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

Report of the Sixth Committee

Rapporteur: Mr. Carlos VELASCO MEDNIOLA (Peru)

I. INTRODUCTION

1. The item entitled "Report of the United Nations Commission on International Trade Law on the work of its twenty-first session" was included in ~~the~~ provisional agenda of the forty-third session of the General Assembly pursuant to paragraph 11 of General Assembly resolution **42/152** of 7 December 1987.

2. At its 3rd plenary meeting, on 23 September 1988, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to **allocate** it to the Sixth Committee.

3. In connection with the item, the Sixth Committee had before it the report of the Commission, **1/** which was introduced by the Chairman of the Commission at the 4th meeting of the Sixth Committee, on 27 September 1988. The Sixth Committee also had before it the report of the Secretary-General containing observations and proposals received from Governments in connection with the draft Convention on International Bills of Exchange and International Promissory Notes (A/43/405 and Add.1-3). In addition, a letter dated 6 October 1988 from the Permanent Representative of Zimbabwe to the United Nations addressed to the Secretary-General (A/43/709) was circulated under the item. Finally, the Working Group on the draft Convention, created at the beginning of the session pursuant to paragraph 3 of General Assembly resolution **42/153**, submitted its report to the Sixth Committee (**A/C.6/43/L.2**).

1/ Official Records of the General Assembly, Forty-third Session, Supplement No. 17 (A/43/17).

4. The Sixth Committee considered the item at its 4th to 6th, 10th and 21st meetings, from 27 to 30 September and on 7 and 24 October 1988. The summary records of those meetings (A/C.6/43/SR.4-6, 10 and 21) contain the views of the representatives who spoke on the item.

II. CONSIDERATION OF DRAFT RESOLUTIONS A/C.6/43/L.3 and A/C.6/43/L.4

5. At the 10th meeting, on 7 October, the representative of Mexico introduced a draft resolution entitled "Draft Convention on International Bills of Exchange and International Promissory Notes" (A/C.6/43/L.3).

6. At the same meeting, the Committee adopted draft resolution A/C.6/43/L.3 without a vote (see para. 9 and draft resolution I),

7. At the 21st meeting, on 24 October, the representative of Austria introduced a draft resolution entitled "Report of the International Trade Law Commission on the work of its twenty-first session" (A/C.6/43/L.4) and indicated that; India was no longer a co-sponsor. The draft resolution was then sponsored by Argentina, Australia, Austria, Brazil, Canada, Cyprus, Czechoslovakia, Denmark, Egypt, Finland, France, the German Democratic Republic, Germany, Federal Republic of, Greece, Guyana, Hungary, Italy, Japan, the Libyan Arab Jamahiriya, Netherlands, Sierra Leone, Sweden, Turkey, the United Kingdom of Great Britain and Northern Ireland and Yugoslavia, later joined by Kenya, Lesotho and Spain.

8. At the same meeting, the Committee adopted draft resolution A/C.6/43/L.4 without a vote (see para. 9, draft resolution II).

III. RECOMMENDATIONS OF THE SIXTH COMMITTEE

9. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

DRAFT RESOLUTION I

Draft Convention on International Bills of Exchange and International Promissory Notes

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it created the United Nations Commission on International Trade Law with a mandate to further the progressive harmonisation and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Being aware that the free circulation of bills of exchange and promissory notes facilitates international trade and finance,

Being convinced that the adoption of a convention on international bills of exchange and international promissory notes will facilitate the use of such instruments,

Taking note with satisfaction of the decision of the United Nations Commission on International Trade Law at its twentieth session 2/ to transmit the text of the draft Convention on International Bills of Exchange and International Promissory Notes 3/ to the General Assembly for its consideration,

Recalling its resolution 42/153 of 7 December 1987, in which it requested the Secretary-General to draw the attention of all States to the draft Convention, to ask them to submit the observations and proposals they wished to make on the draft Convention and to circulate those observations and proposals to all Member States,

Recalling also that in the same resolution it decided to consider, at its forty-third session, the draft Convention, with a view to its adoption at that session and to create to that end a working group, in the framework of the Sixth Committee, to consider the observations and proposals made by States,

Being satisfied with the modifications in the draft Convention proposed by the Working Group and ☒ ☐ ☐ ☐ ☐ ☒ its appreciation for the efforts of the Working Group,

1. Expresses its appreciation to the United Nations Commission on International Trade Law for preparing the text of the draft Convention on International Bills of Exchange and International Promissory Notes;

2. Adopts and opens for signature or accession the United Nations Convention on International Bills of Exchange and International Promissory Notes contained in the annex to the present resolution;

3. Calls upon all Governments to consider becoming party to the Convention.

2/ Official Records of the General Assembly, Forty-second Session, Supplement No. 17 (A/43/17), para. 304.

3/ Ibid., annex I.

ANNEX

**United Nations Convention on International Bills of Exchange
and International Promissory Notes**

CHAPTER I, SPHERE OF APPLICATION AND FORM OF THE INSTRUMENT

Article 1

(1) **This Convention applies** to an international bill of exchange when it contains the heading "International bill of exchange (UNCITRAL Convention)" and also contains in its text the words "International bill of exchange (UNCITRAL Convention)".

(2) **This Convention applies** to an international promissory note when it contains the heading "International promissory note (UNCITRAL Convention)" and also contains in its text the words "International promissory note (UNCITRAL Convention)".

(3) This Convention **does not** apply to cheques.

Article 2

(1) An international bill of exchange **is** a bill of exchange which **specifies** at least two of the following places and **indicates** that any two so **specified** are situated in different **States**:

- (a) The place **where** the bill **is** drawn;
- (b) The **place** indicated next to the **signature** of the drawer;
- (c) The place indicated next to the **name** of the drawee;
- (d) The place indicated next to the **name** of the payee;
- (e) The place of **payment**;

provided that either the place where the bill **is** drawn or the place of payment is specified on the bill and that such place **is** situated in a Contracting State,

(2) An international promissory note **is** a promissory note which **specifies** at least two of the following places and **indicates** that any two so **specified** are situated in different **States**:

- (a) The place where the note **is** made;
- (b) The place indicated next to the **signature** of the maker;

(c) The place indicated next to the **name of the payee;**

(d) The place of **payment;**

provided that the place of payment is **specified** on the note and that **such** place is situated in a Contracting State.

(3) **This** Convention **doer** not **deal** with the **question** of **sanctions** that may be imposed under national law **in cases** where **an incorrect** or **false statement** has been made on an **instrument** in **respect** of a place referred to in paragraph (1) or (2) of **this** article. However, any **ruah** sanctions shall not affect the validity of the **instrument** or the application of **this** Convention,

Article 3

(1) A bill of exchange **is** a written **instrument** which:

(a) **Contains** an unconditional order whereby the drawer **directs** the **drawee** to pay a definite sum of money to the **payee** or to his **order;**

(b) Is payable **on** demand or at a definite timer

(c) Is dated)

(d) Is signed by the drawer,

(2) A **promissory** note **is** a written **instrument** which:

(a) **Contains** an unconditional **promise** whereby the **maker** **undertakes** to pay a definite **sum** of money to the payee or to his **order;**

(b) Is payable on demand or at a definite timer

(c) Is dated)

(d) Is signed by the maker,

CHAPTER II. INTERPRETATION

Section 1. General provisions

Article 4

In the interpretation of this Convention, regard **Fe** to be had to **its** international character and to the need to promote uniformity in **its** application and the **obsarvsnce** of good faith in international transactions.

Article 5

In this Convention:

- (a) "Bill" means an international bill ☐ ⁷ ☒ exchange governed by this Convention;
- (b) "Note" means an international promissory note governed by this Convention;
- (c) "Instrument" means a bill or a note;
- (d) "Drawee" means a person on whom a bill is drawn and who has not accepted it;
- (e) "Payee" means a person in whose favour the drawer directs payment to be made or to whom the maker promises to pay;
- (f) "Holder" means a person in possession of an instrument in accordance with article 151
- (g) "Protected holder" means a holder who meets the requirements of article 29;
- (h) "Guarantor" means any person who undertakes an obligation of guarantee under article 46, whether governed by subparagraph (t) ("guaranteed") or subparagraph (c) ("aval") of paragraph (4) of article 47;
- (i) "Party" means a person who has signed an instrument as drawer, maker, acceptor, endorser or guarantor;
- (j) "Maturity" means the time of payment referred to in paragraphs (4), (5), (6) and (7) of article 9;
- (k) "Signature" means a handwritten signature, its facsimile or an equivalent authentication effected by any other means "forged signature" includes a signature by the wrongful use of such means;
- (l) "Money" or "currency" includes a monetary unit of account which is established by an intergovernmental institution or by agreement between two or more States, provided that this Convention shall apply without prejudice to the ruler of the intergovernmental institution or to the stipulations of the agreement.

