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SURVEY OF ACTIVITIES OF ORGANIZATIONS CONCERNED
WITH THE HARMONIZATION AND UNIFICATION OF THE
LAW OF INTERNATIONAL TRADE*

Note by the Secretary-General

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* This survey is supplementary to that contained in chapter II of the Report of the Secretary-General on the progressive development of the law of international trade (A/6396).

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I. INTRODUCTION

1. Pursuant to resolution 2102 (XX), the Secretary-General submitted to the twenty-first session of the General Assembly a comprehensive report on the progressive development of the law of international trade.^{1/} The report served as a basis for the discussion on harmonization and unification of the law of international trade resulting in the adoption of General Assembly resolution 2205 (XXI) which established the United Nations Commission on International Trade Law.
2. Chapter II of the Secretary-General's report contained a survey of the work of inter-governmental and non-governmental organizations in this field. The purpose of this paper is to bring up to date the survey contained in the Secretary-General's report by reviewing the activities of the organizations concerned carried out since the date of the report (September 1966). In some cases this paper contains also a description of relevant activities pre-dating the Secretary-General's report, which had not been included therein. The contents of this paper is based primarily on information obtained from the organizations concerned.
3. Being supplementary to the survey contained in chapter II of the Secretary-General's report this document should be read in conjunction with it. For the convenience of the reader the order in which organizations are listed is the same as in chapter II of the Secretary-General's report, and references to the corresponding paragraphs of the report are made throughout this survey.

II. INTER-GOVERNMENTAL ORGANIZATIONS

1. The International Institute for the Unification of Private Law (UNIDROIT)
 - A. International sale of goods
4. As of the end of 1967 the following States had signed The Hague Conventions^{2/} i.e. the Convention relating to a Uniform Law on the International Sale of Goods (Corporeal Movables) and the Convention relating to a Uniform Law on the Formation

^{1/} General Assembly, Official Records, Agenda item 88, Annexes, Twenty-first session, document A/6396.

^{2/} See ibid., paragraph 30 and annex II, paragraphs A.1 (a) and (b).

of Contracts for the International Sale of Goods (Corporeal Movables)⁷ prepared by UNIDROIT and concluded at the Diplomatic Conference held at The Hague in 1964: Belgium, Federal Republic of Germany, France, Greece, Hungary, Israel, Italy, Luxembourg, Netherlands, San Marino, United Kingdom, Vatican City. So far, only the United Kingdom has ratified the two Conventions (Uniform Laws on International Sales Act 1967) with the reservation, that the Uniform Law shall apply to a contract of sale only if it has been chosen by the parties to the contract as the law of the contract.

5. It may be of interest to recall that The Hague Diplomatic Conference recommended^{3/}

- (a) "in the event the Convention relating to a Uniform Law on the International Sale of Goods comes into force by 1 May 1968, ^{4/} that the International Institute for the Unification of Private Law establish a committee composed of representatives of the Governments of the interested States, to review the operation of the Law and to prepare recommendations for any Conference convened pursuant to Article XIV of the Convention"; ^{5/} and
- (b) "in the event the Convention relating to a Uniform Law on the International Sale of Goods has not come into force by 1 May 1968, that the International Institute for the Unification of Private Law establish a committee composed of representatives of the Governments of the interested States, which shall consider what further actions should be taken to promote the unification of law on the international sale of goods".

B. Transport Law

6. As mentioned in the Secretary-General's report a diplomatic conference was to be convened by the Italian Government for the adoption of the Draft Convention

^{3/} Annex to the Final Act of the Diplomatic Conference on the Unification of Law Governing the International Sale of Goods. Recommendation II.

^{4/} According to article X of the Convention relating to a Uniform Law on the International Sale of Goods (article VIII of the Convention relating to a Uniform Law on the Formation of Contracts for the International Sale of Goods) the Convention "shall come into force six months from the date of the deposit of the fifth instrument of ratification or accession".

^{5/} Article XIV of the Convention provides that: "After the present Convention has been in force for three years, any Contracting State may, by a notification addressed to the Government of the Netherlands, request the convening of the Conference for the purpose of revising the Convention or its annex. Notice of this request shall be given to all Contracting States by the Government of the Netherlands, which shall convene a conference for the purpose of such revision if, within a period of six months from the date of such notice, at least one quarter of the Contracting States notify the said Government of their agreement with the request."

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on the Contract for the International Carriage of Passengers and Luggage by Road (CVR).^{6/} In its comments on the programme of work of the Commission^{7/} UNIDROIT reported that it is expected that the conference will be convened in 1968.

