where no such rules existed and with a view to achieving greater uniformity of laws.¹

7. At that session, the Commission had been informed that existing national laws and international conventions had left significant gaps regarding various issues.

¹ *Official Records of the General Assembly, Fifty-first Session, Supplement No. 17 (A/51/17)*, para. 210.

Those gaps constituted an obstacle to the free flow of goods and increased the cost of transactions. The growing use of electronic means of communication on the carriage of goods further aggravated the consequences of those fragmentary and disparate laws and also created the need for uniform provisions addressing the issues particular to the use of new technologies.²

8. At that session, the Commission also decided that the secretariat should gather information, ideas and opinions as to the problems that arose in practice and possible solutions to those problems, so as to be able to present at a later stage a report to the Commission. It was agreed that such information-gathering should be broadly based and should include, in addition to Governments, the international organizations representing the commercial sectors involved in the carriage of goods by sea, such as the International Maritime Committee (CMI), the International Chamber of Commerce (ICC), the International Union of Marine Insurance (IUMI), the International Federation of Freight Forwarders Associations (FIATA), the International Chamber of Shipping (ICS) and the International Association of Ports and Harbors.³

9. At its thirty-first session, in 1998, the Commission heard a statement on behalf of CMI to the effect that it welcomed the invitation to cooperate with the secretariat in soliciting views of the sectors involved in the international carriage of goods and in preparing an analysis of that information.⁴

10. At the thirty-second session of the Commission, in 1999, it was reported on behalf of CMI that a CMI working group had been instructed to prepare a study on a broad range of issues in international transport law with the aim of identifying the areas where unification or harmonization was needed by the industries involved.⁵

11. At that session, it was also reported that the CMI working group had sent a questionnaire to all CMI member organizations covering a large number of legal systems. The intention of CMI was, once the replies to the questionnaire had been received, to create an international subcommittee to analyse the data and find a basis for further work towards harmonizing the law in the area of international transport of goods. The Commission had been assured that CMI would provide it with assistance in preparing a universally acceptable harmonizing instrument.⁶

12. At its thirty-third session, in 2000, the Commission had before it a report of the Secretary-General on possible future work in transport law (A/CN.9/476), which described the progress of the work carried out by CMI in cooperation with the secretariat. It also heard an oral report on behalf of CMI that the CMI working group had, in cooperation with the secretariat, launched an investigation based on the questionnaire. It was also noted that, at the same time, a number of round-table meetings had been held in order to discuss features of the future work with international organizations representing various industries. Those meetings showed the continued support for and interest of the industry in the project.

² Ibid.

³ Ibid., para. 215.

⁴ Ibid., *Fifty-third Session, Supplement No. 17* (A/53/17), para. 264.

⁵ Ibid., *Fifty-fourth Session, Supplement No. 17* (A/54/17), para. 413.

⁶ Ibid., para. 415.

13. In conjunction with the thirty-third session of the Commission in 2000, a transport law colloquium, organized jointly by the secretariat and CMI, was held in New York on 6 July 2000. The purpose of the colloquium was to gather ideas and expert opinions on problems that arose in the international carriage of goods, in particular the carriage of goods by sea, identifying issues in transport law on which the Commission might wish to consider undertaking future work and, to the extent possible, suggesting possible solutions. On the occasion of that colloquium, a majority of speakers acknowledged that existing national laws and international conventions left significant gaps regarding issues such as the functioning of a bill of lading and a seaway bill, the relationship of those transport documents to the rights and obligations between the seller and the buyer of the goods and the legal position of the entities that provided financing to a party to a contract of carriage. There was general consensus that, with the changes wrought by the development of multimodalism and the use of electronic commerce, the transport law regime was in need of reform to regulate all transport contracts, whether applying to one or more modes of transport and whether the contract was made electronically or in writing.

14. At its thirty-fourth session, in 2001, the Commission had before it a report of the Secretary-General (A/CN.9/497) that had been prepared pursuant to the request by the Commission. That report summarized the considerations and suggestions that had resulted so far from the discussions in the CMI International Subcommittee. The purpose of the report was to enable the Commission to assess the thrust and scope of possible solutions and decide how it wished to proceed. The issues described in the report that would have to be dealt with in the future instrument included the following: the scope of application of the instrument, the period of responsibility of the carrier, the obligations of the carrier, the liability of the carrier, the obligations of the shipper, transport documents, freight, delivery to the consignee, right of control of parties interested in the cargo during carriage, transfer of rights in goods, the party that had the right to bring an action against the carrier and time bar for actions against the carrier.

