

II. INTERNATIONAL PAYMENTS

1. Report of the Working Group on International Negotiable Instruments on the work of its fourth session (New York, 2-12 February 1976) (A/CN.9/117)

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INTRODUCTION

1. In response to decisions by the United Nations Commission on International Trade Law (UNCITRAL), the Secretary-General prepared a "Draft Uniform Law on International Bills of Exchange and International Promissory Notes, with commentary" (A/CN.9/WG.IV/WP.2).¹ At its fifth session (1972), the Commission established a Working Group on International Negotiable Instruments. The Commission requested that the above draft uniform law be submitted to the Working Group and entrusted the Working Group with the preparation of a final draft.²

2. The Working Group held its first session in Geneva in January 1973. At that session the Working Group considered articles of the draft uniform law relating to transfer and negotiation (articles 12 to 22), the rights and liabilities of signatories (articles 27 to 40), and the definition and rights of a "holder" and a "protected holder" (articles 5, 6 and 23 to 26).³

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-sixth Session, Supplement No. 17 (A/8417)*, UNCITRAL, report on the fourth session (1971), para. 35 (UNCITRAL Yearbook, Vol. II: 1971, part one, II, A). For a brief history of the subject up to the fourth session of the Commission, see A/CN.9/53, paras. 1 to 7; report of the United Nations Commission on International Trade Law on the work of its fifth session, *Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 17 (A/8717)*, UNCITRAL, report on the fifth session (1972), para. 61 (2) (c) (UNCITRAL Yearbook, Vol. III: 1972, part one, II, A).

² UNCITRAL, report on the fifth session (1972), para. 61 (1) (a).

³ Report of the Working Group on International Negotiable Instruments on the work of its first session (Geneva, 8-19 January 1973), A/CN.9/77 (UNCITRAL Yearbook, Vol. IV: 1973, part two, II, 1).

3. The second session of the Working Group was held in New York in January 1974. At that session the Working Group continued consideration of articles of the draft uniform law relating to the rights and liabilities of signatories (articles 41 to 45) and considered articles in respect of presentment, dishonour and recourse, including the legal effects of protest and notice of dishonour (articles 46 to 61).⁴

4. The third session was held in Geneva in January 1975. At that session the Working Group continued its consideration of the articles concerning notice of dishonour (articles 63 to 66). The Group also considered provisions regarding the sum due to a holder and to a party secondarily liable who takes up and pays the instrument (articles 67 and 68) and provisions regarding the circumstances in which a party is discharged of his liability (articles 69 to 78).⁵

5. The Working Group held its fourth session at United Nations Headquarters in New York from 2 to 12 February 1976. The Working Group consists of the following eight members of the Commission: Egypt, France, India, Mexico, Nigeria, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America. With the exception of Egypt, all the members of the Working Group were represented. The session was also attended by observers of the following members of the Commission: Argentina, Austria, Bul-

⁴ Report of the Working Group on International Negotiable Instruments on the work of its second session (New York, 7-18 January 1974), A/CN.9/86 (UNCITRAL Yearbook, Vol. V: 1974, part two, II, 1).

⁵ Report of the Working Group on International Negotiable Instruments on the work of its third session (Geneva, 6-17 January 1975), A/CN.9/99 (UNCITRAL Yearbook, Vol. VI: 1975, part two, II, 1).

garia, Federal Republic of Germany, Hungary, Kenya and the Philippines, and by observers from the International Monetary Fund, the Hague Conference on Private International Law, the International Chamber of Commerce and the European Banking Federation.

6. The Working Group elected the following officers:

Chairman Mr. René Roblot (France)
Rapporteur Mr. Roberto Mantilla-Molina (Mexico)

7. The Working Group had before it the following documents: provisional agenda (A/CN.9/WG.IV/WP.5); draft uniform law on international bills of exchange and international promissory notes, with commentary (A/CN.9/WG.IV/WP.2);⁶ draft text of article 79 of the uniform law (A/CN.9/WG.IV/CRP.9); report of the Working Group on the work of its first session (A/CN.9/77);⁷ report of the Working Group on the work of its second session (A/CN.9/86),⁸ and report of the Working Group on the work of its third session (A/CN.9/99).⁹

DELIBERATIONS AND CONCLUSIONS

8. As at its previous session, the Working Group decided to concentrate its work on the substance of the draft uniform law and to request the Secretariat to prepare a revised draft of those articles in respect of which its deliberations would indicate modifications of substance or of style.

9. In the course of its session, the Working Group considered articles 79 to 86 and articles 1 to 11 of the draft uniform law. The Group thereby completed its first reading of the draft uniform law. A summary of the Group's deliberations and its conclusions are set forth in paragraphs 11 to 116 of this report.

10. At the close of its session, the Working Group expressed its appreciation to the representatives of international banking and trade organizations that are members of the UNCITRAL Study Group on International Payments for the assistance they had given to the Group and the Secretariat. The Group expressed the hope that the members of the Study Group would continue to make their experience and services available during the remaining phases of the current project.

A. Limitation of actions

Article 79

"(1) A right of action arising on an instrument can no longer be exercised

"(a) Against the acceptor, the maker or his guarantor, after four years have elapsed;

"(b) Against an endorser, the drawer or his guarantor, after two months have elapsed.

Either period of time is hereinafter referred to as 'the limitation period'.

"(2) The limitation period shall commence to run on the date on which the action accrues.

"(3) (a) The action of the holder against the acceptor, the maker, and endorser or his guarantor

shall accrue on the date on which protest is made. Where protest is dispensed with, such action shall accrue on the date of dishonour in the case of dishonour by non-acceptance and on the date of maturity in the case of dishonour by non-payment, except that in the case mentioned in article 61 (2) (b), the action shall accrue upon the expiry of 30 days after maturity or, in the case of an instrument payable on demand, 30 days after the expiration of the time-limit for presentment for payment.

"(b) The action of an endorser, the drawer or their guarantor against the acceptor or his guarantor shall accrue on the date on which the instrument was taken up and paid.

"(c) The action of an endorser or his guarantor against an endorser, the drawer or their guarantor shall accrue on the date on which the instrument was taken up and paid.

"(4) Where the party to whom the action has accrued performs, before the expiration of the limitation period, any act which, under the law of the jurisdiction in which the party liable has his habitual residence or place of business, has the effect of suspending or recommencing a limitation period, the limitation period shall cease to run or recommence as the case may be.

"(5) Where a party liable, before the expiration of the limitation period, performs any act which, under the law of the jurisdiction in which that party has his habitual residence or place of business, has the effect of an acknowledgment of his liability on the instrument, the limitation period shall recommence.