Article 6

For the purposes of this Convention, a person is considered to have knowledge of a fact if he has actual knowledge of that fact or could not have been unaware of its existence.

Section 2. Interpretation of formal requirements**Article 7**

The sum payable by an instrument is deemed to be a definite sum although the instrument states that **it** is to **be** paid:

(a) With interest)

(b) By **instalments at successive dates;**

(a) By instalments at **successive dates** with a **stipulation in the instrument** that upon default in **payment** of any instalment the unpaid balance becomes due

(d) According to a rate of **●** exchange indicated in the instrument or to be determined as directed by **the instrument;** or

(e) In **a** currency other than the currency in which the **sum** is expressed in the instrument.

Article 8

(1) If there is a discrepancy **between** the sum **expressed** in words and the sum expressed in **figures**, the **sum** payable by the **instrument** is the **SW** expressed in words,

(2) If the sum is expressed more than **once** in **words**, and **there** is a discrepancy, the sum payable **is** the smaller sum, The **same** rule applies if the sum **is** expressed more than **once** in figures only, **and there is a discrepancy.**

(3) If the **sum** is **●** expressed in a currency having the **same** description as that of at least **one** other State than the State **where** payment is to be made, as indicated in the instrument, and the specified **currency is** not identified as the currency of any particular State, the currency **is** to be considered as the **currency** of the State where payment **is** to be made.

(4) If an instrument states that the sum is to be paid with interest, without specifying the date from which **interest** is to **run**, interest runs from the date of the instrument.

(5) A stipulation stating that the sum is to be paid with interest is deemed not to **have** been written on the instrument unless it indicates the rate at which interest is to be paid.

(6) A rate at which interest **is** to be paid may be **expressed** either as a definite rate **or** as a variable rate. For a variable rate to qualify for **this** purpose, it must vary in relation to one or more reference rates of interest in accordance with **provisions** stipulated in the **instrument** and each such

reference rate **must** be published or otherwise available to the public and not **be** subject, directly or indirectly, to unilateral determination by a person who is named in the instrument at the time the bill is drawn or the note is made, unless the person is named only in the reference rate provisions.

(7) If the rate at which interest is to be paid is expressed as a variable rate, it may be stipulated expressly in the instrument that such rate shall not be less than or exceed a specified rate of interest, or that the variations are otherwise limited.

(8) If a variable rate does not qualify under paragraph (6) of this article or for any reason it is not possible to **determine** the numerical value of the variable rate for any period, interest shall be payable for the relevant period at the rate calculated in accordance with paragraph (2) of article 70.

Article 9

(1) An instrument is deemed to be payable on demand:

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

(b) If no time of payment is expressed.

(2) An instrument payable at a definite time 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) An instrument is deemed to be 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 instrument; or

(b) At a fixed period after sight; or

(c) By instalments at successive dates; or

(d) By instalments at successive dates with the stipulation in the instrument that upon default in payment of any instalment the unpaid balance becomes due.

(4) The time of payment of an instrument payable at a fixed period after date is determined by reference to the date of the instrument.

(5) The time of payment of a bill payable at a fixed period after sight is determined by the date of acceptance **or**, if the bill is dishonoured by

non-acceptance, by the date of protest or, if protest is dispensed with, by the date of dishonour.

(6) The time of payment of an instrument payable on demand is the date on which the instrument is presented for payment.

(7) The time of payment of a note payable at a fixed period after sight is determined by the date of the visa signed by the maker on the note or, if his visa is refused, by the date of presentment.

(6) If an instrument is drawn, or made, payable one or more months after a stated date or after the date of the instrument or after sight, the instrument is payable on the corresponding date of the month when payment must be made. If there is no corresponding date, the instrument is payable on the last day of that month,

Article 10

(1) A bill may be drawn:

(a) By two or more drawers;

(b) Payable to two or more payees.

(2) A note may be made:

(a) By two or more makers;

(b) Payable to two or more payers,

(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 may be exercised only by all of them.

Article 11

A bill may be drawn by the drawer:

(a) On himself;

(b) Payable to his order.

Section 3. Completion of an incomplete instrument

Article 12

(1) An **incomplete** instrument which satisfies the requirements set out in paragraph (1) of article 1 and bears the **signature** of the drawer or the **acceptance** of the drawee, or which satisfies the requirements set out in paragraph (2) of article 1 and subparagraph (d) of paragraph (2) of article 3, but which lacks other **element** pertaining to one or more of the requirements set out in articles 2 and 3, may be completed, and the instrument so completed is **effective** as a bill or a note.

(2) If **such** an instrument is completed without authority or otherwise **than** in accordance with the authority given:

(a) A party who **signed** the instrument before the completion may invoke **such** lack of authority as a **defence** against a holder who had knowledge of such lack of authority when he **became** a holder;

(b) A party who **signed** the instrument after the completion is liable according to the **terms** of the instrument so completed.

CHAPTER II 1. TRANSFER

Article 13

An instrument is transferred:

(a) By **endorsement** and delivery of the instrument by the **endorser** to the **endorsee**; or

(b) By mere delivery of the instrument if the **last endorsement** is in blank.

Article 14

(1) An **endorsement** must be written on the instrument or on a **slip** affixed thereto ("**allonge**"). It must be **signed**.

(2) An **endorsement** may be:

(a) In blank, that is, by a signature alone or by a signature accompanied by a statement to the effect that the instrument is payable to a person in **possession** of it;

(b) Special, that is, by a **signature** accompanied by an indication of the **person** to whom the instrument is payable.

(3) A ~~signature~~ alone, other than that of the ~~drawee~~, is an endorsement only if placed on the back of the instrument.

Article 15

(1) A person ~~is~~ a holder if he ~~is~~:

(a) The payee in possession Of the instrument; or

(b) In possession of an instrument which has been endorsed to him, or on which the last endorsement is in blank, and on which there appears an uninterrupted series of endorsements, even if any endorsement was forged or was signed by an agent without authority.

(2) If an endorsement in blank is followed by another endorsement, the person who signed this last endorsement is deemed to be an endorsee by the endorsement in blank,

(3) A person is not prevented from being a holder by the fact that the instrument was obtained by him or any previous holder under circumstances, including incapacity or fraud, duress or mistake of any kind, that would give rise to a claim to, or a defence against liability on, the instrument.

Article 16

The holder of an instrument on which the last endorsement is in blank may:

(a) Further endorse it either by an endorsement in blank or by a special endorsement; or

(b) Convert the blank endorsement into a special endorsement by indicating in the endorsement that the instrument is payable to himself or to some other specified person; or

(c) Transfer the instrument in accordance with subparagraph (b) of article 13.

Article 17

(1) If the drawer or the maker has inserted in the instrument such words as "not negotiable", "not transferable", "not to order", "pay (X) only", or words of similar import, the instrument may not be transferred except for purposes of collection, and any endorsement, even if it does not contain words authorizing the endorsee to collect the instrument, is deemed to be an endorsement for collection.

(2) If an endorsement contains the words "not negotiable", "not transferable", "not to order", "pay (X) only", or words of similar import, the instrument may not be transferred further except for purposes of collection, and any subsequent endorsement, even if it does not contain words authorising the endorsee to collect the instrument, is deemed to be an endorsement for collection.

Article 18

(1) An endorsement must be unconditional.

(2) A conditional endorsement transfers the instrument whether or not the condition is fulfilled. The condition is ineffective as to those parties and transferees who are subsequent to the endorsee.

Article 19

An endorsement in respect of a part of the sum due under the instrument is ineffective as an endorsement.

Article 20

If there are two or more endorsements, it is presumed, unless the contrary is proved, that each endorsement was made in the order in which it appears on the instrument.

Article 21

(1) If an endorsement contains the words "for collection", "for deposit", "value in collection", "by procuration", "pay any bank", or words of similar import authorising the endorsee to collect the instrument, the endorsee is a holder who

(a) May exercise all rights arising out of the instrument)

(b) May endorse the instrument only for purposes of collection!