7. The Draft Convention on the Contract of Forwarding Agency in the International Carriage of Goods^{8/} prepared by UNIDROIT has been transmitted to the member Governments of the Institute for comments. As reported by UNIDROIT, the Austrian Government will decide, in the light of the comments, whether to convene a diplomatic conference for the adoption of a convention on this subject.^{9/}

C. Methods of unification or harmonization

8. Continuing its research into ways and means of advancing the task of unification,^{10/} UNIDROIT has decided to convene a fourth meeting of Organizations Concerned with the Unification of Law, which will be held in Rome from 20 to 24 April 1968. The theme of the meeting will be: "Unification and harmonization of law: the criteria governing the choice between the various methods". Four reports will be submitted to the meeting:

(a) Relationship between unification and harmonization of law, and unification or harmonization by means of international agreements that are binding upon States;

(b) Unification or harmonization by means of legal instruments that have no binding force;

(c) Unification or harmonization by means of standard contracts, general conditions, etc.;

(d) The most appropriate methods of unification or harmonization in the context of relations between countries having different economic and legal systems.

^{6/} See document A/6396, annex II, paragraph A.2 (b).

^{7/} See document A/CN.9/4, page 81.

^{8/} See document A/6396, annex II, paragraph A.2 (1).

^{9/} See document A/CN.9/4, page 82.

^{10/} See document A/6396, paragraphs 34 and 35 (c).

2. The Hague Conference on Private International Law^{11/}

9. Portugal, the USSR and the Vatican City have become Parties to the Convention Relating to Civil Procedure signed at The Hague on 1 March 1954.^{12/}

10. At a special session of The Hague Conference held in October 1966 a Supplementary Protocol to The Hague Convention on the Recognition and Enforcement of Foreign Judgements in Civil and Commercial Matters^{13/} was drawn up. The Protocol has not yet been signed.

3. The United Nations

A. Arbitration

11. The Philippines and Tunisia have become Parties to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.^{14/}

B. Transport of dangerous goods

12. The Economic and Social Council, in resolution 468 G (XV) of 15 April 1953, requested the Secretary-General to appoint a committee of experts on the transport of dangerous goods. The Committee held two sessions in 1955 and 1956 and prepared certain recommendations. In preparing the final text of the recommendations,^{15/} the Committee of Experts had before it the views and comments of Governments of States Members of the United Nations as well as of specialized agencies and interested international organizations. The recommendations were amended several times, the last amendment having been adopted in 1966.^{16/} The recommendations

^{11/} In paragraph 39 of the Secretary-General's report (A/6396), Czechoslovakia was inadvertently listed as a member of The Hague Conference and should therefore be omitted from such a list.

^{12/} See *ibid.*, paragraph 44.

^{13/} See *ibid.*, paragraph 46.

^{14/} See *ibid.*, paragraphs 57-60 and annex I, paragraph A.

^{15/} See documents ST/ECA/43; E/CN.2/170.

^{16/} The recommendations were published in three volumes. See documents ST/ECA/81/Rev.1; E/CN.2/Conf.5/10/Rev.1.

contain classification, listing, labelling and shipping documents of dangerous goods.^{17/}

C. Transfer of know-how and operative technology to developing countries^{18/}

13. In resolution 1713 (XVI) of 19 December 1961 the General Assembly requested the Secretary-General to prepare a study on the role of patents in the transfer of technology to developing countries. Following the submission of the report of the Secretary-General entitled "The Role of Patents in the Transfer of Technology to Developing Countries" the General Assembly, in resolution 2091 (XXI) of 20 October 1965, requested the Secretary-General to continue his studies, among others, on "the adequacy of existing national and international practices for the transfer of patented and unpatented technology to developing countries and the possible development of improved practices, including model clauses" and requested the competent international bodies, including United Nations organs, to "give particular attention to requests from governments of developing countries for technical assistance in the field of industrial property legislation and administration". As indicated in the progress report by the Secretary-General dated 27 March 1967^{19/} a part of the work (preparation of draft model laws on inventions, trade marks, etc.) has been done by the United International Bureaux for the Protection of Intellectual Property (BIRPI). In addition to co-operating with BIRPI on this project the Secretary-General initiated two projects: establishment of regional patent co-operation centres and establishment of a central training institute for industrial property administration.^{20/}

^{17/} Questions relating to the transport of dangerous goods have been dealt with also by the United Nations Economic Commission for Europe (see document E/4304/Add.1, annex III, pp. 1-3), the Inter-Governmental Maritime Consultative Organization and the Council of Europe. The Committee of Ministers of the Council of Europe has offered the organization's hospitality to an international conference on the standardization of the systems of labelling and symbols used for dangerous substances, to be held in 1968.