"(6) In any event the dispatch, before the expiration of the limitation period, of a written notification signed and dated by a party to whom a right of action has accrued to a party liable stating:

"(a) That it is dispatched under article 79; and

"(b) That payment is demanded by him;

shall effect a cessation of the running of the limitation period in favour of the party liable from the time of dispatch.

"(7) Where, as a result of a circumstance which is beyond the control of the party to whom the action has accrued and which he could neither avoid nor overcome, such party has been prevented from causing the limitation period to cease to run or to recommence, the limitation period shall:

"(a) In the case of a right of action against the acceptor or his guarantors, be extended so as not to expire before the expiration of six months from the date on which the relevant circumstance ceased to exist, or

"(b) In the case of a right of action against an endorser, the drawer or their guarantor, recommence.

"(8) The cessation of recommencing of the limitation period shall operate only against the party in respect of whom the limitation period has been interrupted."

⁶ UNCITRAL Yearbook, Vol. IV: 1973, part two, II, 2.

⁷ UNCITRAL Yearbook, Vol. IV: 1973, part two, II, 1.

⁸ UNCITRAL Yearbook, Vol. V: 1974, part two, II, 1.

⁹ UNCITRAL Yearbook, Vol. VI: 1975, part two, II, 1.

11. This article introduces special rules in respect of the period of time within which an action arising on an instrument must be brought. Under article 79, actions are time-barred against a party primarily liable (the acceptor or the maker) after four years have elapsed, and against parties secondarily liable (endorser, guarantors and the drawer) after two months have elapsed. The limitation period commences to run on the date on which the cause of action accrues. Paragraph 3 sets forth provisions when an action accrues in respect of a party liable. Paragraphs 4 to 6 contain rules in respect of the cessation and recommencing of a period. Paragraph 7 deals with the special case of "force majeure".

12. The Working Group considered three possible approaches with respect to the limitation of actions arising on an instrument:

(a) Not to introduce into the uniform law provisions special to an international negotiable instrument and to leave the matter governed by national law;

(b) To introduce into the uniform law detailed provisions on the lines of the proposed article 79;

(c) To provide in the uniform law only for the period or periods of time within which an action must be brought and for the date on which the limitation period would commence to run, on the lines of articles 70 and 71 of the Geneva Uniform Law on Bills of Exchange and Promissory Notes.

13. The Working Group was of the view that it would be in the interest of uniformity if the uniform law contained special provisions concerning the period of time within which an action must be brought and the date of commencement of such period. The Group was agreed that it would not be feasible to lay down special rules governing such questions as suspension and interruption.

Action by the holder against the acceptor, the maker and their guarantor

(a) *Length of the limitation period*

14. There was general consensus that a period of four years, as proposed in article 79, was acceptable.

15. One representative was in favour of a period of three years, and reserved his position.

(b) *Date on which the period commences to run*

16. The Working Group was agreed that, in respect of an instrument payable at a definite time, the period should commence to run on the date of maturity.

17. With respect to an instrument payable on demand, the Working Group considered several possibilities:

- (i) The date on which the instrument was issued;
- (ii) The day after the instrument was created;
- (iii) The date on which the instrument was accepted;
- (iv) The first day on which the holder could claim payment according to the terms of the instrument; and

(v) The date on which the instrument was presented for payment.

18. The Working Group was unable to reach consensus on the date on which the period of limitation, in respect of actions on a demand instrument, should commence to run. According to one view, a course of action against the acceptor of a bill or the maker of a note should accrue on the date on which the instrument, signed by the acceptor or maker, was issued to the payee. According to another view, a course of action against the acceptor or the maker would only accrue on the date on which a demand for payment was made and payment was refused. According to yet another view, the cause of action should accrue on the day the instrument was created, but the period of limitation should not include the day on which the period commenced; the draft uniform law should therefore set forth a general provision on the lines of article 73 of the Geneva Uniform Law on Bills of Exchange and Promissory Notes.

19. The majority view was that there should be an identical rule and an identical result in respect of an instrument payable at a definite time and an instrument payable on demand, and that the date on which the period commenced to run should be the date of maturity. The maturity date of a bill payable on demand should be the date on which the bill was presented for payment.

20. The Working Group was agreed that if presentment of a note payable on demand or an accepted bill payable on demand was not made within the one-year period, laid down in article 53 (e), the date from which the period of four years should be calculated should be the day on which the period of one year, within which presentment for payment must be made, expired.

Action of the holder against an endorser and the drawer

(a) *Length of the limitation period*

21. The Working Group was of the opinion that the limitation period in respect of an action of the holder against prior parties should be the same as the limitation period in respect of the action by the holder against the acceptor, i.e. four years.

(b) *Date on which the period commences to run*

22. There was general agreement that, in respect of an action by the holder against parties secondarily liable, the period of four years should be calculated, in respect of all these parties, from the date on which a party first became liable on the instrument. It was understood that, in the case of dishonour by non-acceptance or by non-payment, this date should be the day on which the instrument was duly protested. Where protest was dispensed with, the date should be the day on which the instrument was dishonoured.

Action by parties secondarily liable

(a) *Length of the limitation period*

23. The Working Group was agreed that the limitation period in respect of an action of an endorser against an endorser or against the drawer should be four years. However, the Group was of the view that in respect of an action of an endorser or the drawer of a bill against the acceptor or of the endorser of a note against

the maker, an action might still be brought within one year from the day on which the endorser or the drawer took up and paid the bill or note or from the day on which they themselves were sued. Such a rule would prevent injustice to a party secondarily liable in the rare case where he would be sued towards the end of the period of four years.

(b) *Date on which the period commences to run*

24. The Working Group was of the opinion that the four-year period should be calculated in the same manner as the period in respect of an action by the holder against parties secondarily liable. The date of commencement of the additional period of one year should be as stated in paragraph 23 above.

General provision on date on which a period commences to run.

25. The Working Group requested the Secretariat to consider, when redrafting article 79 in the light of its conclusions, whether it would be feasible to replace the detailed rules in respect of the date from which the period should be calculated by a general rule under which the period would be calculated from the date on which a party became first liable to pay the instrument.

Suspension and interruption of the limitation period

26. The Working Group recognized that in some legal systems a period of limitation could be suspended or interrupted by an act of the creditor or of the debtor. The Group considered two questions:

(a) Whether the uniform law should set forth special provisions in respect of the causes and consequences of suspension and interruption of actions, arising on an international instrument, and of "force majeure"; and

(b) If the answer to question (a) was negative and the matter would consequently be left to national law, whether the uniform law should set forth a specific provision to that effect.