(c) Is subject only to the claims and defences which may be set up against the endorser,

(2) The endorser for collection is not liable on the instrument to any subsequent holder.

Article 22

(1) If *an endorsement* contain8 the words "value in security", "value in pledge", or any other wordr indicating a pledge, the • ndorroex a holder who;

(a) May exercise all rights arising out of the instrument;

(b) May endorse the instrument only for purposes of collection;

(c) Is subject only to the claims *and* defences specified in article 28 or 30.

(2) If such an endorsee endorses for collection, he is not liable on the inotrumrnt to any subsequent holder,

Article 23

The holder of *an instrument* may transfer it to a prior party or to the drawee in accordance with article 13; however, if the transferor has previously been a holder of the instrument, *no* endorsement is required, and any endorsement which would prevent him from qualifying as a holder may be struck out.

Article 24

An instrument may be tranofrrred in accordance with article 13 after maturity, except by the drawee, the acceptor or the maker.

Article 25

(1) If an endorsement is forged, the person whose endorsement is forged, or a party who signed the instrument before the forgery, hae the right to *recover compensation for* any damage that he may have suffered because of the forgery against :

(a) The forger)

(b) The person to whom the instrument wae directly tranrferred by the forger)

(c) A party or the drawee who paid the inotrumrnt to the forger directly or through one or more endorsees for collection.

(2) However, an endorses for collection is not liable under paragraph (1) of this article if he is without knowledge of the forgery:

(a) At the time he **pays the principal** or **advises him of the receipt of payment**, or

(b) At the time he **receives payment**, if **this is later**,

unless his lack of knowledge is due to his failure to act in good faith or to exercise reasonable care.

(3) Furthermore, a party or the drawee who **pays an instrument** is not liable under paragraph (1) of **this article** if, at the time **he pays the instrument**, **he is without knowledge** of the forgery, **unless his lack of knowledge is due to his failure to act in good faith or to exercise reasonable care.**

(4) Except **as against the forger**, the **damages recoverable** under paragraph (1) of **this article** may not exceed the amount referred to in article 70 or 71.

Article 26

(1) If an endorsement is made by an **agent** without authority or power to bind **his principal** in the matter, the principal, or a party who **signed the instrument** before such **endorsement**, **has the right to recover compensation** for any damage that he may have **suffered because of such endorsement against:**

(a) The **agent;**

(b) The person to whom the **instrument** was directly transferred by the agent ;

(c) A party or the drawee who paid the **instrument** to the agent directly or through one or more **endorses** for **collection.**

(2) However, an endorsee for collection **is not liable** under paragraph (1) of this article if he is without knowledge that the endorsement does not bind the **principal:**

(a) At the time he **pays the principal** or **advises him of the receipt of payment**, or

(b) At the time he **receives payment**, if **this is later**,

unless his lack of knowledge is due to his failure to act in good faith or to exercise reasonable care.

(3) Furthermore, a party or the drawee who **pays an instrument** is not liable under paragraph (1) of this article if, at the time he **pays the instrument**, **he is without knowledge** that the endorsement does not bind the principal, **unless his lack of knowledge is due to his failure to act in good faith or to exercise reasonable care.**

(4) Except **as against the agent**, the **damages recoverable** under paragraph (1) of **this article** may **not** **exceed the amount referred to in article 70 or 71.**

CHAPTER IV, RIGHTS AND LIABILITIES

Section 1. The rights of a holder and of a protected holder

Article 27

(1) The holder *of an instrument* has all the rights conferred on him by **this Convention against the parties to the instrument,**

(2) The holder may **transfer** the instrument in *accordance* with article 13.

Article 28

(1) A party may **set up against** a holder who **is** not a protected holder

(a) Any defence that **may be set up against** a **protected holder** in accordance with paragraph (1) of **article 30;**

(b) Any defence **based on the underlying transaction** between **himself** and the drawer **or between himself and his transferee**, but only if the holder took the instrument with knowledge of **such defence** or if he obtained the instrument by fraud or theft or participated at any **time** in a fraud or theft **concerning it;**

(c) Any defence **arising from the circumstances as a result of which** he became a party, but only if the **holder** took the instrument with knowledge of **such defence** or *if* he obtained the instrument by fraud or theft or participated at any time in a fraud or theft **concerning it;**

(d) *Any* defence which may be raised against *an* action in contract **between himself and the holder,**

(e) Any other defence available under **this Convention.**

(2) The **rights to an instrument of a holder** who is not a protected holder **are subject** to any valid claim to the instrument *on the part of any person*, but only *if* he took the instrument with knowledge of **such claim** or if he obtained the instrument by fraud or theft or participated at any time in a fraud or theft **concerning it.**

(3) A holder who **takes** an instrument after the **expiry** of the time-limit for **presentment** for payment **is subject** to any claim to, or defence against liability **on, the instrument to which his transferor is subject.**

(4) A party may not raise as a defence against a holder who is not a protected holder the fact that a third person has a claim to the instrument unless:

- (a) The third person asserted a valid claim to the instrument; or
- (b) The holder acquired the instrument by theft or forged the signature of the payee or endorsee, or participated in the theft or the forgery.

Article 29

"Protected holder" means the holder of an instrument which was complete when he took it or which was incomplete within the meaning of paragraph (1) of article 12 and was completed in accordance with authority given, provided that when he became a holder:

- (a) He was without knowledge of a defence against liability on the instrument referred to in subparagraphs (a), (b), (c) and (e) of paragraph (1) of article 28;
- (b) He was without knowledge of a valid claim to the instrument of any person;
- (c) He was without knowledge of the fact that it had been dishonoured by non-acceptance or by non-payment;
- (d) The time-limit provided by article 55 for presentment of that instrument for payment had not expired; and
- (e) He did not obtain the instrument by fraud or theft or participate in a fraud or theft concerning it.

Article 30

(1) A party may not set up against a protected holder any defence except:

- (a) Defences under articles 33 (1), 34, 35 (1), 36 (3), 53 (1), 57 (1), 63 (1) and 84 of this Convention;
- (b) Defences based on the underlying transaction between himself and such holder or arising from any fraudulent act on the part of such holder in obtaining the signature on the instrument of that party;
- (c) Defences based on his incapacity to incur liability on the instrument or on the fact that he signed without knowledge that his signature made him a party to the instrument, provided that his lack of knowledge was not due to his negligence and provided that he was fraudulently induced so to sign.

(2) The **rights** to an instrument of a protected holder are not **subject** to any **claim** to the instrument **on** the part of any **person**, except a valid claim **arising** from the underlying **transaction** between **himself** and the **person** by whom the claim is raised.

Article 31

(1) The **transfer** of an **instrument** by a protected holder **vests in** any subsequent holder the **rights** to **and on the** instrument which the protected holder had.

(2) Those **rights** are not **vested in** a subsequent holder if:

(a) He participated in a **transaction** which **gives rise** to a claim to, or a defence against liability **on**, the instrument

(b) He has **previously** been a holder, but not a protected holder.

Article 32

Every holder is presumed to be a protected holder **unless** the contrary is proved.

Section 2. Liabilities of the parties

A. General provisions

Article 33

(1) Subject to the **provisions** of **articles** 34 and 36, a **person** is not **liable** on an instrument unless he **signs** it.

(2) A person who signs an instrument in a name which **is not his own** is **liable as if** he had signed it in his own name,

Article 34

A forged signature **on** an instrument **does not** impose any liability on the person **whose** signature **was** forged. However, if he **consents** to be bound by the forged signature or represents that it **is** his own, he is **liable as if** he had signed the instrument himself.

Article 35

(1) If an **instrument is materially altered:**

(a) A party who **signs it** after the material alteration **is** liable according to the termr of the altered **text;**

(b) A party who **signs it** before the material alteration **is** liable according to the term8 of the original text, However, *if* a party **makes, authorises or assents to a** material alteration, he **is** liable according to **the** terms of the **altered** text,

(2) A rignature **is** prerumed to have **been** placed on the inrtrument after the material alteration **unless** the contrary **is** proved,

(3) Any alteration **is** material which modifier the written undertaking on the inrtrument **of any** party in **any** respect.

Article 36

(1) An **instrument** may be **signed** by **an agent**.