^{18/} See document A/6396, paragraphs 61-63.

^{19/} See document E/4319.

^{20/} Ibid., page 12.

D. United Nations Regional Economic Commissions

(a) Economic Commission for Europe (ECE)

(i) Transfer of know-how

14. In 1966 the Ad Hoc Working Party on Contract Practices in Engineering, which has been responsible for preparing the General Conditions of Sale and Standard Forms of Contract issued by the ECE,^{21/} began a project aiming at supplementing the series of General Conditions by a set of Special Conditions for the transfer of know-how. On the basis of the deliberations of the Working Party at its meetings held in 1966 and 1967 the ECE secretariat prepared a Draft Guide for the Preparation of Contracts Relating to the Transfer of Know-how.^{22/} The Draft Guide, which will be discussed at the next meeting of the Working Party, provides a synopsis of problems likely to arise in that connexion and of possible solutions.

(ii) Arbitration

15. Since the publication of the Secretary-General's report, France became a Party to the European Convention on International Commercial Arbitration^{23/} of 21 April 1961.

16. The Arbitration Rules of the ECE,^{24/} published in 1966, were supplemented by an annex containing the list of Chambers of Commerce and other institutions which may be required to act as "Appointing Authority" in the context of these rules.

(b) Economic Commission for Asia and the Far East (ECAFE)

17. The ECAFE Rules for International Commercial Arbitration and the ECAFE Standards for Conciliation both of which were prepared on the basis of standards adopted by the ECAFE Conference on International Commercial Arbitration held at Bangkok in January 1966^{25/} were published by the Centre for Commercial Arbitration of ECAFE.

^{21/} See document A/6396, paragraphs 67 to 74 add annex I, paragraph B, 1, 2 and 3.

^{22/} See document ME/20/67/C.20 (a).

^{23/} See document A/6396, paragraph 75.

^{24/} Ibid., paragraph 79.

^{25/} Ibid., paragraph 82.

E. United Nations Conference on Trade and Development (UNCTAD)

18. The Convention on Transit Trade of Land-locked Countries^{26/} entered into force on 9 June 1967. The following States are Parties to the Convention: Chad, Czechoslovakia, Hungary, Laos, Malawi, Mali, Mongolia, Nepal, Niger, Nigeria, Yugoslavia, Zambia.

19. The Trade and Development Board at its fifth session decided to include the following item on the provisional agenda of the second session of the United Nations Conference on Trade and Development to be held in New Delhi from 1 February 1968: "Review of recent developments and long-term trends in the field of invisibles including shipping and international legislation thereon in the light of recommendations and other provisions of the Final Act of the First Conference". In the consideration of this item the Conference will have before it a report entitled "International Legislation on Shipping", prepared by a consultant^{27/} at the request of the UNCTAD secretariat. The report contains a review of: (i) matters which the Conference might feel are covered by the term "international legislation on shipping", and (ii) the activities carried out by the main inter-governmental and non-governmental organizations in this field.

4. The United Nations Specialized Agencies

A. International Bank for Reconstruction and Development (IBRD)

20. As of 15 October 1967 the Convention on Settlement of Investment Disputes between States and Nationals of other States^{28/} had been signed by fifty-five States including fifty-four of the 106 member States of the IBRD and Switzerland by invitation. Out of these thirty-seven have ratified the Convention. In addition to the States listed in the Secretary-General's report^{29/} the following States have become Parties to the Convention: Cameroon, Ceylon, Chad, Cyprus, Dahomey, France, Iceland, Jamaica, Japan, Kenya, Korea, Malagasy Republic, Malawi, Malaysia, Morocco,

^{26/} See *ibid.*, paragraph 95.

^{27/} The report (TD/32) was prepared by Dr. T.K. Thomsen.

^{28/} United Nations Treaty Series Reg. No. 8359. See also document A/6396, paragraph 101.

^{29/} See document A/6396, paragraph 102.

Netherlands, Niger, Norway, Pakistan, Senegal, Sierra Leone, Sweden, Togo, Trinidad and Tobago, United Kingdom, Upper Volta and Yugoslavia.

(a) International Centre for Settlement of Investment Disputes (ICSID)

21. The International Centre for Settlement of Investment Disputes established under the provisions of the Convention maintains a Panel of Conciliators and a Panel of Arbitrators designated by both the Contracting States and the Chairman of the Centre's Administrative Council, Up to **15** October 1967, forty-five persons had been designated to the Panel of Conciliators and forty-nine to the Panel of Arbitrators.