15. The report suggested that consultations conducted by the secretariat pursuant to the mandate it received from the Commission in 1996 indicated that work could usefully commence towards an international instrument, possibly having the nature of an international treaty, that would modernize the law of carriage, take into account the latest developments in technology, including electronic commerce, and eliminate legal difficulties in the international transport of goods by sea that were identified by the Commission.

16. At its thirty-fourth session, the Commission decided to entrust the project to the Working Group on Transport Law. As to the scope of the work, the Commission, after some discussion, decided that the working document to be presented to the Working Group should include issues of liability. The Commission also decided that the considerations in the Working Group should initially cover port-to-port transport operations; however, the Working Group would be free to study the desirability and feasibility of dealing also with door-to-door transport operations, or certain aspects of those operations, and, depending on the results of those studies, recommend to the Commission an appropriate extension of the Working Group's mandate. It was stated that solutions embraced in the United Nations Convention on the Liability of Transport Terminals in International Trade (Vienna, 1991) should also be carefully taken into account. It was also agreed that the work would be carried out in close

cooperation with interested intergovernmental organizations involved in work on transport law, such as the United Nations Conference on Trade and Development, the Economic Commission for Europe (ECE) and other regional commissions of the United Nations, and the Organization of American States (OAS), as well as international non-governmental organizations.⁷

17. At its thirty-fifth session, in 2002, the Commission noted that the Working Group, conscious of the mandate given to it by the Commission⁸ (and in particular of the fact that the Commission had decided that the considerations in the Working Group should initially cover port-to-port transport operations, but that the Working Group would be free to consider the desirability and feasibility of dealing also with door-to-door transport operations, or certain aspects of those operations), had adopted the view that it would be desirable to include within its discussions also door-to-door operations and to deal with those operations by developing a regime that resolved any conflict between the draft instrument and provisions governing land carriage in cases where sea carriage was complemented by one or more land carriage segments (for considerations of the Working Group on the issue of the scope of the draft instrument, see A/CN.9/510, paras. 26-32). It was also noted that the Working Group considered that it would be useful for it to continue its discussions of the draft instrument under the provisional working assumption that it would cover door-to-door transport operations. Consequently, the Working Group had requested the Commission to approve that approach (A/CN.9/510, para. 32). With respect to the scope of the draft instrument, strong support was expressed by a number of delegations in favour of the working assumption that the scope of the draft instrument should extend to door-to-door transport operations. It was pointed out that harmonizing the legal regime governing door-to-door transport was a practical necessity, in view of the large and growing number of practical situations where transport (in particular transport of containerized goods) was operated under door-to-door contracts. While no objection was raised against such an extended scope of the draft instrument, it was generally agreed that, for continuation of its deliberations, the Working Group should seek participation from international organizations such as the International Road Transport Union (IRU), the Intergovernmental Organisation for International Carriage by Rail (OTIF), and other international organizations involved in land transportation. The Working Group was invited to consider the dangers of extending the rules governing maritime transport to land transportation and to take into account, in developing the draft instrument, the specific needs of land carriage. The Commission also invited member and observer States to include land transport experts in the delegations that participated in the deliberations of the Working Group. The Commission further invited Working Groups III (Transport Law) and IV (Electronic Commerce) to coordinate their work in respect of dematerialized transport documentation. While it was generally agreed that the draft instrument should provide appropriate mechanisms to avoid possible conflicts between the draft instrument and other multilateral instruments (in particular those instruments that contained mandatory rules applicable to land transport), the view was expressed that avoiding such conflicts would not be sufficient to guarantee the broad acceptability of the draft instrument unless the substantive provisions of the draft instrument established acceptable rules for both

⁷ Ibid., *Fifty-sixth Session, Supplement No. 17* (A/56/17), para. 345.

⁸ Ibid.

maritime and land transport. The Working Group was invited to explore the possibility of the draft instrument providing separate yet interoperable sets of rules (some of which might be optional in nature) for maritime and road transport. After discussion, the Commission approved the working assumption that the draft instrument should cover door-to-door transport operations, subject to further consideration of the scope of application of the draft instrument after the Working Group had considered the substantive provisions of the draft instrument and come to a more complete understanding of their functioning in a door-to-door context.⁹

