

VI. ACTIVITIES OF OTHER ORGANIZATIONS

Report of the Secretary-General: current activities of international organizations related to the harmonization and unification of international trade law (A/CN.9/175)*

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Introduction

1. The United Nations Commission on International Trade Law (UNCITRAL), at its third session, requested the Secretary-General "to submit reports to the annual session of the Commission on the current work of international organizations in matters included in the programme of work of the Commission".¹

2. In accordance with the above decision reports were submitted to the Commission at the fourth session

* 1 May 1979.

¹ Report of the United Nations Commission on International Trade Law on the work of its third session, *Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 17 (A/8017)*, para. 172 (Yearbook . . . 1968-1970, part two, III, A).

in 1971 (A/CN.9/59), at the fifth session in 1972 (A/CN.9/71), at the sixth session in 1973 (A/CN.9/82), at the seventh session in 1974 (A/CN.9/94 and Add.1-2), at the eighth session in 1975 (A/CN.9/106),* at the ninth session in 1976 (A/CN.9/119),** at the tenth session in 1977 (A/CN.9/129 and Add.1)*** and at the eleventh session in 1978 (A/CN.9/151).****

3. The present report, prepared for the twelfth session (1979), is based on information submitted by in-

* Yearbook . . . 1975, part two, V.

** Yearbook . . . 1976, part two, VI.

*** Yearbook . . . 1977, part two, VI.

**** Yearbook . . . 1978, part two, V.

ternational organizations concerning their current work. In some cases, this report includes information on progress with respect to projects for which background material is included in earlier reports.²

4. In the field of international transport, the present report does not include information on the current work of international organizations concerning multimodal transport, charter-parties, marine insurance, transport by container and the forwarding of goods. Information on the work of international organizations on these topics may be found in another document prepared for the twelfth session (1979) of the Commission, the "Survey of the work of international organizations in the field of transport law" (A/CN.9/172; reproduced in this volume, part two, V, A).

5. The current activities of the following international organizations are described in the present report:

(a) *United Nations bodies and specialized agencies:* United Nations Conference on Trade and Development (UNCTAD) (paras. 23, 37, 39, 45-46, 87, 105-107); United Nations Economic Commission for Europe (ECE) (paras. 11-12, 18, 34, 44, 49, 57, 76, 88, 97, 109, 114, 116-117, 126); United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) (para. 19); United Nations Industrial Development Organization (UNIDO) (para. 124); Food and Agriculture Organization of the United Nations (FAO) (paras. 13, 95, 111); Inter-Governmental Maritime Consultative Organization (IMCO) (paras. 40-41, 56); International Civil Aviation Organization (ICAO) (paras. 53-55, 67); International Monetary Fund (IMF) (paras. 33, 37); and World Health Organization (WHO) (paras. 13, 95, 111).

(b) *Other international organizations:* African Development Bank (para. 113); Bank for International Settlements (para. 36); Caribbean Community (para. 85); Central Office for International Transport by Rail (OCTI) (para. 50); Commission of the European Communities (CEC) (paras. 28, 65, 69, 72, 86, 89, 91-92, 94); Council for Mutual Economic Assistance (CMEA) (paras. 10, 24, 83-84, 108, 123, 125); Council of Europe (CE) (paras. 29, 32, 80-82, 93, 96); Customs Co-operation Council (CCC) (paras. 16, 78-79, 98, 115, 118-122); Hague Conference on Private International Law (paras. 70-71, 73-74); International Institute for the Unification of Private Law (UNIDROIT) (paras. 7-8, 52, 56, 66, 90, 100-103); and Latin American Free Trade Association (LAFTA) (para. 38, 51).

(c) *International non-governmental organizations:* Inter-American Commercial Arbitration Commission (para. 64); International Chamber of Commerce (ICC) (paras. 9, 14, 20, 22, 25-27, 30-31, 33, 58-63, 68, 75); International Chamber of Shipping (ICS) (paras. 37, 42, 77, 110, 127); International Maritime Committee (CMI) (paras. 15, 21, 35, 38, 41, 43, 47-48, 60, 99,

104); International Law Association (ILA) (para. 112); and International Organization for Standardization (ISO) (para. 17).

6. This report is arranged according to major subjects in international trade law. Under each subject the relevant activities of the international organizations are discussed in turn.

I. International contracts

A. LAW GOVERNING INTERNATIONAL CONTRACTS

7. In April 1978 a Steering Committee of UNIDROIT adopted a revised text of draft rules on the interpretation of international contracts. The Steering Committee requested the secretariat of UNIDROIT to combine in a single document the draft rules on the interpretation of international contracts and the draft rules on the formation of international contracts adopted earlier. The combined text, accompanied by an explanatory report, was issued as UNIDROIT Study L-Doc.15 and will be placed before a study group that is to meet in September 1979.

8. UNIDROIT is examining the desirability and feasibility of drawing up uniform rules on the quality and quantity control of goods that are the subjects of international contracts. A study on quality controls in the international sale of goods, prepared by Dr. Vilus (Yugoslavia), has been circulated to member States of UNIDROIT for comments (UNIDROIT Study LX-Doc.1).

9. ICC, through a working party established by its Commission on International Commercial Practice, has followed closely the work of UNCITRAL on the contract for the international sale of goods.