B. Inter-Governmental Maritime Consultative Organization (IMCO)

22. The IMCO Sub-Committee on the Carriage of Dangerous Goods established by the IMCO Maritime Safety Committee, in 1961 drew up an international Maritime Dangerous Goods Code based on the recommendations of the Committee of Experts on the Transport of Dangerous Goods of the Economic and Social Council of the United Nations. The Code was approved in September **1965** by the Fourth Assembly of IMCO and recommended to Governments for adoption as a basis of national regulations in this field. Provision has been made for continuous revision of the Code, The last session of the Sub-Committee for the purpose of revising the Code was held in November 1967.^{30/}

C. International Civil Aviation Organization (ICAO)

23. The Legal Committee of ICAO held its sixteenth session in Paris from **5** to **22** September 1967. The Committee decided to place on the provisional agenda of its next session, to be held in the second half of 1968, an item entitled "Study of the possible revision of the Warsaw Convention of 1929 as amended by The Hague Protocol of **1955**". The **Committee** established a Sub-Committee on this subject.^{31/}

^{30/} See also foot-note 17 above.

^{31/} For further information on the session, see ICAO document 8'704, LC/155, 22 September 1967.

5. United International Bureaux for the Protection of Intellectual Property (BIRPI)

A. Stockholm Conference

24. A Diplomatic Conference,^{32/} convened by the Swedish Government, was held in Stockholm from 12 June to 14 July 1967. The Conference adopted:

(a) a revised text of the Berne Convention for the Protection of Literary and Artistic Works;

(b) revised texts of the Paris Convention for the Protection of Industrial Property and the Special Agreements concluded under the Paris Convention;

(c) The Convention establishing the World Intellectual Property Organization (IFO), which will replace BIRPI when the Convention enters into force.^{33/}

B. Model laws for developing countries

25. A Model Law for Developing Countries on Marks, Trade Names and Acts of Unfair Competition,^{34/} prepared by BIRPI, was published in 1967. A draft of the Model Law for Developing Countries on Industrial Design will be published in 1968.

C. Patent Co-operation Treaty

26. For the purpose of facilitating the filing and examination of applications for the protection of the same inventions in different countries BIRPI has been working on a project for a Patent Co-operation Treaty ("PCT") which would bring about harmonization on several important points in the field of patents. A committee of experts on this matter met in Geneva from 2 to 10 October 1967. The deliberations of the Committee were based on documents prepared by BIRPI,^{35/} one of which^{36/} contained a preliminary draft of a treaty.

^{32/} See document A/6396, annex III, section B, (a) 1, paragraph 3 IV (e).

^{33/} Article 15 provides that the Convention "shall enter into force three months after ten States Members of the Paris Union and seven States Members of the Berne Union have taken action as provided in Article 14 (1), it being understood that, if a State is a member of both Unions, it will be counted in both groups".

^{34/} BIRPI publication No. 805 (E).

^{35/} BIRPI document PCT/I/1-5.

^{36/} BIRPI document PCT/I/4.

D. Industrial designs

27. It was reported by BIRPI that a Diplomatic Conference will be held at Locarno from 2 to 8 October 1968 at which a Special Agreement establishing an international classification for industrial designs will be discussed. At the request of the Government of Switzerland, which will act as host to the Conference, BIRPI prepared a document^{37/} which contains a proposal for the establishment of a special agreement within the framework of the Paris Convention for the Protection of Industrial Property..

III. REGIONAL INTER-GOVERNMENTAL ORGANIZATIONS AND GROUPINGS

1. The Council for Mutual Economic Assistance (CMEA)

28. Part XII (paragraphs 35-45) of the General Conditions of the Delivery of Goods between Foreign Trade Organizations of member countries of the Council for Mutual Economic Assistance (General Conditions, CMEA, 1958)^{38/} dealing with methods of payment, was amended by the Foreign Trade Commission of the CMEA on 24 January 1964.

29. In addition to the General Conditions of Sale the following arrangements have been accepted and promulgated by the member States of CMEA on the recommendation of the Foreign Trade Commission of the CMEA:

- General conditions of the Performance of Erection Works and other Technical Services connected with Mutual Delivery of Plant and Machinery between Foreign Trade Organizations of Member Countries of the Council of Mutual Economic Assistance (General Conditions for Erecting, CMEA, 1962).

- General conditions for Technical Maintenance and Servicing of Machinery, Equipment and other Items supplied to one another by Foreign Trade Organizations of Member Countries of the Council of Mutual Economic Assistance (General Conditions for Technical Servicing, CMEA, 1962).