(2) The rignature of an agent placed by him on an inrtrument with the **authority of hi8** principal and **showing** on the inrtrument that he **is signing** in **a representative** capacity for that named principal, or the rignature of a principal placed on the inrtrument by an agent with hit: authority, **imposes** liability on the principal and not on the agent.

(3) A signature placed on an instrument by a pereon **as** agent but who lack8 authority to **sign** or **exceeds** hi8 authority, or by an agent who hao authority to **sign** but who **does not show** on the inrtrument that he **is signing** in a **representative** capacity for a **named person**, or **who shows** on the inrtrument that he **is signing** in a representative capacity but doer not **name** the **person** whom he **represents**, **imposes** liability on the person signing and not on the person whom he purports to **represent**.

(4) The question whether a **signature was** placed on the inotrument **in a** representative capacity may be determined only by reference to what appears on the **instrument**.

(5) A **person** who **is** liable pursuant to paragraph (3) of **this article** and who pay8 the inotrument ha8 the **same** rights **a8** the **person** for whom he purported to act would have had *if* that person had paid the inrtrument.

Article 37

The order to pay contained in a bill does not of **itself** operate a8 an **assignment** to the payee of fundr made available for payment by the drawer with the **drawee**.

B. The drawer

Article 38

(1) The drawer **engages** that upon **dishonour** of the bill by non-acceptance or by non-payment, **and** upon any **necessary protest**, he will pay the bill to the holder, or to any **endorser** or any **endorser's** guarantor who **takes up** and **pays** the bill,

(2) The drawer may **●** **exclude** or limit his own liability for acceptance or for **payment** by an **express stipulation** in the bill, **Such** a stipulation **is** effective only with **respect** to the drawer. A stipulation **excluding** or limiting liability for payment **is** effective only if another party is or **becomes** liable on the bill.

C. The maker

Article 39

(1) The maker **engages** that he will pay the note in accordance with **its terms** to the holder, or to any party who **takes up** and **pays** the note.

(2) The maker may **not exclude** or limit his **own** liability by a stipulation in the note. Any much **stipulation is ineffective**.

D. The drawee and the acceptor

Article 40

(1) The drawee **is** not liable on a bill until he **accepts** it.

(2) The acceptor **engages** that he will pay the bill in **accordance** with the **terms** of his acceptance to the holder, or to **any** party who **takes up** and **pays** the bill.

Article 41

(1) An acceptance **must** be written on the bill and may be **effected**:

(a) By the signature of the drawee **accompanied** by the word "accepted" or by words of similar **import**; or

(b) By the signature alone of the drawee,

(2) An acceptance may be written on the front or on the back of the bill,

Article 42

(1) An incomplete bill which satisfies the requirements set out in paragraph (1) of article 1 may be accepted by the drawer before it has been signed by the drawer, or while otherwise incomplete.

(2) A bill may be *accepted* before, at or *after maturity*, or after it has been dishonoured by non-acceptance or by non-payment.

(3) If a bill *drawn* payable at a fixed period after sight, or a bill which must be presented for acceptance before a specified date, is accepted, the acceptor must indicate the date of his acceptance; failing such indication by the acceptor, the drawer or the holder may insert the date of acceptance.

(4) If a bill drawn payable at a fixed period after sight is dishonoured by non-acceptance and the drawee subsequently accepts it, the holder is entitled to have the acceptance dated as of the date on which the bill was dishonoured.

Article 43

(1) An acceptance must be unqualified. An acceptance is qualified if it is conditional or varies the terms of the bill.

(2) If the drawee stipulates in the bill that his acceptance is subject to qualification:

(a) He is nevertheless bound according to the terms of his qualified acceptance;

(b) The bill is dishonoured by non-acceptance.

(3) An acceptance relating to only a part of the sum payable is a qualified acceptance. If the holder takes such an acceptance, the bill is dishonoured by non-acceptance only as to the remaining part.

(4) An acceptance indicating that payment will be made at a particular address or by a particular agent is not a qualified acceptance, provided that:

(a) The place in which payment is to be made is not changed;

(b) The bill is not drawn payable by another agent.

E. The endorser**Article 44**

(1) The **endorser engages** that upon dishonour of the instrument by non-acceptance or by non-payment, and upon any necessary protest, he will pay the instrument to the **holder**, or to any subsequent endorser or endorser's guarantor who takes up and pays the instrument.

(2) An endorser may exclude or limit his own liability by an express stipulation in the instrument. Such a stipulation is effective only with respect to that endorser.

F. The transferor by endorsement or by mere delivery**Article 45**

(1) Unless otherwise agreed, a person who transfers an instrument, by endorsement and delivery or by mere delivery, represents to the holder to whom he transfers the instrument that;

(a) The instrument does not bear any forged or unauthorized signature;

(b) The instrument has not been materially altered;

(a) At the time of transfer, he has no knowledge of any fact which would impair the right of the transferee to payment of the instrument against the acceptor of a bill or, in the case of an unaccepted bill, the drawer, or against the maker of a note,

(2) Liability of the transferor under paragraph (1) of this article is incurred only if the transferee took the instrument without knowledge of the matter giving rise to such liability,

(3) If the transferor is liable under paragraph (1) of this article, the transferee may recover, even before maturity, the amount paid by him to the transferor, with interest calculated in accordance with article 70, against return of the instrument,

G. The guarantor**Article 46**

(1) Payment of an instrument, whether or not it has been accepted, may be guaranteed, as to the whole or part of its amount, for the account of a party or the drawee. A guarantee may be given by any person, who may or may not already be a party.

(2) A guarantee must be written on the instrument or on a clip **affixed** thereto ("**allonge**") .

(3) A guarantee **is expressed** by the words "**guaranteed**", "**aval**", "**good as aval**" or words of **similar import**, accompanied by the **signature** of the guarantor. For the **purposes** of this Convention, the **words** "**prior endorsements guaranteed**" or words of **similar import** do not **constitute** a guarantee,

(4) A guarantee may be effected by a **signature** alone on **the front** of the **instrument**. A **signature** alone on the front of the instrument, other than that of the maker, the drawer or the drawee, **is** a guarantee.

(5) A guarantor may **specify** the person for whom he has become guarantor. In the **absence** of such **specification**, the person for whom he has become guarantor **is** the acceptor or the drawee in the case of a bill, and the maker in the **case** of a note.

(6) A guarantor may not raise **as** a defence to his liability the fact that he signed the instrument before it **was** signed by the person for whom he **is** a guarantor, or while the instrument **was** incomplete,

Article 47

(1) The liability of a **guarantor** on the instrument is of the **same** nature as that of the party for whom he has become guarantor.

(2) If the person for whom he has become guarantor **is** the drawee, the guarantor engages:

(a) To pay the bill at **maturity** to the holder, or to any party who takes up and pays the bill;

(b) If the bill is payable at a definite time, upon dishonour by non-acceptance and upon any necessary protest, to pay it to the holder, or to any party who **takes** up and pays the bill.

(3) In respect of defences that are personal to **himself**, a guarantor may **set up**

(a) Against a holder who is not a protected holder only **those defences** which he may set up under paragraph (1), (3) and (4) of article 28;

(b) Against a protected holder only those defences which he may set up under paragraph (1) of article 30.

(4) In respect of defences that may be raised by the person for whom he has become a guarantor!

(a) A guarantor may set up against a holder who is not a protected holder only those defences which the person for whom he has become a guarantor may set up against such holder under paragraphs (1), (3) and (4) of article 28;

(b) A guarantor who expresses his guarantee by the words "guaranteed", "payment guaranteed" or "collection guaranteed", or words of similar import, may set up against a protected holder only those defences which the person for whom he has become a guarantor may set up against a protected holder under paragraph (1) of article 30;

(c) A guarantor who expresses his guarantee by the words "aval" or "good as aval" may set up against a protected holder only:

- (i) The defence, under subparagraph (b) of paragraph (1) of article 30, that the protected holder obtained the signature on the instrument of the person for whom he has become a guarantor by a fraudulent act;
- (ii) The defence, under article 53 or 57, that the instrument was not presented for acceptance or for payment;
- (iii) The defence, under article 63, that the instrument was not duly protested for non-acceptance or for non-payment;
- (iv) The defence, under article 84, that a right of action may no longer be exercised against the person for whom he has become guarantor]

(d) A guarantor who is not a bank or other financial institution and who expresses his guarantee by a signature alone may set up against a protected holder only the defences referred to in subparagraph (b) of this paragraph)

(e) A guarantor which is a bank or other financial institution and which expresses its guarantee by a signature alone may set up against a protected holder only the defence referred to in subparagraph (c) of this paragraph.

