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CURRENT ACTIVITIES OF INTERNATIONAL ORGANIZATIONS RELATED TO THE  
HARMONIZATION AND UNIFICATION OF INTERNATIONAL TRADE LAW

Report of the Secretary-General

INTRODUCTION

1. The United Nations Commission on International Trade Law at its third session requested the Secretary-General "to submit reports to the annual sessions of the Commission on the current work of international organizations in matters included in the programme of work of the Commission". 1/
2. In accordance with the above decision a report was submitted to the fourth session (1971) of the Commission (A/CN.9/59). The present report, prepared for the fifth session (1972), is based on information submitted by international organizations 2/ concerning their current work. In many cases, the present report

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

2/ Information received from some international organizations has not been included because the information related to activities unrelated to the work of UNCITRAL or because the information described activities other than current projects.

includes information on progress with respect to projects for which background material is included in earlier reports. 3/

I. CURRENT ACTIVITIES OF UNITED NATIONS ORGANS AND  
SPECIALIZED AGENCIES

A. UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE (ECE)

General conditions of sale

3. Progress on various projects of the ECE has been described in earlier reports. 4/ Most recently a number of drafts have been prepared by the Group of Experts on International Trade Practices Relating to Agricultural Products. These are: (a) General conditions for international dealings in fresh fruits and vegetables (AGRI/WP.1/GCS/17/Rev.2); (b) General conditions for international dealings in dry fruit and dried fruit (AGRI/WP.1/GCS/16/Rev.2) and, (c) General conditions for international dealings in potatoes (AGRI/WP.1/GCS/24). When these drafts are approved, it is planned that they will be supplemented by rules of valuation for international dealings in agricultural products (AGRI/WP.1/GCS/30) and by arbitration rules for international dealings in agricultural products (AGRI/WP.1/GCS/30).

4. The Group of Experts on International Contract Practices in Industry is at present engaged in the preparation of a guide on drawing up contracts for large industrial works (TRADE/WP.5/8/Rev.1, TRADE/WP.5/9/Rev.1, TRADE/WP.5/14, and Add.1, Add.2). Drafting is envisaged of a guide on the drawing up of contracts with respect to industrial co-operation.

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3/ Background material may be found in the report presented to the fourth session (A/CN.9/59) and in the following: Digest of Legal Activities of International Organizations and Other Institutions, published by the International Institute for the Unification of Private Law (UNIDROIT); Progressive development of the law of international trade, report of the Secretary-General, Official Records of the General Assembly, Twenty-first Session (1966), A/6396, paras. 26-139 and UNCITRAL Yearbook, vol. I, part one, II B; Survey of the activities of organizations concerned with harmonization and unification of the law of international trade, note by the Secretary-General, 19 January 1968 (A/CN.9/5); replies from organizations regarding their current activities in the subjects of international trade within the Commission's work programme, note by the Secretariat, 1 April 1970 (UNCITRAL/III/CRP.2).

4/ See note by the Secretary-General, A/CN.9/5, paras. 14-16; replies from organizations regarding their current activities in the subjects of international trade within the Commission's work programme, UNCITRAL/III/CRP.2; report of the Secretary-General on current activities of international organizations related to the harmonization and unification of the international trade law, A/CN.9/59, para. 4.

B. UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

International shipping legislation

5. The UNCTAD secretariat report on the Regulation of Liner Conferences (Code of Conduct for liner conference system) (TD/104, Corr.1, Corr.2 and Corr.3) was completed and considered by the third session of the UNCTAD Working Group on International Shipping Legislation held at Geneva from 5 to 18 January 1972. The Working Group discussed the report and passed a unanimous resolution transmitting to the third session of the United Nations Conference on Trade and Development (to be held in Santiago in April/May 1972) preliminary drafts of a code of conduct for liner conferences (TD/B/C.4/93).
6. The UNCTAD Working Group also had before it a "progress report by the UNCTAD secretariat on UNCITRAL's work on bills of lading" (TD/B/C.4/ISL/10). On the basis of this information, the Working Group unanimously adopted a resolution expressing its appreciation of the progress made by UNCITRAL in this field, and inviting UNCITRAL "to continue with all deliberate speed its examination of the rules and practices concerning bills of lading with a view to their revision and amplification as appropriate, and to submit its recommendation to /the UNCTAD/ Working Group for its comments, as soon as possible and in any case at an early date, in order to ensure that appropriate further action to revise certain laws relating to ocean bills of lading can be taken as early as possible, and that such action shall be based on approaches agreed between UNCTAD and UNCITRAL".
7. The UNCTAD secretariat has begun research on the operation of charter parties, and its report on this subject will be presented to the fourth session of the UNCTAD Working Group on International Shipping Legislation. Succeeding sessions of the Working Group will consider the subjects of marine insurance and general average.
8. In the field of Training and Assistance in International Shipping Legislation, members of the UNCTAD/United Nations Office of Legal Affairs Joint Shipping Legislation Unit presented a series of lectures on selected topics in the field of maritime law to students from developing countries attending the UNCTAD Training Course in Shipping Economics and Management. <sup>5/</sup>

C. INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION (IMCO)

Maritime carriage of nuclear materials

9. A convention relating to the maritime carriage of nuclear material was approved by the International Legal Conference on Maritime Carriage of Nuclear Substances which was convened in Brussels, Belgium in November 1971. The terms of reference for the drafting were the consideration of certain legal questions

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<sup>5/</sup> See Report of the Secretary-General on training and assistance in the field of international trade law, A/CN.9/65, para. 9.

relating to the maritime carriage of nuclear substance and, in particular, the resolution of difficulties arising from the simultaneous application of certain maritime conventions dealing with shipowners' liability and certain conventions relating to third party liability for nuclear damage. The project was carried out in collaboration with the Council of Europe, the Council for Mutual Economic Assistance, the European Economic Communities, the International Institute for the Unification of Private Law, the Baltic and International Maritime Conference, the International Maritime Committee, Comité Européen des Assurances, the International Chamber of Commerce, the International Chamber of Shipping and the Government of Belgium. The Convention has been signed by nine States. The text of the Convention is available in English and French.

10. IMCO also engaged in activities in the area of training and assistance. These are described in the Report of the Secretary-General on training and assistance in the field of international trade law (A/CN.9/65, paras. 7-8).

D. INTERNATIONAL MONETARY FUND<sup>6/</sup>

Negotiable instruments

11. Members of the staff of the Fund have been participating in work in respect of a draft uniform law on international bills of exchange, prepared by the secretariat of UNCITRAL. <sup>7/</sup>

II. INTERGOVERNMENTAL ORGANIZATIONS

A. ASIAN-AFRICAN LEGAL CONSULTATIVE COMMITTEE

International sale of goods

12. The major work on this item has been the preparation of a draft standard form of contract for use by sellers and buyers of commodities in the Asian-African region. In carrying out this project the Secretariat requested Governments and trade organizations in Asian-African countries to set forth their views on the adoption of standard or model contracts. A number of replies were received and the subject was thereafter considered by the Committee at its twelfth session held in Colombo in January 1971. The Committee requested its secretariat to prepare an analysis of model contracts already in use for the

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<sup>6/</sup> The activities of IMF in the area of training and assistance are set out in the report of the Secretary-General on training and assistance in the field of international trade law (A/CN.9/65, para. 12 (d)).

<sup>7/</sup> For participation of international organizations in the preparation of the draft Uniform Law on International Bills of Exchange, see A/CN.9/67, introduction at para. 3, note 4.

purpose of drawing up a draft model contract to be examined by the Governments and trading organizations in the Asian-African region. Governments and trading organizations were contacted and they expressed support for the proposal for the drawing up of model contracts for a number of commodities. The commodities suggested include rubber, timber, textiles, machinery, oil, coconut products, meat products, wattle extracts, agricultural products (such as maize, bananas, sorghum and beans), hides, groundnuts, ground oil, jute and jute goods.

13. The secretariat of the Committee prepared a tentative draft of a model contract which was examined by a Sub-Committee during the Committee's thirteenth session held in Lagos in January 1972: suggestions were made for the improvement of the draft. The draft model contract has been circulated to the various Governments and trading organizations in the region for their comments. It is hoped that within the next twelve months the draft will be put in final form. When a final draft is prepared the possibility of holding a special conference devoted to drawing up a model standard contract will be explored. UNCITRAL and various other United Nations agencies would be asked to participate in this conference.