27. In respect of question (a), the Working Group was of the view that questions concerning the causes and consequences of suspension and interruption presented complex problems which could not adequately be dealt with in the context of a uniform law on international bills of exchange and promissory notes and should therefore be left to national law.

28. In respect of question (b), the Working Group was agreed that an express reference to national law would be necessary in view of the fact that under some legal systems the absence of such a reference would result in the non-recognition of the effects of suspension or interruption.

29. The Working Group requested the Secretariat to draft a provision on the lines of article 17 of annex II to the Geneva Convention on Bills of Exchange and Promissory Notes according to which it was for the law of each High Contracting Party to determine the causes of interruption or suspension of limitation in the case of actions on bills of exchange which came before its courts. The Group was of the view that this provision should be extended to comprise also other questions that could arise in the context of limitation,

such as the question whether the interruption or suspension of a limitation period should operate in respect of all parties liable or only against the party in respect of whom the period had been interrupted.

Limitation of actions arising outside an instrument

30. The Working Group considered the question whether actions arising outside an instrument, but connected with it, should be made subject to a specific limitation period. Such actions could either relate to the underlying transaction or to those that were specifically provided for in the uniform law (i.e. in articles 22, 42 and 66). The Group was of the opinion that the regulation of the limitation period in respect of these actions should be left to national law.

B. Lost instruments

31. Under the uniform law, the rights on an instrument are vested in the holder. Article 5 (6) defines the holder as the payee or endorsee of an instrument who is in possession thereof. The question thus arises which are the rights, if any, of a holder who has lost possession of the instrument. Articles 80 to 85 set forth special provisions concerning the rights and obligations of a "holder" who has lost the instrument (hereinafter referred to as "ex-holder") and of the party who pays the lost instrument.

32. The Working Group considered whether the uniform law should set forth provisions dealing with the situation where an instrument was lost. It was noted that the issue was of practical importance and one which was proper to the law on negotiable instruments. Furthermore, the laws of various countries which provided a solution in respect of lost instruments differed widely and a uniform régime would thus be beneficial. It was also noted that the laws of some countries provided for the possibility of having an instrument that had been lost, whether by theft, destruction or otherwise, declared cancelled. The Group was of the opinion that the institution of cancellation would not be acceptable in the context of an international negotiable instrument because cancellation took place on the basis of a judicial decision which would not necessarily be known in countries other than the country in which it was rendered. Consequently, the Group was agreed that the uniform law should contain provisions along the lines of articles 80 to 85 of the draft uniform law before it.

Article 80

"(1) Where an instrument is lost [whether by destruction, wrongful detention or otherwise] the person who lost the instrument shall, subject to the provisions of paragraphs (2) and (3) of this article, have the same right to payment which he would have had if he had been in possession of the instrument.

"(2) (a) A person claiming payment of a lost instrument shall establish in writing to the satisfaction of the party from whom he claims payment

"(i) The fact that, when in possession of the instrument, he had a right to payment;

"(ii) The facts which prevent production of the instrument; and

"(iii) The contents of the lost instrument.

“(b) The party from whom payment of a lost instrument is claimed may request the person claiming payment to give security in order to indemnify him for any loss which he may suffer by reason of the subsequent payment of the lost instrument.

“(c) The kind of security and its terms shall be determined by agreement between the person claiming payment and the party from whom payment is claimed. Failing such an agreement, the kind of security and its terms shall be determined by the Court.

“(d) Where security cannot be given, the Court may order the party from whom payment is claimed to deposit the amount of the lost instrument, and any interest and expenses which may be claimed under articles 67 and 68, with the Court or any other competent authority. Such deposit shall be considered as payment to the person claiming payment.”

33. The basic policy underlying article 80 is:

(a) That the fact that an instrument is lost should not deprive the ex-holder of the rights which he would have had if he had remained in possession of the instrument; and

(b) That the party liable on the lost instrument should not bear the risk of having to pay the instrument twice, i.e. to the ex-holder and to the holder in possession of the instrument.

The policy under (a) above is implemented by the provision that the ex-holder has the same right to payment which he would have had if he had not lost the instrument (cf. para. (1)). The policy under (b) above is implemented by the provision that the party from whom payment is claimed may require the ex-holder to give him security which would enable him to indemnify himself in the event of his having paid the instrument a second time to the holder in possession thereof.

Paragraph (1)

34. The Working Group considered whether the word “lost” should stand alone or should be explained by the words “whether by destruction, wrongful detention or otherwise” which had been placed between brackets. The Group was of the view that paragraph (1) should elaborate on the meaning of the word “lost” in the sense indicated in the present text. The Group requested the Secretariat to consider whether this could be better achieved by defining the term “loss” in a separate paragraph.

35. Doubts were expressed whether the phrase “have the same right to payment which he would have had if he had been in possession of the instrument” expressed adequately the idea that the fact that the instrument was lost could not be relied upon as a defence by a party liable. The Working Group requested the Secretariat to examine the possibility of a different wording of the paragraph which would convey that idea.

Paragraph (2) (a)

36. The Working Group noted that paragraph (2) (a) introduced a subjective test in that the ex-holder was required to establish certain facts “to the satis-

faction of the party from whom he claims payment”. The Group concluded that the question whether the establishment of certain facts was satisfactory for the purposes of article 80 should be decided on objective grounds. It requested the Secretariat to redraft the paragraph accordingly.

Paragraph (2) (a) (i)

37. The Working Group was agreed that subparagraph (a) (i) should be reworded as follows: “The fact that, if he had been in possession of the instrument, he would have had a right to payment.”

Paragraph (2) (a) (ii)

38. The Working Group expressed agreement with this provision.

Paragraph (2) (a) (iii)

39. The Working Group requested the Secretariat to reconsider this provision and to determine what elements were material for the purposes of the “writing” under paragraph (2) (a).

Paragraph (2) (b)

40. The Working Group was in agreement with this provision. However, it was suggested that the word “request” should be replaced by the word “require”.

Paragraph (2) (c)

41. The Working Group expressed agreement with this provision. However, the Group was of the view that the Court should be given a greater measure of discretion and should be at liberty to decide whether security was required in a given case and what would be the duration of the security and its terms.

Paragraph (2) (d)

42. The Working Group expressed agreement with the substance of this paragraph, subject to introducing also in this paragraph wording that would allow the Court to use its discretion in deciding the period of time during which the amount would remain in deposit.