B. GENERAL CONDITIONS FOR INTERNATIONAL CONTRACTS

10. In 1978 work within CMEA continued, aimed at improving further the General Conditions of Delivery of Goods between Organizations in the CMEA member States, which had been adopted in 1968 and modified in 1975. In January 1979 the Executive Committee of CMEA approved certain proposals concerning the responsibility of economic organizations for non-performance or unsatisfactory performance of obligations and the CMEA Standing Commission on Foreign Trade was directed to incorporate these proposals into the General Conditions of Delivery.

11. Under the auspices of ECE, the Group of Experts on International Trade Practices relating to Agricultural Products has reviewed the General Conditions for International Dealings in Potatoes and the Rules of Valuation for Potatoes, which had been adopted by ECE previously. The Group of Experts is expected to conclude its work on this subject in 1979 and the texts will then be published as the "United Nations/ECE General Conditions of Sale for Potatoes". At its next session the Group of Experts will also discuss a proposal to commence work on general conditions for sale of milk and milk products.

² Background material may be found in the reports referred to in para. 2 above and in the *Digest of legal activities of international organizations and other international institutions*, published under the auspices of the International Institute for the Unification of Private Law (UNIDROIT).

C. INTERNATIONAL TRADE TERMS AND STANDARDS

12. Under the auspices of ECE, the Working Party on Facilitation of International Trade Procedures is continuing its work of preparing descriptions of the functions performed by about 130 documents used in international trade, with a view to establishing internationally agreed descriptions of their functions. The Working Party is also examining data elements, i.e. groups of words conveying certain information, that appear in these documents.

13. Under the Joint FAO/WHO Food Standards Programme, established by these two organizations in 1962, the intergovernmental Codex Alimentarius Commission and its subsidiary bodies elaborate comprehensive international food standards and international maximum limits for pesticide residues in food. These standards are then adopted by the Codex Alimentarius Commission and circulated to Governments for acceptance and implementation by national legislation. About 150 such food standards have been developed to date, as well as over 1000 maximum limits for pesticide residues in particular food products and a general standard covering the labelling of all prepackaged foods. Codex Co-ordinating Committees for Africa, Asia and Latin America are utilized to ensure that the work of the Codex Alimentarius Commission takes into account the particular needs of developing countries.

14. ICC is continuing its work aimed at revising the existing INCOTERMS to reflect changes in transportation techniques, legal practices and documentary procedures. The revision is expected to be completed by the beginning of 1980.

15. CMI considered at its September 1977 conference draft Charter-party (laytime) Definitions. The draft Definitions are now being examined by a working group of experts and will then be circulated to the shipping industry for comments.

16. CCC is currently engaged in revising its Glossary of International Customs Terms. The revision will take into account the definitions found in international instruments adopted by the Council, customs terms used in national automatic data processing systems and the work of other international organizations, particularly ECE.

17. The International Standards prepared by ISO are often used as a basis for international tendering and contracts. As at the end of 1978 ISO has published more than 3700 international standards. Within ISO, the technical work of elaborating international standards is carried out through technical committees; particular mention may be made of Technical Committee 68, concerned with banking procedures, and Technical Committee 154, concerned with documents and data elements in administration, commerce and industry.

D. MODEL CONTRACTS, CLAUSES AND FORMS

18. At its fourteenth session in November 1978, the Group of Experts on International Contract Practices in Industry of ECE adopted the "Guide for Draw-

ing up International Contracts between Parties Associated for the Purpose of Executing a Specific Project". The Guide will be published during the course of 1979. The Group of Experts will now consider international engineering contracts, including related aspects of technical assistance. A preliminary draft text will be discussed at the fifteenth session of the Group of Experts in November 1979.

19. The International Trade Division of ESCAP is engaged in the preparation of standard contracts and general conditions for use in the tropical timber trade in the region. In this connexion, the International Trade Division has undertaken a comprehensive study of existing trade practices; the results of this study will be presented to an ESCAP Expert Group Meeting on Contracts and Grading and Specification Rules for Tropical Timber.

20. ICC has recognized that market instability, primarily due to inflation and the high cost of raw materials, poses serious difficulties in the performance of long-term contracts. ICC is therefore preparing model contract clauses dealing with the adaptation of contracts to economic variations (i.e. *force majeure* and hardship clauses), with the computation of damages and with the determination in advance of the amount of damages for breach of contract.

21. A Sub-Committee of CMI is considering the legal problems arising in international contracts due to changes in economic conditions.

22. ICC is preparing standard security interest clauses for inclusion in international contracts of sale. These clauses would provide that title to the goods sold only passes to the buyer when the seller has been paid in full, unless the seller is protected by an appropriate collateral security interest clause.

23. The secretariat of UNCTAD is studying the feasibility of drawing up model rules for regional associations (ports, shippers, shipowners) and joint ventures in the field of maritime transport. The model rules, which might then be published as a handbook, would be designed to facilitate co-operation among developing countries concerning shipping and ports.

24. During 1977 and 1978 the Conference of Chartering and Ship-Owning Organizations of member States of CMEA drafted and approved a number of standard forms for marine charters and bills of lading covering particular types of goods and trade routes.

II. International payments

A. WORK ON CONVENTIONS AND UNIFORM RULES ON INTERNATIONAL PAYMENTS

25. ICC published in December 1978 Standard Forms for Issuing Documentary Credits (ICC Publication No. 323), which are adapted to the revised text of the ICC Uniform Customs and Practice for Documentary Credits. An ICC working party is now preparing a standard application form for use by applicants for documentary credits; the form, addressed by the applicant to

the issuing bank, will be in harmony with the forms in ICC Publication No. 323 and the ECE layout key.