30. Upon the recommendation of CMEA in 1966, the member States of CMEA and Yugoslavia adopted the General Principles concerning Supply of Spare Parts for Machinery and Equipment delivered in the mutual trade among member countries of the CMEA and Yugoslavia.

^{37/} BIRPI publication L/1.

^{38/} See document A/6396, paragraphs 115-118.

31. It should also be mentioned that in the field of sale CMEA elaborated in 1958 model-contract forms for the sale of: (a) crude oil; (b) coal; (c) blast-furnace coke, to be used in the trade between the CMEA countries.

32. In the field of transportation the Agreement concerning through-carriage of goods by rail and water (ITRW) was signed at Sofia on 14 December 1959^{39/} by the member States of the CMEA.

2. The Latin American Countries

A. Institute for Latin American Integration

33. Under the auspices of the Institute for Latin American Integration (an affiliate of the Inter-American Development Bank), a meeting of Latin American jurists was held in Buenos Aires from 13 to 15 October 1966 for the purpose of studying a draft Uniform Law on negotiable instruments for Latin America.

B. Inter-American Juridical Committee

34. At its session held in October 1967 in Rio de Janeiro the Inter-American Juridical Committee approved a new Draft Inter-American Convention on Commercial Arbitration^{40/} and submitted it to the member Governments for comments.

35. At the same meeting the question of international sale of goods^{41/} was also discussed and a resolution adopted stating that it would be unnecessary to have a regional instrument covering that subject because of the existence of the Uniform Law on the International Sale of Goods (Corporeal Movables) adopted by The Hague Diplomatic Conference in 1964.

3. The Council of Europe

36. Concerning the Conventions promoted by the Council of Europe in the field of harmonization and unification of international trade law the following developments were reported by the secretariat of the Council:

(a) The European Convention providing a Uniform Law on Arbitration^{42/} was opened for signature in January 1966;

^{39/} United Nations, Treaty Series, vol. 422 (1962), No. 6069, p. 75.

^{40/} See document A/6396, paragraph 137.

^{41/} See ibid., paragraph 135.

^{42/} See ibid., paragraph 136 and annex III, section B (b), paragraph 3, sub-paragraph III.

(b) It was reported by the secretariat of the Council of Europe that the European Convention on Foreign Money Liabilities^{43/} would be opened for signature at the end of 1967;

(c) A draft Protocol on the Recognition and Enforcement of Arbitral Awards^{44/} was approved by the Committee of Ministers in June 1967. The opening date for signature will be determined later;

(d) The European Convention on the Liability of Hotel-Keepers concerning the Property of their Guests^{45/} (Liability of Hotel-Keepers) came into force on 15 February 1967;

(e) The European Convention on Information on Foreign Law^{46/} will be opened for signature in 1968.

4. The Asian-African Legal Consultative Committee

37. The Committee, at its fourth session, appointed a Sub-Committee to study and formulate certain principles for the purpose of regulating conflict of laws relating to sales and purchases in commercial transactions between States or their nationals.

38. At its next meeting the Committee will deal also with the question of relief against double taxation.

IV. NON-GOVERNMENTAL ORGANIZATIONS

1. The International Chamber of Commerce (ICC)

39. The Commission on International Commercial Practice of the International Chamber of Commerce drew up uniform definitions of the trade terms "Delivered at frontier... (named place of delivery at frontier)" and "Delivered... (named

^{43/} See ibid., paragraph 137 and annex III, section B (b), paragraph 3, sub-paragraph III.

^{44/} See ibid., annex III, section B (b), paragraph 3, sub-paragraph III.

^{45/} See ibid., paragraph 136.

^{46/} See ibid., paragraph 139.

place of destination in the country of importation) duty paid."^{47/} Together with the INCOTERMS 1953^{48/} these two new terms represent an attempt to arrive at a uniform interpretation of the trade terms most frequently used in international contracts of sale of goods.

40. The ICC Commission on Banking Technique and Practice revised the text of the "Uniform Rules for the Collection of Commercial Paper"^{49/} of 1956 and submitted the revised text^{50/} to banks and banking associations in the various countries for adoption.

2. Central American Institute of Comparative Law

41. The Institute, a specialized body of the Supreme Council of the Central American universities, organized a meeting in Tegucigalpa (Honduras) in 1966 for the purpose of studying a draft uniform law on negotiable instruments for Central America.

^{47/} Published in April 1967 in the ICC brochure "dp" entitled "International Rules for the Interpretation of the Terms".

^{48/} See document A/6396, paragraphs 161-163 and annex I, section E, paragraph 1.

^{49/} See *ibid.*, annex I, section E, paragraph 1.

^{50/} ICC brochure No. 254.