Article 81

“(1) A party who has paid a lost instrument, and to whom the instrument is subsequently presented for payment by another person, shall notify the person to whom he paid of such presentment.

“(2) Such notification shall be given on the day the instrument is presented or on one of the two business days which follow and shall state the name of the person presenting the instrument and the date and place of presentment.

“(3) Failure to notify shall render the party who has paid the lost instrument liable for any damages that the person whom he paid may suffer from such failure (provided that the total amount of the damages shall not exceed the amount of the instrument).”

43. This article imposes upon the party who has paid the instrument to the ex-holder the obligation to notify him of a subsequent presentation of the instrument for payment. If such party does not do so, he is liable for damages. The purpose of this provision is

to safeguard the rights which the ex-holder may have on the instrument and to enable him to claim the instrument from the holder. If the ex-holder claims the instrument, the party who has paid the lost instrument may raise as a defence against a demand for payment by the holder the right of the ex-holder to the instrument (cf. article 24 (3)).

44. The Working Group expressed general agreement with this provision. However, the Group was of the view that article 81 should be supplemented by a provision on the lines of article 65 concerning the circumstances in which delay in giving notification would be excused or be dispensed with.

Article 82

“(1) A party who has paid a lost instrument and who is subsequently discharged of his liability on the instrument shall have the right

“(a) Where security was given, to indemnify himself; or

“(b) Where the amount was deposited with a Court or other competent authority, to reclaim the amount so deposited.

“(2) Where the amount was deposited with a Court or other competent authority and was not reclaimed under paragraph (1) (b) of this article within the period of time provided by article 79, the person for whose benefit the amount was deposited may request the Court which ordered the deposit to order that the amount deposited be paid out to him. The Court shall grant such request upon such terms and conditions as it may require.”

45. Paragraph (1) of this article deals with the right of the party who has paid the ex-holder to reimburse himself out of the security if subsequent to this payment the lost instrument is presented by a holder for payment and paid. Paragraph (2) concerns the situation where a party paying under article 80 deposited the amount with a Court or other competent authority (cf. article 80 (2) (d)), and the amount was not claimed within the period of limitation laid down in article 79. In such a case, the ex-holder may request the Court that the money be refunded to him.

Paragraph (1)

46. The Working Group expressed agreement with the substance of article 82. However, it was pointed out that the present wording did not state with sufficient clarity that:

(a) The words “a party who has paid a lost instrument” referred to a party who has paid a lost instrument under the provisions or article 80; and

(b) The words “and who is subsequently discharged of his liability” covered not only the case of a second payment by the party who has paid the ex-holder, but also other cases in which the rights of that party were impaired, e.g. where that party could no longer exercise a right of recourse against prior parties. For example: an endorser pays the ex-holder and receives security. The instrument is subsequently presented to the drawer and paid by him. The endorser should be able, under article 82, to indemnify himself since he cannot ex-

ercise a right of recourse against the drawer. The Group requested the Secretariat to redraft paragraph (1) accordingly.

Paragraph (2)

47. The Working Group was of the opinion that paragraph (2) should be redrafted so as to make it clear that the Court, acting under article 80 (2) (d), was not obliged to indicate the beneficiary of the deposited amount. Furthermore, paragraph (2) should be enlarged so as to comprise also the case where a security had been given.

48. The Working Group requested the Secretariat to consider the advisability of enlarging article 80 (2) (d) by giving the Court a larger discretionary power; this would possibly make paragraph (2) of article 82 superfluous.

Article 83

“A person claiming payment of a lost instrument duly effects protest for dishonour by non-payment by the use of a copy of the lost instrument or a writing establishing the elements of the lost instrument pertaining to the requirements set out in article 1 (2) or 1 (3).”

49. The fact that the instrument is lost does not dispense the ex-holder of the obligation to protest the instrument in the event of dishonour by non-acceptance or by non-payment. Article 83 lays down rules as to how protest is to be effected in this case.

50. The question was raised whether the fact that the instrument was lost should dispense the ex-holder of effecting a protest. The Working Group concluded that, if the uniform law required, as it now did, that protest was necessary in order to establish the liability of parties secondarily liable, protest should also be required in the case of dishonour of a lost instrument.

51. It was noted that under article 83 protest would duly be made by using a copy of the lost instrument or a writing establishing the elements thereof, and that these elements should correspond with the formal requisites that would, under article 1, make a writing an international negotiable instrument. The Working Group was agreed that where a copy of a lost instrument was available, such copy could be used for purposes of protest. However, the Group was of the view that the elements of the writing to be used for purposes of protest should be identical to the elements of the writing required under article 80 (2).

52. The question was raised what would be the legal effect of the impossibility for the ex-holder to effect a protest by reason of the refusal of the person authorized to certify dishonour to draw up an authenticated protest. The Working Group was of the view that if the refusal to draw up an authenticated protest was based on the fact that the instrument was non-existent or that certain elements of the lost instrument could not be reconstructed, the ex-holder would be dispensed of making protest under article 61.

Article 84

“A person receiving payment of a lost instrument in accordance with article 80 shall deliver to the

person paying the writing required under article 80 (2) (a) (iii) received by him."

53. Article 84 lays down a rule under which the person receiving payment of a lost instrument has an obligation similar to that of the person receiving payment of an instrument that was not lost (article 70 (2)). In the case of a lost instrument, the person receiving payment must deliver to the payor the writing required under article 80 received by him.

54. The Working Group expressed agreement with this article, subject to:

(a) Omitting in the article the reference to subparagraph (iii) of article 80 (2) (a); and

(b) Adding the words "and any authenticated protest" at the end of the provision.

Article 85

"A party who paid a lost instrument in accordance with article 80 shall, upon due proof of such payment, have the same rights which he would have had if he had been in possession of the instrument."

55. The provision of article 85 establishes in respect of parties who paid and took up a lost instrument rights similar to those of the ex-holder under article 80. Thus, where an endorser, upon dishonour by the acceptor, pays the ex-holder, the endorser in turn has, against prior parties, those rights on the lost instrument which he would have had if he had acquired, upon payment, possession of the instrument.

56. The Working Group expressed agreement with the provision of article 85. However, the Group was of the view that it was not necessary for the party who paid the instrument to furnish proof of such payment, since he would be in possession of the receipted writing referred to in article 84. Consequently, the words "upon due proof of such presentment" should be deleted.

Article 86

"{(a) Where an instrument was lost by the payee or by his endorsee for collection whether by destruction, wrongful detention or otherwise, the payee upon due proof of the fact that he or his endorsee for collection lost the instrument, shall have the right to request the drawer or the maker to issue a duplicate of the lost instrument. The drawer or maker, upon issuing such duplicate may request the payee to give security in order to indemnify him for any loss which he may suffer by reason of the subsequent payment of the lost instrument.