26. ICC is now examining stand-by letters of credit and contract guarantees that provide for payment on simple demand. The ICC Uniform Rules for Contract Guarantees (ICC Publication No. 325) were not intended to cover such arrangements.

27. ICC published in August 1978 Uniform Rules for Contract Guarantees (ICC Publication No. 325), which had been prepared in close co-operation with UNCITRAL. An ICC working party is now considering the drafting of model forms for the issuance of contract guarantees subject to the Uniform Rules.

28. CEC is engaged in the preparation of a directive on guarantees and indemnities. Work on a draft directive on the subject, aimed at the harmonization of the laws of member States of EEC, is near completion.

29. The secretariat of the Council of Europe considered the particular topics in the area of creditors' rights that might usefully be examined under the auspices of the Council. Based on the results of this inquiry, the Committee of Ministers of the Council of Europe established a committee of experts, charged with preparing either an international convention or a recommendation dealing with clauses on the retention of security interests. A number of international organizations, including the secretariat of UNCITRAL, will be invited to participate as observers in the work of the committee of experts.

30. ICC published in 1978 revised Uniform Rules for Collections (ICC Publication No. 322), which provide standard rules applicable to international collection operations. An ICC working party is now engaged in preparing, for use by banks carrying out such collection operations, standard forms based on the ECE layout key.

31. A working party of ICC is preparing standards applicable to the liquidation of outstanding forward foreign exchange contracts where one of the contracting parties becomes insolvent. The working party has drawn up draft rules on the subject and consultations on the basis of this draft are now in progress.

32. The Convention relating to Stops on Bearer Securities in International Circulation, adopted under the auspices of the Council of Europe, entered into force on 11 February 1979. The Secretary-General of the Council published a list of bearer securities in international circulation on 11 December 1978. Based on a recommendation of experts, the Committee of Ministers of the Council of Europe named a Belgian institution, the Office belge de valeurs mobilières, as the Central Bureau envisaged in the Convention and its annex.

33. IMF and ICC have both co-operated actively in the work of UNCITRAL on international negotiable instruments. The IMF and the ICC have participated as observers in meetings convened under UNCITRAL auspices dealing with the subject of negotiable instruments.

B. VALUE CLAUSES IN INTERNATIONAL CONVENTIONS

34. At its thirty-eighth (special) session on 5 July 1978, the Inland Transport Committee of ECE adopted protocols concerning the unit of account in the following ECE transport conventions: Convention on the Contract for the International Carriage of Goods by Road (CMR Convention); Convention on the Contract for the International Carriage of Passengers and Luggage by Road (CVR Convention); Convention relating to the Limitation of the Liability of Owners of Inland Navigation Vessels (CLN Convention); and Convention on the Contract for the International Carriage of Passengers and Luggage by Inland Waterway (CVN Convention). These protocols were opened for signature on 1 September 1978.

35. CMI is preparing draft Protocols to the 1924 Brussels Convention for the Unification of Certain Rules relating to Bills of Lading and to the 1957 Brussels Convention relating to the Limitation of the Liability of Owners of Sea-going Ships, substituting for the reference therein to Poincaré francs the unit of account adopted in the 1976 London Convention of Limitation of Maritime Claims and in the 1978 United Nations Convention on the Carriage of Goods by Sea. The purpose of these Protocols is to bring up to date the 1924 and 1957 Conventions for the interval until the 1976 and 1978 Convention replacing them come into force.

C. ELECTRONIC FUNDS TRANSFER

36. In 1978 the Bank for International Settlements arranged a meeting of experts from its member central banks on the question of liability arising from electronic transfers of funds. This meeting was related to the work of UNCITRAL on electronic fund transfers and a summary report of the discussions was sent to the secretariat of UNCITRAL in December 1978.

III. International transport

A. TRANSPORT BY SEA

37. UNCTAD, IMF and IC⁹ participated in the work of UNCITRAL concerning ocean bills of lading and attended UNCITRAL meetings dealing with the drafting of a convention on the carriage of goods by sea. In addition, all three of these organizations attended the 1978 Hamburg Conference which adopted the United Nations Convention on the Carriage of Goods by Sea, 1978 (the Hamburg Rules).

38. LAFTA and CMI have both been examining the provisions of the United Nations Convention on the Carriage of Goods by Sea, 1978 (the Hamburg Rules) with a view toward developing a common position that their respective members might take regarding the Convention.

39. The Convention on a Code of Conduct for Liner Conferences has not yet entered into force, although 33 States had become Contracting States as at 1 January 1979. The secretariat of UNCTAD stands

ready to assist States in ratifying or acceding to the Convention and in implementing its provisions. It is expected that the status of the Convention on a Code of Conduct for Liner Conferences will be discussed at the fifth session of UNCTAD (Manila, 6 May-1 June 1979).

40. In the long-term work programme of IMCO, the following legal subjects were included and referred for consideration by the Legal Committee:

- (i) Possible review of the 1926 Brussels Convention for the Unification of Certain Rules Relating to Maritime Liens and Mortgages, and the 1967 revision thereof;
- (ii) Possible review of the Brussels Conventions on Maritime Law, drafted under the auspices of the International Maritime Committee, with a view to their replacement by updated conventions adopted under IMCO auspices.