Article 48

(1) Payment of an instrument by the guarantor in accordance with article 72 discharges the party for whom he became guarantor of his liability on the instrument to the extent of the amount paid,

(2) The guarantor who pays the instrument may recover from the party for whom he has become guarantor and from the parties who are liable on it to that party the amount paid and any interest.

CHAPTER V. PRESENTMENT, DISHONOUR BY NON-ACCEPTANCE
OR NON-PAYMENT, AND RECOURSE

Section 1. Presentment for acceptance and dishonour
by non-acceptance

Article 49

(1) A bill may be presented for acceptance.

(2) A bill must be presented for acceptance:

(a) If the drawer has stipulated in the bill that it must be presented for acceptance;

(b) If the bill is payable at a fixed period after sight; or

(c) If the bill is payable elsewhere than at the residence or place of business of the drawee, unless it is payable on demand.

Article 50

(1) The drawer may stipulate in the bill that it must not be presented for acceptance before a specified date or before the occurrence of a specified event. Except where a bill must be presented for acceptance under subparagraph (b) or (c) of paragraph (2) of article 49, the drawer may stipulate that it must not be presented for acceptance.

(2) If a bill is presented for acceptance notwithstanding a stipulation permitted under paragraph (1) of this article and acceptance is refused, the bill is not thereby dishonoured.

(3) If the drawee accepts a bill notwithstanding a stipulation that it must not be presented for acceptance, the acceptance is effective,

Article 51

A bill is duly presented for acceptance if it is presented in accordance with the following rules:

(a) The holder must present the bill to the drawee on a business day at a reasonable hour;

(b) Presentment for acceptance may be made to a person or authority other than the drawee if that person or authority is entitled under the applicable law to accept the bill;

(c) If a bill is payable on a fixed date, presentment for acceptance must be made before or on that date;

(d) A bill payable on demand or at a fixed period after sight must be presented for acceptance within one year of its date;

(e) A bill in which the drawer has stated a date or time-limit for presentment for acceptance must be presented on the stated date or within the stated time-limit.

Article 52

(1) A necessary or optional presentment for acceptance is dispensed with if:

(a) The drawer is dead, or no longer has the power freely to deal with his assets by reason of his insolvency, or is a fictitious person, or is a person not having capacity to incur liability on the instrument as an acceptor; or

(b) The drawer is a corporation, partnership, association or other legal entity which has ceased to exist.

(2) A necessary presentment for acceptance is dispensed with if:

(a) A bill is payable on a fixed date, and presentment for acceptance cannot be effected before or on that date due to circumstances which are beyond the control of the holder and which he could neither avoid nor overcome; or

(b) A bill is payable at a fixed period after sight, and presentment for acceptance cannot be effected within one year of its date due to circumstances which are beyond the control of the holder and which he could neither avoid nor overcome.

(3) Subject to paragraphs (1) and (2) of this article, delay in a necessary presentment for acceptance is excused, but presentment for acceptance is not dispensed with, if the bill is drawn with a stipulation that it must be presented for acceptance within a stated time-limit, and the delay in presentment for acceptance is caused by circumstances which are beyond the control of the holder and which he could neither avoid nor overcome. When the cause of the delay ceases to operate, presentment must be made with reasonable diligence,

Article 53

(1) If a bill which must be presented for acceptance is not so presented, the drawer, the endorsers and their guarantors are not liable on the bill.

(2) Failure to present a bill for acceptance does not discharge the guarantor of the drawee of liability OR the bill,

Article 54

(1) A bill is considered to be dishonoured by non-acceptance:

(a) If the drawee, upon due presentment, refuses to accept the bill or acceptance cannot be obtained with reasonable diligence or if the holder cannot obtain the acceptance to which he is entitled under this Convention;

(b) If presentment for acceptance is dispensed with pursuant to article 52, unless the bill is in fact accepted.

(2) (a) If a bill is dishonoured by non-acceptance in accordance with subparagraph (a) of paragraph (1) of this article, the holder may claim an immediate right of recourse against the drawer, the endorsers and their guarantors, subject to the provisions of article 59.

(b) If a bill is dishonoured by non-acceptance in accordance with subparagraph (b) of paragraph (1) of this article, the holder may claim an immediate right of recourse against the drawer, the endorsers and their guarantors.

(a) If a bill is dishonoured by non-acceptance in accordance with paragraph (1) of this article, the holder may claim payment from the guarantor of the drawee upon any necessary protest,

(3) If a bill payable on demand is presented for acceptance, but acceptance is refused, it is not considered to be dishonoured by non-acceptance.

Section 2 . Presentment for payment and dishonour by non-payment

Article 55

An instrument is duly presented for payment if it is presented in accordance with the following rules:

(a) The holder must present the instrument to the drawee or to the acceptor or to the maker on a business day at a reasonable hour

(b) A note signed by two or more makers may be presented to any one of them, unless the note clearly indicates otherwise;

- (c) If the drawee or the acceptor or the maker is dead, presentment must be made to the persons who under the applicable law are his heirs or the persons entitled to administer his estate;
- (d) Presentment for payment may be made to a person or authority other than the drawee, the acceptor or the maker if that person or authority is entitled under the applicable law to pay the instrument;
- (e) An instrument which is not payable on demand must be presented for payment on the date of maturity or on one of the two business days which follow;
- (f) An instrument which is payable on demand must be presented for payment within one year of its date;
- (g) An instrument must be presented for payment:
- (i) At the place of payment specified on the instrument; or
 - (ii) If no place of payment is specified, at the address of the drawee or the acceptor or the maker indicated in the instrument; or
 - (iii) If no place of payment is specified and the address of the drawee or the acceptor or the maker is not indicated, at the principal place of business or habitual residence of the drawee or the acceptor or the maker;
- (h) An instrument which is presented at a clearing-house is duly presented for payment if the law of the place where the clearing-house is located or the rules or customs of that clearing-house so provide.

Article 56

(1) Delay in making presentment for payment is excused if the delay is caused by circumstances which are beyond the control of the holder and which he could neither avoid nor overcome. When the cause of the delay ceases to operate, presentment must be made with reasonable diligence,

(2) Presentment for payment is dispensed with:

(a) If the drawer, an endorser or a guarantor has expressly waived presentment; such waiver:

- (i) If made on the instrument by the drawer, binds any subsequent party and benefits any holder;
- (ii) If made on the instrument by a party other than the drawer, binds only that party but benefits any holder;

(iii) If made outside the instrument, binds only the party making it and benefits only a holder in whose favour it was made;

(b) If an instrument is not payable on demand, and the cause of delay in making presentment referred to in paragraph (1) of this article continues to operate beyond 30 days after maturity;

(c) If an instrument is payable on demand, and the cause of delay in making presentment referred to in paragraph (1) of this article continues to operate beyond 30 days after the expiration of the time-limit for presentment for payment;

(d) If the drawee, the maker or the acceptor has no longer the power freely to deal with his assets by reason of his insolvency, or is a fictitious person or a person not having capacity to make payment, or if the drawee, the maker or the acceptor is a corporation, partnership, association or other legal entity which has ceased to exist;

(e) If there is no place at which the instrument must be presented in accordance with subparagraph (9) of article 55.

(3) Presentment for payment is also dispensed with as regards a bill, if the bill has been protested for dishonour by non-acceptance.

Article 67

(1) If an instrument is not duly presented for payment, the drawer, the endorsers and their guarantors are not liable on it.