"(b) The kind of security and its terms shall be determined by agreement between the drawer or maker issuing a duplicate of a lost instrument and the payee. Failing such an agreement, the kind of security and its terms shall be determined by the Court.

"(c) (i) The drawer or the maker when issuing a duplicate of a lost bill or note may write on the face thereof the word 'duplicate' (or words of similar import).

"(ii) Where an instrument is marked as being duplicate, it shall be considered as

an instrument under this law, provided that a duplicate of a lost bill or note cannot be negotiated except for purposes of collection.

"(d) Refusal by the drawer or maker to issue a duplicate of a lost instrument shall render the drawer or maker liable for any damages that the payee may suffer from such refusal (provided that the total amount of the damages shall not exceed the amount of the lost instrument).]"

57. Article 80 gives the ex-holder the right to demand payment when the lost instrument is due. Article 86 confers upon the ex-holder the right to ask the drawer or the maker to issue a duplicate of the lost instrument. The rights conferred upon the ex-holder under articles 80 and 86 are not concurrent and the ex-holder has therefore an option. Article 86 also establishes the procedure to be followed when a duplicate is issued: the drawer or the maker may request the ex-holder to give security in order to protect himself against any loss which he may suffer by reason of subsequently paying the holder of the instrument.

58. Doubts were expressed whether a provision in respect of duplicate instruments was necessary. It was stated that the practical necessity for such a rule was probably not very great. The Working Group, after deliberation, decided to defer consideration of article 86 until after it had received from the Secretariat a note containing information on the law obtaining in various countries in respect of a duplicate and on the practice followed.

C. Sphere of application; form

59. Under the terms of reference given to it by the Commission, the Working Group is requested to draw up uniform rules applicable to a special negotiable instrument for optional use in international transactions. There are thus two requirements that must necessarily underlie the uniform law:

(a) The use of the instrument must be optional; and

(b) The instrument is to be used for settling international transactions and the uniform rules should not be used in respect of purely domestic transactions.

(a) Exercise of the option

60. The initial choice to use a bill or a note subject to the uniform law is exercised by the drawer or the maker. He may do so if certain international elements are present, but he is under no obligation to draw a bill or make a note under the uniform law. Persons other than the drawer or the maker are bound by the uniform law by virtue of their signature on the international instrument or by taking it up.

(b) International elements

61. There are two alternative approaches that would ensure compliance with the requirement that the international instrument is to be used for settling international transactions:

(i) To provide that the transaction underlying the drawing of an international bill or the making of an international note should be international.

This approach would entail that proof of the "internationality" of the instrument would have to be deduced from the commercial character of the underlying transaction; or

- (ii) To provide that the "internationality" of the instrument should appear from the instrument itself.

Articles 1 to 3 of the draft uniform law are based on the second approach because it is essential that the question whether the uniform law applies can be answered, in all cases, from what appears on the face of the instrument.

Article 1

"(1) This Law shall apply to international bills of exchange and to international promissory notes.

"(2) An international bill of exchange is a written instrument which

"(a) Contains, in the text thereof, the words 'Pay against this International Bill of Exchange, drawn subject to the Convention of _____' (or words of similar import); and

"(b) Contains an unconditional order whereby one person (the drawer) directs another person (the drawee) to pay a definite order; and

"(c) Is payable on demand or at a definite time; and

"(d) Is signed by the drawer; and

"(e) Shows that it is drawn in a country other than the country of the drawee or of the payee or of the place where payment is to be made.

"(3) An international promissory note is a written instrument which

"(a) Contains, in the text thereof, the words 'Against this International Promissory Note, made subject to the Convention of . . . , I promise to pay . . . ' (or words of similar import); and

"(b) Contains an unconditional promise whereby one person (the maker) engages to pay a definite sum of money to a specified person (the payee) or to his order; and

"(c) Is payable on demand or at a definite time; and

"(d) Is signed by the maker; and

"(e) Shows that it is made in a country other than the country of the payee or of the place where payment is to be made."

62. Paragraph (2) lays down the formal requisites which are required in order

(a) To make a negotiable instrument, and

(b) To make a negotiable instrument an international negotiable instrument that is subject to the uniform law.

63. The Working Group expressed agreement with the provisions of article 1.

64. It was noted that, by virtue of articles 9 and 10 of the Geneva Convention of 1930 for the Settlement of Certain Conflicts of Laws in connexion with Bills of

Exchange and Promissory Notes, States having ratified that Convention might be prevented from ratifying a convention on international bills of exchange and international promissory notes. It was also noted that article 18 of the above-mentioned Geneva Convention of 1930 sets forth a procedure for the revision of some or all of the provisions of that Convention. The view was expressed that, if there were a substantial obstacle standing in the way of a convention on international negotiable instruments, one possibility would be for States that were bound by the Geneva Convention of 1930 to remove the obstacle during the Conference of Plenipotentiaries that would be convened to adopt a convention on international negotiable instruments. The view was also expressed that the contracting parties to the Geneva Convention of 1930 should take steps within the United Nations that would lead to the necessary amendment of that Convention. The observer of the Hague Conference on Private International Law stated that the Hague Conference had included the question of conflicts of law in the field of negotiable instruments in its programme of work and was considering the possibility of a revision of the Geneva Convention of 1930 or of drawing up a new convention on conflicts of law in this field.

65. The Working Group, whilst recognizing that the Geneva Convention of 1930 on conflicts of law might stand in the way of a future convention on international negotiable instruments, was of the view that any conclusion it might reach on the relationship between the two conventions would do little to solve the problem of potential incompatibility. The Group requested the Secretariat to prepare, in consultation with other interested international organizations such as the Hague Conference on Private International Law, a study of the issue involved and of the possible procedures that could be followed, and to submit it to the Group at its next session.

Paragraph 1

66. The Working Group expressed general agreement with the provision of this paragraph.

Paragraph 2

"Written instrument"

67. It was suggested that the uniform law should contain a definition of the word "written". The view was expressed that the definition should be such as to make it possible for an international instrument to be printed out by electronic means. However, doubts were expressed whether such an instrument would still be an instrument for the purposes of the uniform law. The Working Group was agreed that the term "written" should encompass "handwritten", "typed" and "printed", but that the uniform law itself should not set forth a definition to that effect.