41. CMI submitted for consideration by the Legal Committee of IMCO the draft Convention on Off-Shore Mobile Craft and the draft Convention on Civil Jurisdiction, Choice of Law, Recognition and Enforcement of Judgements in Matters of Collision at Sea. Both these subjects are included in the work programme of the IMCO Legal Committee.

42. ICS follows closely the work of IMCO, and has often submitted papers for consideration at various IMCO meetings.

43. CMI has established a Sub-Committee charged with considering problems relating to collisions at sea.

44. Within ECE, the Working Party on Facilitation of International Trade Procedures is engaged in preliminary work toward adoption of draft recommendations on maritime transport document procedures (TRADE/WP.4/GE.2/R.114) and on shipping marks (TRADE/WP.4/GE.2/R.122).

B. LEGAL ISSUES RELATED TO TRANSPORT BY SEA

45. The Committee on Shipping of UNCTAD considered in April 1977 a report prepared by the UNCTAD Secretariat concerning the legal and economic consequences for international shipping of the existence or absence of a genuine link, as defined in international conventions that are in force, between a vessel and its flag of registry. The report was considered by a group of experts in February 1978. The group of experts concluded that the expansion of "flag of convenience" (open-registry) fleets has adversely affected the development and competitiveness of the merchant fleets of developing countries and recommended that UNCTAD should continue to study the subject. These findings will be considered at the fifth session of UNCTAD (Manila, 6 May-1 June 1979), together with proposals formulated by the UNCTAD secretariat for increasing the participation of developing countries in world shipping and the eventual phasing out of flag-of-convenience operations.

46. In 1975 the Committee on Shipping of UNCTAD considered a report on the treatment of foreign merchant vessels in ports (TD/B/C.4/136) prepared by the UNCTAD secretariat. The report reviewed the international conventions, rules and regulations that have a bearing on the status of foreign merchant vessels in ports. At its ninth session, to be held in 1980, the Committee on Shipping of UNCTAD will decide upon the course of further work on this subject.

47. A Sub-Committee of CMI is considering the possibility of international unification of rules relating to contracts of towage.

48. CMI is co-operating with UNIDROIT in studying the liability of sea terminals.

C. TRANSPORT OVER LAND

49. The Group of Experts on the Transport of Perishable Foodstuffs, a subsidiary body of the Inland Transport Committee of ECE, is continuing its work to amend the technical annexes of the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for such Carriage.

50. OCTI will convene in 1980 the eighth Ordinary Revision Conference, which will consider the restructuring and modification of the CIM Convention (concerning the contract for the international carriage of goods by rail) and the CIV Convention (concerning the contract for the international carriage of passengers and baggage by rail). These Conventions govern the legal régime for carriage by rail among 32 States, of which 26 are in Europe, 3 in Asia and 3 in Africa.

51. LAFTA is now considering adoption of a multilateral convention concerning transport by road among States members of the Association. A draft convention has already been prepared by the secretariat of the organization.

52. For the work of UNIDROIT concerning the possibility of preparing a draft convention on civil liability for damage caused as a consequence of the carriage of hazardous substances by road, see paragraph 66 below (V. Products liability).

D. TRANSPORT BY AIR

53. ICAO has been concerned with the legal problems arising from the lease, charter and interchange of aircraft in international operations, particularly regarding the regulation and enforcement of air safety standards when aircraft registered in one State is operated by an operator belonging to another State. To deal with these problems a conference held in September 1978 in Montreal adopted a Protocol to Amend the 1952 Rome Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface. Similarly, the Legal Committee of ICAO approved in February 1978 a new draft article that would amend the 1944 Chicago Convention and is now considering a possible revision of the 1963 Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft.

54. The general work programme of the Legal Committee of ICAO includes the item "Consolidation of the instruments of the 'Warsaw System' into a single convention". The Legal Bureau of ICAO has been requested to prepare two draft "texts of convenience": one consolidating the provisions of the instruments of the "Warsaw System" that are in force, and the other consolidating all the instruments of that system. These draft texts will then be sent to States for their comments.

55. In June 1978 the Council of ICAO referred to the Legal Committee the question of the authority and responsibility of the pilot-in-command of an aircraft during acts of unlawful interference. The question had earlier been considered by other subsidiary bodies of ICAO.

E. TRANSPORT BY AIR-CUSHION VEHICLES

56. In September 1976 UNIDROIT transmitted to IMCO three draft conventions concerning the legal status of air-cushion vehicles, dealing, respectively, with registration and nationality, with the international carriage of passengers and their luggage by sea and by inland water-way, and with the civil liability of owners and operators of air-cushion vehicles for damage caused to third parties. Consideration of these draft conventions is included in the work programme of the Legal Committee of IMCO. In 1978 the Legal Committee of IMCO had an exchange of views on the draft Convention on Registration and Nationality of Air-Cushion Vehicles.

IV. International commercial arbitration

A. ACTIVITIES CONCERNING SPECIALIZED TYPES OF ARBITRATION

57. In March 1978 the United Nations/ECE Arbitration Rules for Certain Categories of Perishable Agricultural Products were adopted by the Committee on Agricultural Problems of ECE. These Rules became operational in July 1978 when the ECE Working Party on Standardization of Perishable Produce nominated the four members of the United Nations/ECE Chamber for Arbitral Procedures who are to serve for the period 1978-1982.

58. In October 1978 ICC published Standard Clauses and Rules on the Regulation of Contractual Relations, applicable to those cases where the arbitrators are to serve as regulating influences during the performance of long-term contracts, either by filling gaps in such contracts or by adapting the contracts to changed circumstances (ICC Publication No. 326).