(2) Failure to present an instrument for payment does not discharge the acceptor, the maker and their guarantors or the guarantor of the drawee of liability on it,

Article 58

(1) An instrument is considered to be dishonoured by non-payment:

(a) If payment is refused upon due presentment or if the holder cannot obtain the payment to which he is entitled under this Convention;

(b) If presentment for payment is dispensed with pursuant to paragraph (2) of article 56 and the instrument is unpaid at maturity,

(2) If a bill is dishonoured by non-payment, the holder may, subject to the provisions of article 59, exercise a right of recourse against the drawer, the endorsers and their guarantors,

(3) If a **note** is dishonoured by non-payment, **the holder may, subject to the provisions of article 59, exercise a right of recourse against the endorsers and their guarantors.**

Section 3. Recourse

Article 59

If an instrument is dishonoured by non-acceptance or by non-payment, the holder may exercise a right of **recourse** only after **the instrument has been duly protested for dishonour in accordance with the provisions of articles 60 to 62.**

A. Protest

Article 60

(1) A **protest** is a **statement of dishonour drawn up at the place where the instrument has been dishonoured and signed and dated by a person authorised in that respect by the law of that place. The statement must specify:**

- (a) The person at whose request the **instrument is protested;**
- (b) The place of **protest;** and
- (c) The demand made and the answer given, if any, or the fact that the drawee or the acceptor or the maker could not be found.

(2) A protest may be made;

(a) On the instrument or on a slip affixed thereto ("**allonge**"); or

(b) **As a separate document, in which case it must clearly identify the instrument that has been dishonoured.**

(3) Unless the instrument stipulates that **protest** must be made, a protest may be replaced by a declaration written on the **instrument** and signed and dated by the drawee or the acceptor or the maker, or, in the case of an instrument domiciled with a **named person** for payment, by that **named person;** the declaration must be to the effect that acceptance or **payment is refused.**

(4) A declaration made in accordance with paragraph (3) of **this article is a protest for the purpose of this Convention,**

Article 61

Protest for dishonour of an instrument by non-acceptance or by non-payment must be made on the day on which the instrument is dishonoured or on one of the four business days which follow,

Article 62

(1) Delay in protesting an instrument for dishonour is excused if the delay is caused by circumstances which are beyond the control of the holder and which he could neither avoid nor overcome. When the cause of the delay ceases to operate, protest must be made with reasonable diligence.

(2) Protest for dishonour by non-acceptance or by non-payment is dispensed with:

- (a) If the drawer, endorser or a guarantor has expressly waived protest; such waiver:
 - (i) If made on the instrument by the drawer, binds any subsequent party and benefits any holder;
 - (ii) If made on the instrument by a party other than the drawer, binds only that party but benefits any holder;
 - (iii) If made outside the instrument, binds only the party making it and benefits only a holder in whose favour it was made;
- (b) If the cause of the delay in making protest referred to in paragraph (1) of this article continues to operate beyond 30 days after the date of dishonour;
- (c) As regards the drawer of a bill, if the drawer and the drawee or the acceptor are the same person;
- (d) If presentment for acceptance or for payment is dispensed with in accordance with article 52 or paragraph (2) of article 56.

Article 63

(1) If an instrument which must be protested for non-acceptance or for non-payment is not duly protested, the drawer, the endorsers and their guarantors are not liable on it.

(2) Failure to protest an instrument does not discharge the acceptor, the maker and their guarantors or the guarantor of the drawee of liability on it.

B. Notice of dishonour

Article 64

(1) The holder, upon dishonour of an instrument by non-acceptance or by non-payment, must give notice of such dishonour:

(a) To the drawer and the last •  and

(b) To all other endorsers and guarantors whose addresses the holder can ascertain on the basis of information contained in the instrument.

(2) • Endorser or a guarantor who receives notice must give notice of dishonour to the last party preceding him and liable on the instrument.

(3) Notice of dishonour operates for the benefit of any party who has a right of recourse on the instrument against the party notified.

Article 65

(1) Notice of dishonour may be given in any form whatever and in any terms which identify the instrument and state that it has been dishonoured. The return of the dishonoured instrument is sufficient notice, provided it is accompanied by a statement indicating that it has been dishonoured.

(2) Notice of dishonour is duly given if it is communicated or sent to the party to be notified by means • appropriate in the circumstances, whether or not it is received by that party.

(3) The burden of proving that notice has been duly given rests upon the person who is required to give such notice.

Article 66

Notice of dishonour must be given within the two business days which follow I

(a) The day of protest or, if protest is dispensed with, the day of dishonour ; or

(b) The day of receipt of notice of dishonour.

Article 67

(1) Delay in giving notice of dishonour is excused if the delay is caused by circumstances which are beyond the control of the person required to give notice, and which he could neither avoid nor overcome. When the cause of the delay ceases to operate, notice must be given with reasonable diligence.

(2) **Notice of dishonour is dispensed with**

(a) **If, after the** ● ☒ ☐ ☐ ☐ ☐ ☐ **of reasonable diligence, notice cannot be given** J

(b) **If the drawer, an** ● **endorser or a guarantor has expressly waived notice of dishonour; such waiver;**

(i) **If made on the instrument by the drawer, binds any subsequent party and benefits any holder;**

(ii) **If made on the instrument by a party other than the drawer, binds only that party but benefits any holder;**

(iii) **If made outside the instrument, binds only the party making it and benefits only a holder in whose favour it was made;**

(a) **As regards the drawer of the bill, if the drawer and the acceptor are the same person,**

Article 68

If a person who is required to give notice of dishonour fails to give it to a party who is entitled to receive it, he is liable for any damage which that party may suffer from such failure, provided that such damage does not exceed the amount referred to in Article 70 or 71.

Section 4. Amount payable

Article 69

(1) **The holder may exercise his rights on the instrument against any one party, or several or all parties, liable on it and is not obliged to observe the order in which the parties have become bound. Any party who takes up and pays the instrument may exercise his rights in the same manner against parties liable to him.**

(2) **Proceedings against a party do not preclude proceedings against any other party, whether or not subsequent to the party originally proceeded against.**

Article 70

(1) **The holder may recover from any party liable:**

(a) **At maturity; the amount of the instrument with interest, if interest has been stipulated for;**

(b) After maturity:

- (i) The amount of the instrument with interest, if interest has been stipulated for, to the date of maturity;
- (ii) If interest has been stipulated to be paid after maturity, interest at the rate stipulated, or, in the absence of such stipulation, interest at the rate specified in paragraph (2) of this article, calculated from the date of presentment on the sum specified in subparagraph (b) (i) of this paragraph;
- (iii) Any expenses of protest and of the notices given by him;

(c) Before maturity:

- (i) The amount of the instrument with interest, if interest has been stipulated for, to the date of payment; or, if no interest has been stipulated for, subject to a discount from the date of payment to the date of maturity, calculated in accordance with paragraph (4) of this article;

- (ii) Any expenses of protest and of the notices given by him,

(2) The rate of interest shall be the rate that would be recoverable in legal proceedings taken in the jurisdiction where the instrument is payable,

(3) Nothing in paragraph (2) of this article prevents a court from awarding damages or compensation for additional loss caused to the holder by reason of delay in payment,

(4) The discount shall be at the official rate (discount rate) or other similar appropriate rate effective on the date when recourse is sought at the place where the holder has his principal place of business, or, if he does not have a place of business his habitual residence, or, if there is no such rate, then at such rate as is reasonable in the circumstances.

Article 71

A party who pays an instrument and is thereby discharged in whole or in part of his liability on the instrument may recover from the parties liable to him:

- (a) The entire sum which he has paid;
- (b) Interest on that sum at the rate specified in paragraph (2) of article 70, from the date on which he made payment;
- (c) Any expenses of the notices given by him.

(d) The person from whom payment is demanded may withhold payment if the person demanding payment does not deliver the instrument to him, Withholding payment in these circumstances does not constitute dishonour by non-payment under article 58.

(e) If payment is made but the person paying, other than the drawee, fails to obtain the instrument, such person is discharged but the discharge cannot be set up as a defence against a protected holder to whom the instrument has been subsequently transferred.

Article 73

(1) The holder is not obliged to take partial payment.

(2) If the holder who is offered partial payment does not take it, the instrument is dishonoured by non-payment.

(3) If the holder takes partial payment from the drawee, the guarantor of the drawee, or the acceptor or the maker :

(a) The guarantor of the drawee, or the acceptor or the maker is discharged of his liability on the instrument to the extent of the amount paid; and

(b) The instrument is to be considered as dishonoured by non-payment as to the amount unpaid,

(4) If the holder takes partial payment from a party to the instrument other than the acceptor, the maker or the guarantor of the drawee:

(a) The party making payment is discharged of his liability on the instrument to the extent of the amount paid; and

(b) The holder must give such party a certified copy of the instrument and any necessary Authenticated protest in order to enable such party to exercise a right on the instrument.

(5) The drawee or a party making partial payment may require that mention of such payment be made on the instrument and that a receipt therefor be given to him.