18. At its thirty-sixth session, in 2003, the Commission was mindful of the magnitude of the project undertaken by the Working Group and expressed appreciation for the progress accomplished so far. It was widely felt that, having recently completed its first reading of the draft instrument on transport law, the Working Group had reached a particularly difficult phase of its work. The Commission noted that a considerable number of controversial issues remained open for discussion regarding the scope and the individual provisions of the draft instrument. Further progress would require a delicate balance being struck between the various conflicting interests at stake. The view was expressed that a door-to-door instrument might be achieved by a compromise based on uniform liability, choice of forum and negotiated contracts, which would not deal with actions against performing inland parties. It was also stated that involving inland road and rail interests was critical to achieving the objectives of the text. The view was expressed that increased flexibility in the design of the proposed instrument should continue to be explored by the Working Group to allow for States to opt in to all or part of the door-to-door regime. The Commission also noted that, in view of the complexities involved in the preparation of the draft instrument, the Working Group had met at its eleventh session for a duration of two weeks, thus making use of additional conference time that had been made available by Working Group I completing its work on privately financed infrastructure projects at its fifth session, in September 2002. The Chairman of Working Group III confirmed that, if progress on the preparation of the draft instrument was to be made within an acceptable time frame, the Working Group would need to continue holding two-week sessions. After discussion, the Commission authorized Working Group III, on an exceptional basis, to hold its twelfth and thirteenth sessions on the basis of two-week sessions. It was agreed that the situation of the Working Group in that respect would need to be reassessed at the thirty-seventh session of the Commission, in 2004. The Working Group was invited to make every effort to complete its work expeditiously and, for that purpose, to use every possibility of holding intersessional consultations, possibly through electronic mail. The Commission realized, however, that the number of issues open for discussion and the need to discuss many of them simultaneously made it particularly relevant to hold full-scale meetings of the Working Group.¹⁰

19. At its thirty-seventh session, in 2004, for the reasons noted by the Commission at its thirty-sixth session in 2003,¹¹ the Commission decided to accommodate again the need of Working Group III (Transport Law) for two-week sessions, utilizing the

⁹ Ibid., *Fifty-seventh Session, Supplement No. 17* (A/57/17), paras. 223 and 224.

¹⁰ Ibid., *Fifty-eighth Session, Supplement No. 17* (A/58/17), paras. 207 and 208.

¹¹ Ibid., para. 272.

entitlement of Working Group V (Insolvency Law) which was not expected to meet in the second half of 2004 or in 2005.¹²

20. At that same session, the Commission took note of the progress accomplished by the Working Group at its twelfth and thirteenth sessions (A/CN.9/544 and A/CN.9/552, respectively). The Commission noted with appreciation that the Working Group had continued its consideration of the draft instrument on the carriage of goods [wholly or partly] [by sea]. The Commission reaffirmed its appreciation of the magnitude of the project and of the complexities involved in the preparation of the draft instrument, given in particular the controversial issues that remained open for discussion and that required the striking of a delicate balance between the various conflicting interests at stake.¹³

21. The Commission was informed that, at its twelfth and thirteenth sessions, the Working Group had proceeded with its second reading of the draft instrument and had made progress regarding a number of difficult issues, such as those regarding the scope of application of the instrument and of key liability provisions. The Commission was also informed that, with a view to accelerating the exchange of views, the formulation of proposals and the emergence of consensus in preparation for a third and final reading of the draft instrument, a number of delegations participating in the thirteenth session of the Working Group had taken the initiative of creating an informal consultation group for the continuation of discussion between sessions of the Group.¹⁴

22. The Commission expressed its support for the efforts of the Working Group to accelerate the progress of its work on the complex project. With respect to a possible time frame for completion of the draft instrument, a number of speakers were of the view that it would be desirable to complete a third reading of the draft text with a view to its adoption by the Commission in 2006. However, it was also felt by a number of speakers that achieving a high degree of quality should be a paramount objective in the preparation of the draft instrument. That objective should not be compromised by hasty deliberation of the important issues that remained to be solved. After discussion, the Commission agreed that 2006 would be a desirable goal for completion of the project, but it also agreed that the issue of establishing a deadline for such completion should be revisited at its thirty-eighth session, in 2005.¹⁵

23. At its thirty-eighth session, in 2005, for the reasons noted by the Commission at its thirty-sixth session in 2003,¹⁶ the Commission decided to accommodate again the need of Working Group III (Transport Law) for two-week sessions, utilizing the entitlement of Working Group IV (Electronic Commerce) which was not expected to meet in the second half of 2005 or in 2006.¹⁷

24. At that same session, the Commission took note of the progress accomplished by the Working Group at its fourteenth and fifteenth sessions (A/CN.9/572 and A/CN.9/576, respectively). The Commission noted with appreciation the progress

¹² Ibid., *Fifty-ninth Session, Supplement No. 17* (A/59/17), paras. 132 and 133.