59. The International Centre for Technical Expertise, established by ICC in December 1976, may be utilized by the parties to a contract to effect the nomination of a neutral expert to resolve a technical problem during the performance of the contract. In the past two years the Centre has appointed a number of such neutral

experts to settle technical disputes that arose under a wide range of contractual relationships.

60. ICC and CMI have established a joint international maritime arbitration centre (ICC Publication No. 324).

B. INFORMATION ON ARBITRATION LAWS AND PRACTICE

61. ICC is now preparing a revised, up-to-date edition of ICC document No. 11 entitled "Arbitration and the Law throughout the World", which had been published in 1955. It is expected that the first volume, dealing with the laws on arbitration of European countries, will be issued in 1980.

62. While preserving the confidentiality of arbitral awards rendered under the auspices of the ICC Court of Arbitration, ICC is preparing a compilation of excerpts from those awards that contain legal solutions of general interest.

63. Under the auspices of its Institute on Business Law and Practice ICC organizes introductory seminars on international commercial arbitration for lawyers and businessmen. At these introductory seminars the participants attend a series of lectures by leading practitioners and take part in model arbitral proceedings. ICC is also planning advanced seminars dealing with specific problems that arise in international commercial arbitration; in 1979 advanced seminars will consider the drafting of arbitration clauses and the conduct of arbitral proceedings.

64. Effective 1 January 1978, the Rules of the Inter-American Commercial Arbitration Commission were amended so as to comply essentially with the UNCITRAL Arbitration Rules.

V. Products liability

65. CEC is preparing a directive for the harmonization of the laws of member States of EEC regulating the liability of manufacturers of defective products and facilitating the bringing of actions against such manufacturers. A draft directive on the subject has been submitted by the Commission to the Council of Ministers of the EEC.

66. At the request of the Inland Transport Committee of the United Nations Economic Commission for Europe, UNIDROIT is studying the possibility of preparing a draft convention concerning civil liability for damage caused as a consequence of the carriage of hazardous cargo by road. UNIDROIT has commissioned Dr. Hill (United Kingdom) to prepare a study on the subject.

67. The Legal Committee of ICAO is considering the preparation of a new international instrument on liability for damage caused by noise and sonic boom. A report on the subject, together with a questionnaire, was prepared and circulated to member States of ICAO and to international organizations.

VI. Private international law

A. INTERNATIONAL CONTRACTS

68. ICC is preparing guidelines for the determination of the law applicable to international commercial relationships. These guidelines will contain general rules on determining the applicable substantive law and flexible presumptions concerning the various categories of contacts that are utilized in finding the applicable substantive law.

69. The member States of the European Communities are expected to conclude in the near future a convention establishing uniform rules of conflict of laws in relation to contractual obligations.

70. The Hague Conference on Private International Law is examining the conflict rules relating to the law applicable to the international sale of goods, with particular reference to the possibility of excluding consumer sales from coverage under the general rules. A report on the subject is to be issued prior to a preparatory meeting in June 1979. In 1980, at its fourteenth session, the Hague Conference will decide whether a general revision of the 1955 Convention on the Law Applicable to International Sales of Goods should be undertaken.

B. INTERNATIONAL PAYMENTS

71. The Hague Conference on Private International Law is considering the possibility of preparing an international convention on the law applicable to negotiable instruments. The Permanent Bureau of the Hague Conference is preparing a report on the subject, taking fully into account the work of UNCITRAL on the substantive law applicable to negotiable instruments.

72. The member States of the European Communities are engaged in work aimed at the drafting of a convention that would establish uniform rules of conflict of laws concerning insolvency of natural and legal persons. In its present form the draft "Bankruptcy Convention" also includes a small number of uniform rules on the substantive law of bankruptcy.

C. AGENCY

73. The Hague Conference on Private International Law completed the preparation of a Convention on the Law Applicable to Agency at its thirteenth session (October 1976) and at a subsequent Special Commission meeting (June 1977). The preliminary documents, summary records of meetings, the text of the Convention and an explanatory report will be published in volume IV of the acts and documents of the thirteenth session. The Convention on the Law Applicable to Agency was first signed on 14 March 1978.

D. LICENSING AGREEMENTS AND KNOW-HOW

74. The Hague Conference on Private International Law is considering the possibility of drafting an international convention on the law applicable to licensing agreements and know-how. The Permanent Bureau

of the Hague Conference is preparing an extensive report on the feasibility of undertaking this work, in liaison with the World Intellectual Property Organization (WIPO).

VII. Automatic data processing

A. USE OF AUTOMATIC DATA PROCESSING IN INTERNATIONAL TRADE

75. A Working Group established by ICC is currently examining the banking and commercial problems involved in the use of automatic data processing in international trade. The Working Group continues to work in close co-operation with interested intergovernmental organizations, particularly ECE and UNCITRAL.

76. Within ECE, the Working Party on Facilitation of International Trade Procedures is engaged in preliminary work aimed at developing an internationally approved coding of terms of payments. A preliminary report concerning this work may be found in document TRADE/WP.4/GE.1/R.108.

77. ICS intends to publish during 1979 a comprehensive manual on automatic data processing, in order to meet the needs of combined transport operators for common codes and standards to be utilized in trade data interchange.