Subparagraph (a)

68. The Working Group was of the view that the instrument should bear on its face the words "international bill of exchange" and that it should contain a reference to the applicable law, i.e. "the Convention of . . .". The Group requested the Secretariat to consider whether it would be more appropriate to list these requirements after the present subparagraph (d). One representative expressed the view that the words

“international bill of exchange” should be inserted in the body of the instrument.

69. The Working Group considered the question whether the words “international bill of exchange” should be expressed in the language employed in drawing up the bill, as was required by the Geneva Convention of 1930 providing a Uniform Law for Bills of Exchange and Promissory Notes. The Group was of the view that this requirement should not be included in article 1 because of the not infrequent cases where a bill was drawn up in more than one language.

Subparagraph (b), (c) and (d)

70. The Working Group expressed agreement with the provisions of these subparagraphs. The question was raised whether an international instrument could be made payable initially to bearer. Some representatives expressed themselves in favour of such a rule. However, the Group was informed that certain central banks had raised objections to such instruments. The Group, after deliberation, was agreed that, in the light of that opposition, bearer instruments should be excluded.

Subparagraph (e)

71. The Working Group expressed agreement with the requirement that at least two “international elements” should appear on the face of the instrument and that the elements mentioned covered adequately the types of international transaction in respect of which an international instrument could be used. The Group considered various proposals aimed at improving the present wording of subparagraph (e). After deliberation, the Group was agreed that either two of the following elements should appear on the face of the instrument.

- (i) That it is drawn in one State and payable in another State; or
- (ii) That it is drawn in one State in favour of a payee in another State; or
- (iii) That it is drawn in one State on a drawee in another State.

The Group requested the Secretariat to consider the situations where the drawee and payee, or the drawee and the place of payment, or the payee and the place of payment were in different States and to draft appropriate wording covering these situations.

Additional elements

72. The Working Group considered a number of suggestions that additional formal requirements at present found in national legislations should be included amongst the requirements set forth in paragraph (2), such as the place of drawing, the place of payment, the date of issue and that the bill should mention that it was drawn “to the order of” a payee. The Group was of the opinion that adding further requirements might give rise to cases where, through the lack of a requirement on the instrument, the instrument would not be a negotiable instrument under the uniform law. However, the Group was of the view that the instrument should be dated, in view of the fact that the date of the instrument was relevant in other provisions of the uniform law. The Group requested the Secretariat to redraft subparagraph (d) as follows:

“(d) Is signed by the drawer and dated;”

73. The Working Group requested the Secretariat to consider the desirability of rearranging subparagraphs (a) to (e) so that the “international elements” under (d) and (e) would be together and would appear after the formal requisites set forth in subparagraphs (b), (c) and (d).

Paragraph 3

74. The Working Group was agreed that its conclusions in respect of paragraph (2) also obtained in respect of paragraph (3).

Article 2

“The incorrectness of statements made on an instrument for the purpose of paragraph (2) (e) or (3) (e) of article 1 shall not affect the application of this Law.”

75. The purpose of article 2 is to ensure that it is sufficient for the purpose of article 1 (2) (e) or (3) (e) that the bill or note shows on its face the elements of internationality set forth in those subparagraphs. Proof brought to the contrary does not make the law inapplicable, although incorrect or false statements made on the bill or note as to those elements may be considered by a State as violating its law.

76. The Working Group expressed general agreement with the substance of article 2. However, the Group was of the view that the article should be redrafted in order to make it clear that, for the purposes of paragraph (2) (e) or (3) (e), statements on the face of the instrument should conclusively be presumed to be true.

Article 3

“This Law shall apply without regard to whether the countries indicated on an international bill of exchange or an international promissory note pursuant to paragraph (2) (e) or (3) (e) of article 1 are Contracting States.”

77. A party who signs or takes up an international instrument manifests thereby his intention that his rights and obligations on the instrument are to be governed by the uniform law. Consequently, a Court in a contracting State should apply the uniform law regardless of the fact whether the States indicated on the instrument for purposes of paragraph (2) (e) or (3) (e) are contracting States.

78. The Working Group expressed agreement with the provision of article 3. However, the Group was of the view that the article should be redrafted to the effect that the uniform law would apply *in a Contracting State* without regard to whether the States indicated on the instrument for purposes of paragraph (2) (e) or (3) (e) of article 1 were contracting States.

79. An observer suggested that, for the purpose of the application of the uniform law, there should be the requirement that the uniform law would apply only if the instrument showed on its face that the drawee was in a contracting State. The Working Group did not accept this suggestion on the ground that it would unnecessarily restrict the sphere of application of the uniform law.

D. Interpretation

1. GENERAL

Article 4

"In interpreting and applying the provisions of this Law, regard shall be had to its international character and to the need to promote uniformity in its interpretation and application."

80. Article 4 is designed to promote uniformity in the interpretation and application of the uniform law. The article corresponds to a provision recommended by the Working Group on the International Sale of Goods.

81. The Working Group expressed agreement with this provision. The Group noted that the article, as now worded, did not correspond to the provision adopted in article 7 of the Convention on the Limitation Period in the International Sale of Goods, which read as follows:

"In the interpretation and application of the provisions of this Convention, regard shall be had to its international character and to the need to promote uniformity."

The Group requested the Secretariat to reword article 4 accordingly.

Article 5

"In this Law:

"(1) 'Bearer' means a person in possession of a bill or of a note endorsed in blank;

"(2) 'Bill' means an international bill of exchange governed by this Law;

"(3) 'Note' means an international promissory note governed by this Law;

"(4) 'Instrument' means an international bill of exchange or an international promissory note governed by this Law;

"(5) (a) 'Endorsement' means a signature, or a signature accompanied by a statement designating the person to whom the instrument is payable, which is placed on the instrument by the payee, by an endorsee from the payee, or by any person who is designated under an uninterrupted series of such endorsements. An endorsement which consists solely of the signature of the endorser means that the instrument is payable to any person in possession thereof;

"(b) 'Endorsement in blank' means an endorsement which consists solely of the signature of the endorser or which includes a statement to the effect that the instrument is payable to any person in possession thereof;

"(c) 'Special endorsement' means an endorsement which specifies the person to whom the instrument is payable;

"(6) 'Holder' means the payee or the endorsee of an instrument who is in possession thereof;

"(7) 'Issue' means the first transfer of an instrument to a person who takes it as holder;

"(8) 'Party' means a party to an instrument;

"(9) 'Protected holder' means the holder of an instrument which, on the face of it, appears to be complete and regular and not overdue, provided that such holder was, when taking the instrument without knowledge of any claims or defences affecting the instrument or of the fact that it was dishonourable."