¹³ Ibid., paras. 63 and 64.

¹⁴ Ibid., para. 65.

¹⁵ Ibid., para. 66.

¹⁶ Ibid., *Fifty-eighth Session, Supplement No. 17* (A/58/17), para. 272.

¹⁷ Ibid., *Sixtieth Session, Supplement No. 17* (A/60/17), para. 238.

that the Working Group had made in its consideration of the draft instrument on the carriage of goods [wholly or partly] [by sea]. The Commission was informed that, at its fourteenth and fifteenth sessions, the Working Group had proceeded with its second reading of the draft instrument and had made good progress regarding a number of difficult issues, including those regarding the basis of liability pursuant to the draft instrument, as well as scope of application of the instrument and related freedom of contract issues. In addition, the Commission also heard that the Working Group considered during its fourteenth and fifteenth sessions the chapters in the draft instrument on jurisdiction and arbitration, and had an initial exchange of views regarding the topics of right of control and transfer of rights. The Commission was also informed that, following consultations with Working Group IV (Electronic Commerce), the Working Group had considered for the first time, at its fifteenth session, provisions in the draft instrument relating to electronic commerce.¹⁸

25. At its thirty-eighth session, the Commission was also informed that, with a view to continuing the acceleration of the exchange of views, the formulation of proposals and the emergence of consensus in preparation for a third and final reading of the draft instrument, a number of delegations participating in the fourteenth and fifteenth sessions of the Working Group had continued their initiative of holding informal consultations for the continuation of discussion between sessions of the Working Group. The Commission also heard that the Working Group had considered the issue of the time frame for concluding its work on the draft instrument, and that a number of delegations supported the view that, while the completion of the work at the end of 2005 was unlikely, with the valuable assistance of the informal consultation process, the Working Group was hoping to complete its work at the end of 2006, with a view to presenting a draft instrument for possible adoption by the Commission in 2007.¹⁹ The Commission commended the Working Group for the progress it had made, and reaffirmed its appreciation of the magnitude of the project and of the difficulties involved in the preparation of the draft instrument, given, in particular, the nature of the interests and complex legal issues involved that required the striking of a delicate balance and consistent and considered treatment of the issues in the text. With respect to a possible time frame for completion of the draft instrument, the Commission agreed that 2007 would be a desirable goal for completion of the project, but that the issue of establishing a deadline for such completion should be revisited at its thirty-ninth session, in 2006.²⁰

26. At its thirty-ninth session in 2006, due to the magnitude and complexity of the project as also noted by the Commission at its thirty-sixth through thirty-eighth sessions,²¹ the Commission decided to accommodate again the need of Working Group III (Transport Law) for two-week sessions to be held in the autumn of 2006 and the spring of 2007, using the entitlement of Working Group IV (Electronic Commerce) which would not meet before the Commission's fortieth session.²²

¹⁸ Ibid., paras. 181 and 182.

¹⁹ Ibid., para. 182.

²⁰ Ibid., para. 184.

²¹ Ibid., *Fifty-eighth Session, Supplement No. 17* (A/58/17), para. 272, Ibid., *Fifty-ninth Session, Supplement No. 17* (A/59/17), paras. 132 and 133, and Ibid., *Sixtieth Session, Supplement No. 17* (A/60/17), para. 238.

²² Ibid., *Sixty-first Session, Supplement No. 17* (A/61/17), paras. 200, 270 and 273 (c).

27. Also at its thirty-ninth session, the Commission took note with appreciation of the progress made by the Working Group at its sixteenth and seventeenth sessions (A/CN.9/591, A/CN.9/591/Corr.1 and A/CN.9/594, respectively). The Commission was informed that, at its sixteenth and seventeenth sessions, the Working Group had proceeded with its second reading of the draft convention on the carriage of goods [wholly or partly] [by sea] and had made good progress regarding a number of difficult issues, including those regarding jurisdiction, arbitration, obligations of the shipper, delivery of goods, including the period of responsibility of the carrier, the right of control, delivery to the consignee, scope of application and freedom of contract, and transport documents and electronic transport records. Also considered by the Working Group were the topics of transfer of rights and, more generally, the issue of whether any of the substantive topics currently included in the draft convention should be deferred for consideration in a possible future instrument. The Commission was also informed that the Secretariat had facilitated the initiation of consultations that were currently under way between experts from Working Group III (Transport Law) and experts from Working Group II (Arbitration and Conciliation) with the hope that an agreement could be found on the provisions in the draft convention relating to arbitration.²³