B. USE OF AUTOMATIC DATA PROCESSING IN CUSTOMS OPERATIONS

78. Within CCC, a working party is continuing its work relating to automatic data processing techniques used by customs administrations. The working party is engaged in comparative studies of computerized customs operations and in research on the standardization and coding of data elements required to meet customs formalities. The research on standardization and coding is co-ordinated with the activities of other organizations, such as ECE and ISO.

79. Since 1973, CCC has been engaged in developing the Harmonized Commodity Description and Coding System, based mainly on the Customs Co-operation Council Nomenclature and the revised Standard International Trade Classification prepared by the United Nations Statistical Office. The System is intended to meet the requirements of a wide range of users, including customs authorities, statisticians, carriers and producers. It is hoped that the System will be completed by the end of 1981.

C. SAFEGUARDING OF STORED DATA

80. A Committee of experts established by the Council of Europe has prepared a draft convention for the protection of persons with regard to information stored in computer data banks. This draft convention is to be considered by a working group prior to the next session of the committee of experts. The committee of experts has also prepared a draft resolution concerning the regulations applicable to electronic data banks which store medical files.

81. In 1979 the Council of Europe will organize a symposium on the protection of the users of computerized systems which are concerned with legal matters.

D. TEACHING AND TRAINING

82. A working group, established under the auspices of the Council of Europe, has prepared a draft resolution on teaching and training concerning automatic legal information systems and has devised a model programme for teaching this subject in universities.

VIII. Industrial and intellectual property law

A. PATENTS, COPYRIGHTS AND TRADE MARKS

83. In July 1978 the heads of the patent offices of the member States of CMEA adopted a standard position on the preparation and improvement by CMEA member States of their national legislation governing patents.

84. Work in continuing within CMEA on the preparation of an intergovernmental agreement establishing a single unified document designed to protect inventions.

85. The Caribbean Community commissioned comparative studies on the legislation of member States of the Community in the fields of industrial designs, copyrights and neighbouring rights and patents. Member States of the Caribbean Community are now considering these studies with a view toward determining the desirability of harmonizing their national laws on these subjects.

86. CEC is engaged in the preparation of a directive for the harmonization of the laws of member States of EEC on trade marks.

B. TRANSFER OF TECHNOLOGY

87. Since 1975 UNCTAD has been engaged in the preparation of an international code of conduct on the transfer of technology, corresponding to the needs and conditions prevalent in developing countries and to the special conditions found in various flows of trade in technology. In 1976 UNCTAD established an Intergovernmental Group of Experts, which, at its sixth session (26 June-7 July 1978), completed its task of drafting an international code of conduct on the transfer of technology. Pursuant to General Assembly resolution 32/188, the United Nations Conference on an International Code of Conduct on the Transfer of Technology was convened in Geneva under UNCTAD auspices from 16 October to 11 November 1978. The Conference made substantial progress towards the negotiation and adoption of an international code of conduct on the transfer of technology and a resumed session of the Conference was convened by the Secretary-General of UNCTAD in the first quarter of 1979.

88. The Committee on the Development of Trade of ECE is engaged in drawing up a manual on licensing procedures and related aspects of technology transfer. It

is expected that the manual will be issued in 1979 and that it will include factual information in separate chapters for 20 countries.

IX. Other topics of international trade law

A. LAW OF AGENCY

89. CEC is preparing a directive for the harmonization of the laws of member States of EEC concerning the practice of the profession of self-employed commercial agent. A draft directive on the subject was submitted by the Commission to the Council of Ministers of EEC in December 1976.

90. A conference will be convened in Bucharest, Romania, from 28 May to 13 June 1979 to consider adoption of the draft Convention providing a Uniform Law on Agency of an International Character in the Sale and Purchase of Goods, which had been prepared under the auspices of UNIDROIT. Invitations to attend the conference have been extended to all member States of the United Nations and to interested international organizations.

B. COMPANY LAW

91. The member States of the European Communities are engaged in work aimed at the drafting of a convention that would impose uniform rules for mergers between companies and other businesses established in different member States of EEC.

92. CEC is preparing draft directives on certain aspects of company law, on the law relating to groups of companies, as well as on banking, insurance, securities and taxation. In addition, the Council and the Commission of the European Communities have adopted regulations concerning the law of competition in EEC and the Commission has made a number of decisions in individual cases involving competition policy.

C. CONSUMER PROTECTION

93. Within the Council of Europe, a committee of experts has prepared a questionnaire on the role of associations, public and private organizations in defending the collective interests of consumers. Based on the responses to this questionnaire, the European Committee on Legal Co-operation might request the committee of experts to undertake the preparation of a draft resolution on the subject.

94. The European Communities have undertaken a comprehensive programme concerning consumer protection on the basis of a resolution of the Council of Ministers adopted in April 1975. The programme covers such matters as consumer credit, unfair contract terms, price and product labelling, and misleading advertising. It is intended that a number of directives will be issued dealing with consumer protection.

95. One of the main purposes of the Joint FAO/WHO Food Standards Programme is to protect consumers against possible health hazards in food, arising

from the use of chemicals in the production and processing of foods, from inadequate standards of hygiene and from environmental contamination. The Codex Alimentarius Commission has adopted a number of codes concerning food hygiene and technological practices in food production. In addition, the recommended international food standards and limits for pesticide residues in food can be used as a basis for national legislation for the protection of consumers against health hazards, fraud and substandard products, both imported and domestically produced.