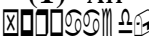
(6) If the balance is paid, the person who receives it and who is in possession of the instrument must deliver to the payor the receipted instrument and any authenticated protest.

Article 74

(1) The holder may refuse to take payment at a place other than the place where the instrument was presented for payment in accordance with article 55.

(2) In such case if payment is not made at the place where the instrument was presented for payment in accordance with article 55, the instrument is considered to be dishonoured by non-payment,

Article 74

(1) An instrument must be paid in the currency in which the sum payable is 

(2) If the sum payable is expressed in a monetary unit of account within the meaning of subparagraph (1) of article 5 and the monetary unit of account is transferable between the person making payment and the person receiving it, then, unless the instrument specifies a currency of payment, payment shall be made by transfer of monetary units of account. If the monetary unit of account is not transferable between those persons, payment shall be made in the currency specified in the instrument or, if no such currency is specified, in the currency of the place of payment.

(3) The drawer or the maker may indicate in the instrument that it must be paid in a specified currency other than the currency in which the sum payable is expressed. In that case:

(a) The instrument must be paid in the currency so specified;

(b) The amount payable is to be calculated according to the rate of exchange indicated in the instrument. Failing such indication, the amount payable is to be calculated according to the rate of exchange for sight drafts (or, if there is no such rate, according to the appropriate established rate of exchange) on the date of maturity;

(i) Ruling at the place where the instrument must be presented for payment in accordance with subparagraph (g) of article 55, if the specified currency is that of that place (local currency); or

(ii) If the specified currency is not that of that place, according to the usages of the place where the instrument must be presented for payment in accordance with subparagraph (g) of article 55;

(c) If such an instrument is dishonoured by non-acceptance, the amount payable is to be calculated:

(i) If the rate of exchange is indicated in the instrument, according to that rate;

(ii) If no rate of exchange is indicated in the instrument, at the option of the holder, according to the rate of exchange ruling on the date of dishonour or on the date of actual payment;

(d) If such an instrument is dishonoured by non-payment, the amount payable is to be calculated:

(i) If the rate of exchange is indicated in the instrument, according to that rate;

(ii) If no rate of exchange is indicated in the instrument, at the option of the holder, according to the rate of ☐ exchange ruling on the date of maturity or on the date of actual payment.

(4) Nothing in this article prevents a court from awarding damages for loss caused to the holder by reason of fluctuations in rates of exchange if such loss is caused by dishonour for non-acceptance or by non-payment.

(5) The rate of exchange ruling at a certain date is the rate of ☐ exchange ruling, at the option of the holder, at the place where the instrument must be presented for payment in accordance with subparagraph (g) of article 55 or at the place of actual payment.

Article 76

(1) Nothing in this Convention prevents a Contracting State from enforcing exchange control regulations applicable in its territory and its provisions relating to the protection of its currency, including regulations which it is bound to apply by virtue of international agreements to which it is a party.

(2) (a) If, by virtue of the application of paragraph (1) of this article, an instrument drawn in a currency which is not that of the place of payment must be paid in local currency, the amount payable is to be calculated according to the rate of exchange for sight drafts (or, if there is no such rate, according to the appropriate established rate ☐ ☒ ☐ exchange) on the date of presentation ruling at the place where the instrument must be presented for payment in accordance with subparagraph (g) of article 55.

(b) (i) If such an instrument is dishonoured by non-acceptance, the amount payable is to be calculated, at the option of the holder, at the rate of exchange ruling on the date of dishonour or on the date of actual payment,


(ii) If such an instrument is dishonoured by non-payment, the amount is to be calculated, at the option of the holder, according to the rate of exchange ruling on the date of presentation or on the date of actual payment.

(iii) Paragraphs (4) and (5) of article 75 are applicable where appropriate.

Section 2. Discharge of other parties

Article 77

(1) If a party is *dirahargrd* in whole or in part of his liability on the instrument, any party who has a right on the instrument against him is *dirahargrd* to the same extent.

(2) Payment by the drawee of the whole or a part of the amount of a bill to the holder, or to any party who takes up and pays the bill, discharges all parties of their liability to the same extent, except where the drawee pays a holder who is not a protected holder, or a party who has taken up and paid the bill, and knows at the time of payment that the holder or that party acquired the bill by theft or forged the signature of the payee or  or participated in the theft or the forgery.

CHAPTER VII. LOST INSTRUMENTS

Article 78

(1) If an instrument is lost, whether by destruction, theft or otherwise, the person who lost the instrument has, subject to the provisions of paragraph (2) of this article, the same right to payment which he would have had if he had been in possession of the instrument. The party from whom payment is claimed cannot set up as a defence against liability on the instrument the fact that the person claiming payment is not in possession of the instrument.

(2) (a) The person claiming payment of a lost instrument must state in writing to the party from whom he claims payment:

(i) The elements of the lost instrument pertaining to the requirements set forth in paragraph (1) or (2) of articles 1, 2 and 3; for this purpose the person claiming payment of the lost instrument may present to that party a copy of that instrument;

(ii) The facts showing that, if he had been in possession of the instrument, he would have had a right to payment from the party from whom payment is claimed;

(iii) The facts which prevent production of the instrument,

(b) The party from whom payment of a lost instrument is claimed may require 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 nature of the security and its terms are to be determined by agreement between the person claiming payment and the party from whom payment is claimed. Failing such an agreement, the court may determine whether the security is called for and, if so, the nature of the security and its terms.

(d) If the security cannot be given, the court may order the party from whom payment is claimed to deposit the sum of the lost instrument, and any interest and expenses which may be claimed under article 70 or 71, with the court or any other competent authority or institution, and may determine the duration of such deposit. Such deposit is to be considered as payment to the person claiming payment.

Article 79

(1) A party who has paid a lost instrument and to whom the instrument is subsequently presented for payment by another person must give notice of such presentation to the person whom he paid.

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

(3) Failure to give notice renders the party who has paid the lost instrument liable for any damages which the person whom he paid may suffer from such failure, provided that the damages do not exceed the amount referred to in article 70 or 71.

(4) Delay in giving notice is excused when the delay is caused by circumstances which are beyond the control of the person who has paid the lost instrument and which he could neither avoid nor overcome. When the cause of the delay ceases to operate, notice must be given with reasonable diligence.

(5) Notice is dispensed with when the cause of delay in giving notice continues to operate beyond 30 days after the last day on which it should have been given.

Article 80

(1) A party who has paid a lost instrument in accordance with the provisions of article 78 and who is subsequently required to, and does, pay the instrument, or who, by reason of the loss of the instrument, then loses his right to recover from any party liable to him, has the right:

(a) If security was given, to realize the security; or

(b) If an amount was deposited with the court or other competent authority or institution, to reclaim the amount so deposited.

(2) The person who has given security in accordance with the provisions of subparagraph (b) of paragraph (2) of article 78 is entitled to obtain release of the security when the party for whose benefit the security was given is no longer at risk to suffer loss because of the fact that the instrument is lost.

Article 81

For the purpose of making protest for dishonour by non-payment, a person claiming payment of a lost instrument may use a written statement that satisfies the requirements of subparagraph (a) of paragraph (2) of article 78,

Article 82

A person receiving payment of a lost instrument in accordance with article 78 must deliver to the party paying the written statement required under subparagraph (a) of paragraph (2) of article 78, receipted by him, and any protest and a receipted account.

Article 83

(1) A party who pays a lost instrument in accordance with article 78 has the same rights which he would have had if he had been in possession of the instrument,

(2) Such party may exercise his rights only if he is in possession of the receipted written statement referred to in article 82.

CHAPTER VIII. LIMITATION (PRESCRIPTION)

Article 84

(1) A right of action arising from an instrument may no longer be exercised after four years have elapsed

(a) Against the maker, or his guarantor, of a note payable on demand, from the date of the note;

(b) Against the acceptor or the maker or their guarantor of an instrument payable at a definite time, from the date of maturity;

(c) Against the guarantor of the drawee of a bill payable at a definite time, from the date of maturity or, if the bill is dishonoured by non-acceptance, from the date of protest for dishonour or, where protest is dispensed with, from the date of dishonour;

(d) **Against the acceptor of a bill payable on demand or him guarantor, from the date on which it was accepted or, if no such date is shown, from the date of the bill;**

(e) **Against the guarantor of the drawee of a bill payable on demand, from the date on which he signed the bill or, if no such date is shown, from the date of the bill;**

(f) **Against the drawer or an endorser or their guarantor, from the date of protest for dishonour by non-acceptance or by non-payment or, where protest is dispensed with, from the date of dishonour.**

(2) **A party who pays the instrument in accordance with article 70 or 71 may exercise his right of action against a party liable to him within one year from the date on which he paid the instrument.**

CHAPTER IX. FINAL PROVISIONS

Article 85

The Secretary-General of the United Nations is hereby designated as the depositary for this Convention.