28. The Commission was informed that, with a view to continuing the acceleration of the exchange of views, the formulation of proposals and the emergence of consensus in preparation for a third and final reading of the draft convention, a number of delegations participating in the sixteenth and seventeenth sessions of the Working Group had continued their initiative of holding informal consultations for the continuation of discussion between sessions of the Working Group.²⁴

29. Some concerns were expressed regarding the treatment in the draft convention of the issues of scope of application and freedom of contract. The freedom given to the parties to volume contracts to derogate from provisions of the draft convention was said to constitute a significant departure from the prevailing regime in transport law conventions. It was argued that, in view of the broad definition of volume contracts in article 1 of the draft convention, freedom of contract might potentially cover almost all carriage of goods by shipping lines falling within the scope of the draft convention. It was further argued that the conditions for valid derogation from the draft convention did not require the express consent to the derogations by both parties, which was said to open up the possibility that standard contracts containing derogating clauses could be submitted to the shippers.²⁵

30. There was support to those concerns, and to the need for the Working Group to consider them. However, there were also objections to both the criticism to the treatment of freedom of contract as well as to the characterization of the alleged problems created by the draft convention. It was said, in that connection, that freedom of contract was an important element in the overall balance of the draft convention and that the current text reflected an agreement that had emerged in the Working Group after extensive discussions.²⁶

²³ Ibid., *Sixty-first Session, Supplement No. 17* (A/61/17), paras. 194 and 195.

²⁴ Ibid., para. 196.

²⁵ Ibid., para. 197.

²⁶ Ibid., para. 198.

31. The Commission took note of the concerns related to the treatment in the draft convention of the issues of scope of application and freedom of contract and of the joint proposal by Australia and France on freedom of contract under volume contracts set out in document A/CN.9/612, as well as the expressions of support for the current draft provisions. The Commission was of the view that the Working Group was the proper forum to consider those substantive points at the present stage and expressed its confidence that the Working Group would deal with those concerns in the ongoing discussions on the draft convention. The Commission noted the views expressed by a number of delegations on the need for the outcome of the deliberations of the Working Group to receive wide international acceptance.²⁷

32. With respect to a possible time frame for completion of the draft convention, the Commission was informed that the Working Group planned to complete its second reading of the draft convention at the end of 2006 and the final reading at the end of 2007, with a view to presenting the draft convention for finalization by the Commission in 2008. The Commission agreed that 2008 would be a desirable goal for completion of the project, but that it was not desirable to establish a firm deadline at the present stage.²⁸

33. At its fortieth session, the Commission took note with appreciation of the progress made by the Working Group at its eighteenth (Vienna, 6-17 November 2006) and nineteenth (New York, 16-27 April 2007) sessions (see A/CN.9/616 and A/CN.9/621, respectively). At that session, the Commission was informed that, at its eighteenth session, the Working Group had continued and had largely completed its second reading of the draft convention, and had made significant progress with respect to a number of difficult issues, including those regarding transport documents and electronic transport records, shipper's liability for delay, time for suit, limitation of the carrier's liability, the relationship of the draft convention with other conventions, general average, jurisdiction and arbitration. Also considered by the Working Group was the issue of rights of suit pursuant to the draft convention, and it was decided that while an attempt to offer uniform solutions for rights of suit was a laudatory goal, the chapter should be deleted from the draft convention in light of its complexity and of the Working Group's goal for completion of the text. The Commission was also informed that the Secretariat had facilitated consultations between experts from Working Group III (Transport law) and experts from Working Group II (International arbitration and conciliation), and that a common understanding had been reached that accommodated the needs and general approach of both working groups regarding the provisions on arbitration in the draft convention.²⁹

34. The Commission was further informed that, at its nineteenth session, the Working Group had commenced its third reading of the draft convention, and that significant progress had been made in that regard. Third reading had been completed of a number of chapters of the draft convention, including related definitions, regarding the scope of application, electronic transport records, the period of the responsibility of the carrier, the obligations of the carrier, the liability of the carrier, additional provisions relating to particular stages of the carriage, the

²⁷ Ibid., para. 199.

²⁸ Ibid., para. 200.