D. LAW OF EVIDENCE

96. Within the Council of Europe a committee of experts is considering the problems in the law of evidence posed by the new forms of reproducing documents and recording data. The committee of experts has elaborated a number of principles that could be included in a draft resolution on the subject. A working group has been asked to prepare a draft aimed at harmonizing (a) certain aspects of the applicable law concerning the need for written documentation and the period of required retention of documents; and (b) the probative value of microfilms and of recorded data in a data bank. This draft will deal in particular with the circumstances when the copy of a document may be considered and accepted as conforming to the original.

97. Within ECE, the Working Party on Facilitation of International Trade Procedures is preparing a draft recommendation concerning signatures and their authentication (TRADE/WR.4/GE.2/R.111/Rev.1).

98. The Permanent Technical Committee of CCC has prepared a draft recommendation to the effect that for customs purposes commercial invoices produced by the one-run method should be deemed just as valid as commercial invoices which were typed or handwritten. The draft recommendation, scheduled to be considered by the Council in May 1979, also provides that for customs purposes commercial invoices need not bear handwritten signatures.

99. CMI has established a Sub-Committee for the study of national rules on expert evidence in maritime disputes.

E. INTERNATIONAL FACTORING

100. In 1978 UNIDROIT established a study group charged with preparing a uniform law applicable to international factoring operations. At its first session in February 1979 the Study Group considered a questionnaire on the principal problems involved and decided on the main points that should form the core of the future convention providing a uniform law governing international factoring operations.

F. INTERNATIONAL LEASING

101. Since 1977 a study group established by UNIDROIT has been engaged in the preparation of uniform rules for contracts of leasing. At its February 1979

session, the Study Group considered a tentative draft set of uniform rules prepared by the UNIDROIT secretariat with the assistance of the Chairman of the Study Group, Mr. Récezi (Hungary). The draft uniform rules are concerned with the type of equipment leasing generally referred to as "financial leasing", i.e. triangular transactions in which one party (the financier) purchases from a supplier a plant, capital goods or equipment, the use of which for business or professional purposes is granted by the financier to the user. Based on the discussions at the February 1979 session of the Study Group, the draft uniform rules will be revised by the UNIDROIT secretariat in consultation with the Chairman of the Study Group.

G. LAW RELATING TO PIPELINES

102. Based on an analysis of the replies to a questionnaire to Governments, UNIDROIT decided to maintain on its work programme the harmonization or unification of certain aspects of the law relating to pipelines but not to undertake any work on the subject in the triennium 1978 to 1980.

H. WAREHOUSING

103. UNIDROIT has established a study group to consider the drawing up of uniform rules concerning the warehousing contract. At its January 1979 session the Study Group had before it a preliminary draft convention on the liability of international terminal operators (UNIDROIT Study XLIV-Doc.5) prepared by the UNIDROIT secretariat. With some amendments, the Study Group approved the preliminary draft convention which is based on the concept of the "international terminal operator", defined as any person who, against payment, undertakes the safekeeping of goods before, during or after their international carriage. The basic rules on liability and on limitations of liability are based on the United Nations Convention on the Carriage of Goods by Sea, 1978 (the Hamburg Rules). The draft text approved by the Study Group in January 1979 will be submitted to the Governing Council of UNIDROIT for a decision concerning future work on the subject of warehousing contracts.

104. For the related work of CMI on the liability of sea terminals, see paragraph 48 above (III. International transport, B. *Legal issues related to transport by sea*).

X. Facilitation of international trade

A. CO-OPERATION FOR EXPANSION OF INTERNATIONAL TRADE

105. Within the framework of its work on economic co-operation between developing countries UNCTAD has prepared studies and draft model statutes concerning multinational marketing enterprises, draft agreements on economic integration groupings, draft trade agreements

between developing and socialist countries, and draft agreements concerning the regulation of multinational companies.

106. An *Ad Hoc* Group of Experts established by UNCTAD was charged with formulating a set of equitable, multilaterally agreed-upon principles and rules for the control of restrictive business practices that have adverse effects on international trade, particularly on trade by developing countries. At its sixth session (17-27 April 1979) the Group of Experts is expected to complete its work. By resolution 33/153 of 20 December 1978, the General Assembly decided that a conference be convened, between September 1979 and April 1980 under UNCTAD auspices, to negotiate and adopt equitable principles and rules on restrictive business practices and to decide on the legal character of such principles and rules. The exact dates for the conference will be set by UNCTAD at its forthcoming fifth session.

107. The UNCTAD *Ad Hoc* Group of Experts referred to in the preceding paragraph is also engaged in the elaboration of a model law or laws on restrictive business practices in order to assist developing countries in devising appropriate legislation on the subject. At its April 1979 session the Group of Experts will continue its work, based on the draft model laws prepared by the UNCTAD secretariat and contained in document TD/B/C.2/AC.6/16.

108. The Legal Conference of representatives of member States of CMEA has discussed questions concerning the joint establishment and operation by CMEA member States of international economic organizations; a draft model agreement on an international organization for scientific and technical co-operation in a specific area is under preparation.

109. At its September 1978 session, the Working Party on Facilitation of International Trade Procedures of ECE noted that treaties concerning the international transport of goods, conditions for the transit and importation of goods, and international trade in certain products, such as dangerous goods and endangered species, often require the submission of detailed information to governmental authorities in accordance with a standardized document annexed to the treaty. If, because of recent developments in reproduction and transmission techniques or in international trading practices, it is desirable to modify the standardized document, then it is now necessary to amend the treaty. The Working Party therefore recommended that such standardized documents should not form an integral part of the text of the treaty and that the content and layout of the documents should be left for decision by a competent organ of the organization under whose auspices the treaty in question had been negotiated.