82. Article 5 sets forth definitions in respect of terms used in the uniform law.

83. The Working Group noted that it had considered paragraphs (5), (6), and (9) at its first session (see A/CN.9/77, paras. 60-71; UNCITRAL Yearbook, Vol. IV: 1973, part two, II, 1).

Paragraph (1): "bearer"

84. It was noted that the expression "bearer" was not used in the uniform law and that there was therefore no need for a definition of "bearer".

Paragraphs (2), (3), (4) and (8): "bill", "note", "instrument", "party"

85. The Working Group expressed agreement with the definitions given for "bill", "note", "instrument" and "party".

Paragraph (7): "issue"

86. The Working Group requested the Secretariat to reconsider the definition of "issue" in the light of its conclusions in respect of article 12 (see A/CN.9/77, paras. 11-13; UNCITRAL Yearbook, Vol. IV: 1973, part two, II, 1).

Other definitions

87. The suggestion was made that article 5 should set forth a definition of "dishonour" since this term was not used in the Geneva Uniform Law and could not easily be translated into other languages. The suggestion was also made that article 5 should define what constituted an "unconditional order". The Working Group requested the Secretariat to consider appropriate formulations of these terms and to place a draft text before it at its next session.

2. INTERPRETATION OF FORMAL REQUIREMENTS

Article 7

"The sum payable by an instrument is a definite sum although the bill states that it is to be paid

"(a) With interest; or

"(b) By stated instalments; or

"(c) According to an indicated rate of exchange or according to a rate of exchange to be determined as directed by the instrument."

88. This article provides that if an instrument states that it is to be paid with interest, by stated instalments, or according to a certain rate of exchange, the sum payable is a definite sum for the purpose of article 1 (2) (b) or (3) (b).

Paragraph (a)

89. The Working Group was agreed that the uniform law should permit the stipulation of interest on a bill or note.

Paragraph (b)

90. The Working Group was agreed that an international instrument could be made payable by instalments. However, paragraph (b) should make it clear that the sum payable was a definite sum even if it was stipulated on the instrument that upon default in payment of any instalment the unpaid balance would become due.

Paragraph (c)

91. The Working Group expressed agreement with the substance of this provision on the understanding that the "rate" referred to in this paragraph referred to the rate of exchange mentioned in article 74 and not to any other rates.

92. The question was raised of what would be the relationship between paragraph (c) and article 74. The Working Group, after deliberation, decided to defer consideration of this question until it considered article 74 in second reading. In this connexion, the Group requested the Secretariat to inquire amongst banking and trade institutions whether and, if so, what kind of clauses, such as multicurrency clauses, were used in practice, and to examine whether the use of such clauses could affect the "definiteness" of the sum payable by an instrument, and to report to it at its next session.

Article 8

"(1) If there is a discrepancy between the amount of the instrument expressed in words and the amount expressed in figures, the sum payable shall be the amount expressed in words.

"[(2) If the amount of the instrument is specified in a currency having the same designation but a different value in the country where it was drawn or made and the country where payment is to be made, the designation shall be considered to be in the currency of the country where payment is to be made [provided that the place where payment is to be made is indicated on the instrument].]

"(3) Where an instrument states that it is to be paid with interest, without specifying the date from which interest is to run, interest shall run from the date of the instrument [and if the instrument is undated, from the issue thereof].

"(4) Where an instrument states that it is to be paid with interest, without specifying the rate, simple interest at the rate of [five] per cent per annum shall be payable."

93. Article 8 gives rules of interpretation with regard to the amount of the instrument.

94. Paragraph (1) deals with the case where there is a discrepancy between the amount expressed in words and the amount expressed in figures. Paragraph (2) settles the question which arises when the amount of an instrument is denominated in a currency which has the same designation but a different value in the country of drawing and the country of payment.

95. Paragraphs (3) and (4) lay down rules that obtain when the amount of the instrument is to be paid with interest.

Paragraph (1)

96. The Working Group expressed agreement with the substance of this paragraph.

97. Consideration was given to suggestions concerning additional rules of interpretation that would be applicable in cases of discrepancy between the amount in words and the amount in figures other than the case mentioned in paragraph (1). It was suggested that if the words in which the amount was expressed were ambiguous and the figures were not, the sum payable should be the amount expressed in figures (cf. sect. 3-118 (c) of the Uniform Commercial Code). It was further suggested that article 8 should reflect the situation envisaged in article 6 of the Geneva Uniform Law, according to which if the sum payable by a bill was expressed more than once in words or more than once in figures, and there was discrepancy, the smaller sum would be the sum payable. The Working Group, after deliberation, decided not to retain these suggestions.

Paragraph (2)

98. The Working Group concluded that this paragraph should be redrafted in such a way that the currency designated on the instrument would be considered to be the currency of the country where payment was to be made if the following conditions were met:

(a) The amount of the instrument is specified in a currency having the same denomination in at least one other State than the State where payment was to be made; and

(b) The currency is not identified as the currency of any State; and

(c) The State where payment is to be made is indicated on the instrument.

Paragraph (3)

99. The Working Group expressed agreement with this provision and decided to delete the words that were placed between brackets in view of its decision under article 1 (2) and (3) that the instrument must be dated.

Paragraph (4)

100. The Working Group was agreed that paragraph 4 should be aligned on article 5 of the Geneva Uniform Law: if interest was stipulated and the rate of interest was not indicated, the stipulation should be deemed not to have been written.

Article 9

"(1) An instrument is payable on demand

"(a) If it states that it is payable on demand or at sight or on presentment or if it contains words of similar import;

"(b) If no time for payment is expressed.

"(2) An instrument, which is accepted or endorsed or guaranteed after maturity is an instrument payable on demand as regards the acceptor, the endorser or the guarantor.

"(3) A bill is payable at a definite time if it states that it is payable

“(a) On a stated date or at a fixed period after a stated date or at a fixed period after the date of the bill; or

“(b) At a fixed period after sight; or

“[(c) By instalments at successive dates, even when it is stipulated in the bill that upon default in payment of any instalment the unpaid balance shall become due immediately.]

“(4) A note is payable at a definite time if it states that it is payable

“(a) On a stated date or at a fixed period after a stated date or at a fixed period after the date of the note; [or]

“[(b) By instalments at successive dates, even when it is stipulated in the note that upon default in payment of any instalment the unpaid balance shall become due immediately.]

“(5) The time of payment of an instrument payable at a fixed period after date is determined by reference to the date stated on the instrument regardless of whether instrument is ante-dated or post-dated.”