²⁹ Ibid., *Sixty-second Session, Supplement No. 17* (A/62/17), paras. 180-181.

validity of contractual terms, liability for delay in the delivery of the goods, the relationship of the draft convention with other conventions, and the obligations of the shipper. The Commission was further informed that third reading had also largely been completed of the chapter regarding transport documents and electronic transport records.³⁰

35. The Commission commended Working Group III for the progress made in its work, particularly in light of the Working Group's goal of presenting the draft convention to the Commission for its consideration in 2008. Nevertheless, some real concerns were raised regarding the treatment of certain substantive issues in the draft convention, such as freedom of contract in volume contracts, and it was suggested that those issues should receive further examination prior to finalization of the draft convention. One delegation indicated that the treatment of the issue of freedom of contract in volume contracts would determine its position with regard to the adoption of the draft convention.³¹

36. With respect to the time frame for completion of the draft convention, the Commission was informed at its fortieth session that the Working Group planned to complete its third and final reading at the end of 2007, with a view to presenting the draft convention for finalization by the Commission in 2008. In order to accommodate that goal, and to allow for the possibility that additional time beyond the end of the twentieth session might be needed by the Working Group for completion of the final reading, the Commission agreed to schedule the twenty-first session of the Working Group for 14 to 25 January 2008, in order to provide sufficient time to complete final reading of the draft convention and circulate it for comments to Governments prior to the forty-first session of the Commission in 2008. Further, the Commission agreed to move the twenty-first session of the Working Group from New York to Vienna, given that if the final reading were completed at that session, it would require the participation of a drafting group, including translators and editors, which was possible only in Vienna. The Commission further noted that the Working Group could decide at the conclusion of its twentieth session whether it required a one-week or a two-week session in January of 2008, but that, generally, noting the complexities and magnitude of the work involved in the preparation of the draft convention, the Commission authorized the Working Group to hold its sessions on the basis of two-week sessions.³²

37. At its twentieth session (see A/CN.9/642), the Working Group completed its third reading of the draft convention as contained in the annexes to a note by the Secretariat (A/CN.9/WG.III/WP.81 and A/CN.9/WG.III/WP.81/Corr.1). The Working Group concluded its third reading of draft chapter 9 on transport documents and electronic transport records and completed its third reading of chapter 10 on delivery of the goods, chapter 11 on rights of the controlling party, chapter 12 on transfer of rights. In its third reading of chapter 13 on limits of liability and the Working Group provisionally decided to insert amounts into the square brackets setting the limitation levels on the carrier's liability. The Working Group also completed its third reading of chapter 14 on time for suit, chapter 15 on jurisdiction,

³⁰ Ibid., para. 182.

³¹ Ibid., para. 183.

³² Ibid., paras. 184 and 251 (c).

chapter 16 on arbitration, chapter 17 on general average, chapter 18 on other conventions and chapter 20 on final clauses. The Working Group also heard further comment on draft article 89 volume contracts. At the conclusion of its twentieth session, the Working Group, concluded its third reading of the draft convention, having considered the text in its entirety.

(b) Documentation for the twenty-first session

38. The Working Group will have before it, and may wish to use as a basis for continuation of its deliberations, a note prepared by the Secretariat containing a consolidation of revised provisions of the draft convention on the carriage of goods [wholly or partly] [by sea] (A/CN.9/WG.III/WP.101).

39. The Working Group will have before it the following documents:

- A/CN.9/WG.III/WP.101, Note by the Secretariat annexing the draft convention on the carriage of goods [wholly or partly] [by sea];
- A/CN.9/WG.III/WP.102; and
- A/CN.9/WG.III/WP.103.

40. The above-mentioned documents will also be accessible on the UNCITRAL website (www.uncitral.org), together with the documentation previously published by the Secretariat regarding that project, which contains additional information regarding the history of the project. That documentation includes:

- Reports of the Commission on the work of its twenty-ninth and thirty-first to fortieth sessions (A/51/17 and A/53/17 to A/62/17);
- Reports of the Working Group on the work of its ninth to nineteenth sessions (A/CN.9/510, 525, 526, 544, 552, 572, 576, 591, 591/Corr.1, 594, 616, 621 and 642); and
- Working papers prepared by the Secretariat for consideration by the Working Group at its ninth to nineteenth sessions (A/CN.9/WG.III/WP.20 to 99, and A/CN.9/612).

Item 5. Other business

41. The twenty-second session of the Working Group is scheduled to be held in Vienna, from 20 to 24 October 2008.

Item 6. Adoption of the report

42. The Working Group may wish to adopt, at the close of its session, a report for submission to the forty-first session of the Commission (currently scheduled to be held in New York, from 16 June to 11 July 2008).