110. ICS is actively involved in the work of ECE on trade facilitation. ICS regularly submits papers and sends observers to sessions of the subsidiary bodies of ECE that are concerned with trade facilitation.

111. The Joint FAO/WHO Food Standards Programme is intended to protect consumers against possible health hazards in food, to ensure fair practices in the food trade and to facilitate international trade in food. The international food standards developed under this Programme reduce the technical, non-tariff obstacles to increased international trade in food and can be used both to promote the food industries of developing countries and to increase their ability to export to countries with detailed national rules on food standards.

112. In November 1978 the Executive Council of ILA established a working group charged with examining the legal issues involved in the establishment of a new international economic order, with a view to identifying topics which may be appropriate for consideration by committees of ILA. The working group will consider, *inter alia*, the new rules relating to trade and in particular to trade in commodities, the institutional aspects of GATT, and the most-favoured-nation clause in the context of recent trade agreements. The working group is to submit its report to the Executive Council of ILA in May 1979.

113. The basic legal documents of the African Development Bank are now being examined by the Bank with a view to changing the legal régime so as to permit membership by non-African States.

B. CO-OPERATION IN THE CUSTOMS AREA

114. The Group of Experts on Customs Questions affecting transport, a subsidiary body of the Inland Transport Committee of ECE, is continuing its consideration of the extension of the territorial scope of application of the Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention), including the possibility of establishing a link among the different existing customs transit systems.

115. The Permanent Technical Committee of CCC is considering the possible advantages that might be gained if an international convention were prepared in order to provide a link between the existing customs transit systems. Further studies will be prepared concerning this question in consultation with interested trade and transport circles.

116. Within ECE, subsidiary bodies of the Inland Transport Committee are continuing to study the question of the harmonization of the conditions for the exercise of customs and other controls at frontiers, including the possibility of an international agreement on the subject. It is expected that an in-depth study will be prepared in 1979 for submission to the Inland Transport Committee.

117. Within ECE, the Working Party on Facilitation of International Trade Procedures is engaged in the preparation of a draft recommendation concerning facilitation of import clearance procedures (TRADE/WP.4/GE.2/R.122).

118. CCC is continuing its work of preparing annexes to the 1973 Kyoto Convention on the Simplification and Harmonization of Customs Procedures. These annexes establish the basic principles concerning customs rules and procedures applicable to particular areas of customs activity. The three annexes adopted during 1978 dealt, respectively, with (a) reimportation in the same State, (b) relief from import duties and taxes in respect of goods declared for home use, and (c) customs formalities applicable to commercial means of transport.

119. The Customs Co-operation Council Nomenclature provides a common, systematic basis for the classification of goods in national customs tariffs. As a result of co-operation by the Council and the United Nations Statistical Office, a one-to-one correlation has been established between this Nomenclature and the revised Standard International Trade Classification. The Customs Co-operation Council Nomenclature is constantly brought up to date in accordance with technological developments and is at present used by 142 States as a basis for their customs tariffs.

120. CCC is working on the implementation of the 1977 International Convention on Mutual Administrative Assistance for the Prevention, Investigation, and Repression of Customs Offences, adopted under the auspices of the Council in Nairobi. This Convention will strengthen the actions of the Council directed against smuggling and customs fraud in all its forms.

121. For the work of CCC to revise its Glossary of International Customs Terms, see paragraph 16 above (I. International contracts, C. *International trade terms and standards*).

122. For the work of the Customs Co-operation Council concerning the law of evidence and customs operations, see paragraph 98 above (IX. Other topics of international trade law, D. *Law of evidence*).

C. FACILITATION OF CO-OPERATION IN PRODUCTION

123. In January 1979 the Executive Committee of CMEA approved general terms for specialization and co-operation in production. These general terms were drafted by the Legal Conference of representatives of

member States of CMEA and they will take effect on 1 January 1980.

124. UNIDO is concerned with the promotion of industrialization by developing countries, with particular emphasis on the manufacturing sector. In its activities UNIDO is cognizant of the close interrelationship between the production and trade aspects in the development process of the developing countries.

D. ELIMINATION OF DOUBLE TAXATION

125. In order to promote the future development of co-operation between member States of CMEA, its Standing Commission on Monetary and Financial Questions drew up an intergovernmental agreement on the elimination of double income and property taxation of juridical persons, which was signed by member States of CMEA in May 1978. Both this agreement and the international agreement on the elimination of double income and property taxation of physical persons, which had been signed in May 1977, entered into force on 1 January 1979.

E. INFORMATION ON INTERNATIONAL TRADE LAW DEVELOPMENTS

126. The Committee on the Development of Trade of ECE is continuing its examination of the feasibility of a multilateral system of notification of laws and regulations concerning foreign trade and changes therein (MUNOSYST). As an experiment in 1978, a limited number of ECE member States sent notification of new laws and regulations, and of changes in prior laws or regulations, in a few self-selected fields. Progress was also achieved in identifying primary and secondary sources of information for any future system. Based on the replies to a questionnaire, the ECE secretariat will submit a feasibility study to the twenty-eighth session of the Committee on the Development of Trade in December 1979.

127. ICS is preparing model Export Cargo Shipping Instructions, to be used by combined transport operators in the collection of basic transport information.