Article 86

(1) This Convention is open for signature by all States at the Headquarters of the United Nations, New York until 30 June 1990.

(2) This Convention is subject to ratification, acceptance or approval by the signatory States.

(3) This Convention is open for accession by all States which are not signatory States as from the date it is open for signature.

(4) Instruments of ratification, acceptance, approval and accession are to be deposited with the Secretary-General of the United Nations.

Article 87

(1) If a Contracting State has two or more territorial units in which, according to its constitution, different systems of law are applicable in relation to the matters dealt with in this Convention, it may, at the time of signature, ratification, acceptance, approval or accession, declare that this Convention is to extend to all its territorial units or only to one or more of them, and may amend its declaration by submitting another declaration at any time.

(2) These declarations are to be notified to the depositary and are to state • xproaaly thr territorial units to which thr Convention extends.

(3) If a Contracting State makes no declaration under paragraph (1) of this • rtiolo, the Convention is to • xtend to all territorial units of that State.

Article 88

(1) Any State may declare at the time of signature, ratification, acceptance, approval or accession that its courts will apply the Convention only if both the place indicated in the instrumrnt where the bill is drawn, or the note is made, and the place of payment indioatrd in the instrument are situated in Contraoting States.

(2) No othrr reservations are permitted.

Article 89

(1) This Convention enters into force on the first day of the month following the expiration of twelve months after the date of deposit of the tenth instrument of ratification, • M□□□♦◊■□□ approval or accession.

(2) When a State ratifies, accepts, approves or accedes to this Convntion after the doporit of thr tenth instrument of ratification, acceptance, approval or • ocoaaion, this Convention • ntoro into force in respect of that Btatr on the first day of the month following the expiration of twelve month8 aftrr the date of deposit of its instrumrnt of ratification, acceptance, approval □□ • cco88ionr

Article 90

(1) A Contracting Btatr may denounce this Convention by a formal notification in writing • ddra88ed to the depositary.

(2) The denunciation takes effect on the first day of the month following the expiration of mix months after the notification is received by thr depositary. Whore a longer period for thr drnunaiaion to take effect is specified in the notification, thr denunciation takes effect upon thr expiration of ruah longer period after the notification is received by the depositary. The Convention remains applicable to instruments drawn or made before the date at which the denunciation takes effect.

DONE at this ... day of ..., one thousand nine hundred a n d eighty-seven in a singlø original, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally • uthontia.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorised by their respective Governments, have signed this Convntion,

DRAFT RESOLUTION II

Report of the United Nations Commission on International Trade Law on the work of its twenty-first sessionThe General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it created the United Nations Commission on International Trade Law with a mandate to further the progressive harmonisation and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the economic development of international trade,

Recalling also its resolutions 3201 (S-VI) of 1 May 1974, 3281 (XXIX) of 12 December 1974 and 3361 (S-VII) of 16 September 1975,

Reaffirming its conviction that the progressive harmonisation and unification of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the developing countries, would significantly contribute to universal economic co-operation among all States on a basis of equality, jointly and common interest and to the elimination of discrimination in international trade and, thereby, to the well-being of all peoples,

Having regard for the need to take into account the different social and legal systems in harmonising and unifying international trade law,

Stressing the value of participation by States at all levels of economic development, including developing countries, in the process of harmonising and unifying international trade law,

Having considered the report of the United Nations Commission on International Trade Law on the work of its twenty-first session, 4/

Appreciating the success of the seminar on international trade law held in Lesotho in co-operation with the Preferential Trade Area of Eastern and Southern African States,

Recognising the need for the Commission to have adequate resources of funding for its programme of training and assistance in international trade law,

4/ Official Records of the General Assembly, Forty-third Session, Supplement No. 17 (A/43/17),

Noting that the Convention on the Limitation Period in the International Sale of Goods, of 14 June 1974, **5/** came into force on 1 August 1988,

Being aware that the United Nations Convention **on the** Carriage of Goods by Sea, of 31 March 1978, **6/** was prepared at the request of developing countries and is likely to come into force in the near future,

Being convinced that widespread adherence to the conventions emanating from the work of the Commission would benefit the peoples of all States,

1. Takes note with appreciation of the report of the United Nations Commission on International Trade Law on the work **of** its twenty-first session;

2. **Commends** the Commission for the progress made in its work and for having reached decisions by consensus:

3. Calls upon the Commission to continue to take **account** of the relevant provisions of the resolutions concerning the new international economic order, as adopted by the General Assembly at its sixth **7/** and seventh **8/** special sessions:

4. Reaffirms the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to co-ordinate legal activities in this field in order to avoid duplication of effort and to promote efficiency, consistency and coherence in the unification and **harmonization** of international trade law, and, in this connection, recommends that the Commission, through its secretariat, should continue to maintain close co-operation with the other international organs and **organizations**, including regional organisations, active in the field of international trade law;

5. Reaffirms also the importance, in particular for developing countries, of the work of the Commission concerned with training and assistance in the field of international trade law and the desirability for it to sponsor seminars and symposia, in particular those organized on a regional basis, to promote such training and assistance, and, in this connection:

5/ Official Records of the United Nations Conference on Prescription (Limitation) in the International Sale of Goods, New York, 20 May-14 June 1974 (United Nations publication, Sales No. **E.74.V.8**), p. 101.

6/ Official Records of the United Nations Conference on the Carriage of Goods by Sea, Hamburg, 6-31 March 1978 (United Nations publication, Sales No. **E.80.VIII.1**), document **A/CONF.89/13**, annex I,

7/ Resolutions 3201 (S-VI) and 3202 (S-VI).

8/ Resolution 3362 (S-VII).

(a) Expresses its appreciation to the Kingdom of Lesotho and the Preferential Trade Area of Eastern and Southern African States for their collaboration with the secretariat of the Commission in **organizing** the seminar on international trade law held at Maseru and to the Governments whose contributions enabled ~~the~~ seminar to take place:

(b) Welcomes the initiatives being undertaken by the Commission and its secretariat to collaborate with other organisations and institutions in the **organization** of regional seminars:

(c) Invites Governments, the relevant United Nations organs, **organizations**, institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law Symposia Trust Fund, where appropriate, to the financing of special projects, and otherwise to assist the secretariat of the Commission in financing and **organizing** seminars and symposia, in particular in developing countries, and for the award of fellowships to candidates from developing countries to enable them to participate in such seminars and symposia;

6. Repeats its invitation to those States which have not **yet** done so to consider ratifying or acceding to the following conventions:

(a) Convention on the Limitation Period in the International Sale of Goods, of 14 June 1974; **5/**

(b) Protocol amending the Convention on the Limitation Period in the International Sale of Goods, of 11 April 1980: **9/**

(c) United Nations Convention on the Carriage of Goods by Sea, of 31 March 1978; **6/**

(d) United Nations Convention on Contracts for the International Sale of Goods, of 11 April 1980: **10/**

7. Welcomes the decision of the Commission to collect and disseminate **court decisions** and arbitral awards relating to legal texts emanating from its work so as to further the uniformity of their application in practice:

8. Renews its request to the Secretary-General to make increased efforts to promote the adoption and use of the texts emanating from the work of the Commission;

9/ Official Records of the United Nations Conference on Contracts for the International Sale of Goods, Vienna, 10 March-11 April 1980 (United Nations publication, Sales No. **E.82.V.5**), p. 191.

10/ Ibid., p. 178.

9. Recommends that the Commission • hould continue its work on the topics included in its programme of work;

10. Expresses its appreciation for the important role played by the International Trade Law Branch of the Office of Legal Affairs of the Secretariat, as the substantive secretariat of the Commission, in assisting in the structuring and implementation of the work programme of the Commission, and invites the Secretary-General to consider taking whatever measures may be necessary, within • rting resources, to provide the Commission with adequate substantive secretariat support.