101. This article provides when an instrument is considered to be payable on demand and at a definite time.

Paragraphs (1) and (2)

102. The Working Group expressed agreement with these provisions.

Paragraph (3)

Subparagraphs (a) and (b)

103. The Working Group expressed agreement with these provisions.

Subparagraph (c)

104. The Working Group expressed agreement with the substance of this provision, subject to the following considerations:

(a) In view of the fact that an acceleration clause could provide for payment of the unpaid balance at a date later than the day of default, the word “immediately” should be deleted;

(b) Supplementary rules should be drafted in respect of the rights and obligations of parties in the event of the unpaid balance having become due (acceleration clause).

Paragraph (4)

105. The Working Group was agreed that its conclusions in respect of paragraph 3 should obtain also in respect of paragraph 4.

Paragraph (5)

106 Paragraph (5) provides that the expression “date on the instrument” means the date stated on the instrument regardless of the true date.

107. The Working Group expressed its agreement with this provision, but considered that the words “regardless of whether the instrument is ante-dated or post-dated” should be deleted since the date stated on the instrument should be presumed to be conclusive.

108. One representative expressed the view that paragraph 5 should be deleted.

109. The Working Group considered the question of what would be the legal effect of an instrument which stated that it was to be paid on a stated date *or before*. According to one view, such an instrument would be an instrument payable on demand. According to another view, a distinction should be made according to whether it was the holder who demanded payment before the stated date or whether it was the party liable who made payment before that date. The Group requested the Secretariat to consider these questions and to inquire whether instruments with this kind of maturity date were used in practice.

Article 10

“(1) A bill may

“(a) Be drawn upon two or more drawees.

“(b) Be signed by two or more drawers,

“(c) Be payable to two or more payees.

“(2) A note may

“(a) Be made by two or more makers,

“(b) Be payable to two or more payees.

“(3) If an instrument is payable to two or more payees in the alternative it is payable to any one of them and any one of them in possession of the instrument may exercise the rights of a holder. In any other case the instrument is payable to all of them and the rights of a holder can only be exercised by all of them.”

110. Article 10 provides that a bill or a note may be drawn by two or more drawers or on more than two or more drawees or be payable to two or more payees. It also provides that if the instrument is payable to two or more payees in the alternative (A or B), it is payable to any one of them and any one of them may endorse the instrument. If the instrument is payable to two or more payees not in the alternative (A and B), it is payable to A and B together and it must be endorsed by both.

111. The Working Group was agreed that the uniform law should contain a rule permitting a plurality of drawers, drawees or payees. However, the Group was of the view that the provisions in the draft uniform law governing cases where there was such a plurality should be reconsidered and completed.

3. COMPLETION OF AN INCOMPLETE INSTRUMENT

Article 11

“(1) The possessor of a writing which

“(a) Contains, in a text thereof, the words ‘pay against this international bill of exchange, drawn subject to the Convention of . . .’, or the words ‘against this international promissory note, made subject to the Convention of . . . I promise to pay . . .’ (or words of similar import), and

“(b) Is signed by the drawer or the maker, but which lacks elements pertaining to one or more of the

other requirements set out in article 1 (2) or 1 (3) shall be presumed to have received authority from the drawer or the maker to insert such elements, and the instrument so completed is effective as a bill or as a note;

“(2) When such a writing is completed otherwise than in accordance with the authority given, the lack of authority cannot be set up as a defence against a holder who took the instrument without knowledge of the lack of authority.”

112. Article 11 deals with the completion of an instrument which lacks elements that are required for purposes of negotiability under the uniform law. The article does not apply to the alteration or correction of elements that appear on a completed instrument; in such a case article 29, concerning material alterations, applies. Article 11 applies when two conditions are met:

(a) The instrument must contain the words “international bill of exchange” or “international promissory note”, and must mention that it is subject to the Convention of . . . ; and

(b) The instrument must be signed by the drawer or the maker.

If these conditions are satisfied, then every possessor of the writing has an authority, derived from the drawer or maker, to insert the elements that are lacking. If such insertion is made in accordance with the authority given, then the instrument as completed is effective as an instrument under the uniform law. If the insertion is not made in accordance with the authority given, the instrument is also effective as an instrument under the uniform law, but any person who signed the instrument before such completion may use the absence of authority as a defence. However, such a defence cannot be raised against a holder who took the instrument without knowledge of the lack of authority. The article establishes the presumption, subject to proof to the contrary, that the instrument was completed in accordance with the authority given.

113. The Working Group was agreed that the issue dealt with in article 11 should be governed by the uniform law. The Group was also agreed that article 11 should apply only when the “writing” contained the words “international bills of exchange” or “international promissory note” and a reference to the Conven-

tion as the applicable law, and was signed by the drawer, the maker or the acceptor.

114. The Working Group requested the Secretariat to redraft article 11 along the following lines:

(a) The article should not refer to any presumption;

(b) The article should not refer expressly to any authority given by the drawer or the maker;

(c) The expression “possessor” should not be used;

(d) The article should make it clear that it applied only when elements were missing and could therefore be inserted, and not to cases of correction of the existing words or figures;

(e) The article should specify that when elements were inserted contrary to the agreement between the parties, the instrument was a negotiable instrument under the uniform law, but parties who signed before such completion would have a defence against liability on the instrument vis-à-vis a holder who took the instrument with knowledge of the absence of agreement.

115. One representative expressed the view that any signature should suffice for the purposes of article 11.

116. The Working Group requested the Secretariat, when redrafting article 11, to take account of the wording of article 10 of the Geneva Uniform Law.

FUTURE WORK

117. The Working Group, having terminated its first reading of the draft Uniform Law on International Bills of Exchange and International Promissory Notes, requested the Secretariat to place before it, at its fifth session, a revised draft uniform law that would reflect its deliberations and conclusions. The Group agreed with the suggestion made by its Secretary that the Secretariat should approach representatives of the Group for the purpose of preparing a revised text in the various official languages.

118. The Working Group gave consideration to the timing of its fifth session. The Group was of the opinion that the consideration of the time and place for that session should be left for decision by the Commission at its forthcoming ninth session, which will convene on 12 April 1976.

2. List of relevant documents not reproduced in the present volume

<i>Title or description</i>	<i>Document reference</i>
Provisional agenda	A/CN.9/WG.IV/WP.5
Draft uniform law on international bills of exchange and international promissory notes: draft text of article 79	A/CN.9/WG.IV/CRP.9
Draft uniform law on international bills of exchange and international promissory notes, with commentary	A/CN.9/WG.IV/CRP.10 and Add.1 to 6