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REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE
LAW ON THE WORK OF ITS TWENTY-FIRST SESSION

Draft Convention on International Bills of Exchange
and International Promissory Notes

Report of the Secretary-General

Addendum

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* A/43/150.

1. The observations and proposals of Governments on the draft Convention on International Bills of Exchange and International Promissory Notes that had been received by 3 June 1988 are contained in the report of the Secretary-General (A/43/405).
2. Addendum 1 to that report contains such observations and proposals received between 3 June and 11 July 1988.
3. The present addendum contains such observations and proposals received between 12 July and 12 August 1988.

OBSERVATIONS AND PROPOSALS RECEIVED FROM GOVERNMENTS

ALGERIA

[Original: French]

The draft Convention does not call for any particular observations by the Ministry of Finance or the banks to which the draft had also been sent for examination.

BAHAMAS

[Original: English]

The Bahamas has no legal objections to the provisions of the draft Convention, but would wish to make the following observations:

(a) Article 6 (d) - the definition of "Drawee" may need to be re-examined, for example, in the light of Article 13 (1) which contains a reference to "acceptance of the drawee";

(b) Article 10 - clarification as to whether the term "fixed period after date", appearing in paragraph (4), would apply for the purposes of paragraph (3) in relation to a "fixed period after a stated date" as well as in relation to a "fixed period after the date of the instrument".

CAMEROON

[Original: French]

1. On the whole, the Cameroonian Government has no major objection to the text of this draft Convention, in view of the fact that the main principles of French law regarding negotiable instruments, which is applied in Cameroon, have with a few exceptions been respected. The exceptions have been made necessary by the concern of the drafters of the Convention to bring about uniformity, at the international level, of the law concerning negotiable instruments.

2. However, the Cameroonian Government considers that the current drafting of some articles might pose problems as regards implementation of the draft Convention.

Article 2, paragraph (3)

3. Proof that the statements referred to in paragraphs (1) and (2) of this article are incorrect does not affect the application of this Convention. One would have thought rather that it would affect it.

4. The place where the bill has been drawn or the note has been made must be shown on either one of the instruments (article 110 of the Commercial Code). This requirement is justified in application of the Geneva Conventions.

5. In international transactions, the law of the place of issue governs the form of the bill, time-limits for recourse and acquisition of funds (articles 3, 5 and 6 of the Convention for the Settlement of Certain Conflicts of Laws). There should therefore be no error in the place of issue.

Article 11, paragraph (1)

6. Bill drawn by two or more drawers: a bill of exchange may rather be endorsed by several persons (successive endorsers) or parties. Only one drawer may draw it. It may also bear the signature of the drawee who accepts it or of the aval who guarantees it. The Cameroonian Government does not think it possible that, on the day of its issue, it can be drawn by two or more drawers.

Article 25

7. Instrument which may be transferred after maturity, except by the drawee, the acceptor or the maker: in the opinion of Cameroon, this restriction should be eliminated, since article 123 of the Commercial Code does not mention it: "endorsement after maturity has the same effects as endorsement prior to it ...". It is proper that article 123 of the Commercial Code does not provide for any restriction, since the parties of a bill of exchange are a priori severally liable.

Article 30

8. This article should have been placed before article 29, since it determines who a "protected holder" is; article 29 refers to the protected holder without explanation.

Article 43, paragraph (1)

9. A bill of exchange which may be accepted by the drawee before it has been signed by the drawer: the signature of the drawer is compulsory in establishment of a bill of exchange. This is justified by the fact that it is unwise for the drawee to accept a bill of exchange that has not been signed by the drawer, since his signature guarantees the authenticity of the instrument.

Article 73, paragraph (2)

10. "Payment before maturity ... does not discharge the party making the payment of his liability on the instrument except in respect of the person to whom payment was made."

11. It should first of all be noted that the holder may not present the bill for payment before maturity. Similarly, the drawee may not pay the bill before maturity.

12. The Government of Cameroon thinks that a party who has made payment to a protected holder should be discharged by virtue of the joint responsibility that exists under exchange law: "All the parties of a bill of exchange are jointly liable to pay". By analogy, a party who has paid to a holder should be discharged of liability towards the other parties. Incidentally, article 78, paragraph (1), of the draft Convention itself is drafted along the same lines, since it states that: "If a party is discharged in whole or in part of his liability on the instrument, any party who has a right on the instrument against him is discharged to the same extent".

QATAR

[Original: English]

The Government of the State of Qatar reports that there exists no conflict between the draft Convention and the relevant provisions of the Civil Law in the light of which the draft was examined.

Note: Nicaragua endorses "General comments"
(as reproduced in document A/43/405/Add.1)

The Permanent Mission of France has informed the Secretariat of the decision of Nicaragua to associate itself with the general comments of the Central African Republic, Chad, Chile, Colombia, Côte d'Ivoire, France, Guinea, Mauritania, Senegal, Spain and Togo (see A/43/405/Add.1).