#### Training and assistance

14. Officials of Asian and African Governments interested in international trade law come to the secretariat of the Committee from time to time to receive training in international trade law. <sup>8/</sup>

#### B. ASIAN DEVELOPMENT BANK

##### Credit and security arrangements

15. For the past two years the Bank has been associated with the Law Association of Asia and the Western Pacific (LAWASIA) in a project involving a study of the credit and security arrangements available to national development banks and similar financial institutions situated in certain member countries. All basic research and writing on the project was completed in 1971 and it is expected that the completed project, in 10 volumes, will become available some time during 1972.

#### C. COMMISSION OF THE EUROPEAN COMMUNITIES<sup>9/</sup>

##### Instalment sales

16. This project was described in paragraph 18 of the report submitted to the fourth session of UNCITRAL (A/CN.9/59). Work on the harmonization of the rules governing instalment sales is currently being carried out.

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<sup>8/</sup> A description of the activities of the Asian-African Legal Consultative Committee in the area of training and assistance is set out in the report of the Secretary-General on training and assistance in the field of international trade law, A/CN.9/65, para. 12 (a).

<sup>9/</sup> For a description of the work of the Commission of the European Communities in the field of harmonization and unification of private law see the Fifth General Report on the Activity of the Communities (1971), paras. 170-173.

### Bankruptcy

17. A draft convention on bankruptcy and analogous procedures has been completed and has been submitted together with an explanatory report to the member States and to certain European economic organizations. Among the matters which are dealt with in this draft convention are: judicial jurisdiction in the area of bankruptcy, enforcement of judgements of bankruptcy in the other member States, the law applicable to conditions of the opening of proceedings, the effects of bankruptcy, privileges and sureties. This draft convention also contains uniform provisions on the liability of officers and directors of corporations and other legal persons in cases of bankruptcy, on the pre-bankruptcy period (période suspecte) and on clauses stipulating retention of title of ownership.

### Suretyship

18. Work has commenced on the subject of suretyship (cautionnement). A study has just been published; the Commission is preparing a draft directive which will have as its purpose the harmonization of certain rules concerning suretyship (cautionnement) and analogous personal sureties (sûretés personnelles). A group of experts has been established. The directive will be submitted by the Council of the European Communities for approval and upon approval, would be incorporated into the legislation of member States by virtue of article 189 of the Treaty Establishing the European Economic Community.

## D. COUNCIL OF EUROPE

### International aspects of the legal protection of the rights of creditors

19. The Office of Comparative Law of the French Center of Comparative Law (Service de Recherches juridiques comparatives du Centre français de droit comparé) has been requested to prepare a comparative study on the subject of the legal protection of the rights of creditors. (Earlier stages of this project are described in the report submitted to the fourth session of UNCITRAL: A/CN.9/59, para. 21). The object of this study will be to determine what specific subjects would lend themselves to harmonization within the Council of Europe. Account will be taken of the existence of certain international instruments in this field, and of the activities of other organizations. In light of this study, the European Committee on Legal Co-operation (CCJ) will decide, probably at its meeting in December 1972, on the action to be undertaken in this field.

### Harmonization of certain rules relating to the place of payment in matters of money liabilities

20. Earlier stages in the preparation of the European Convention on the Place for Payment in Matters of Money Liabilities were described in the report submitted to the fourth session of UNCITRAL (A/CN.9/59, para. 22). The Convention will be opened for signature by member States in May 1972 in Basle, at the VIIth Conference of European Ministers of Justice.

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Uniform rules in the field of "time-limits"

21. Earlier stages of work on "time-limits" and related areas were described in the report submitted to the fourth session of UNCITRAL (A/CN.9/59, para. 23). The European Convention on the Computation of Time-limits will be opened for signature by member States in May 1972 at the VIIth Conference of European Ministers of Justice.

22. At its meeting in June 1972, the European Committee on Legal Co-operation (CCJ) will examine draft rules relating to extinctive prescription in private and commercial matters.

Recognition and enforcement of foreign judgements in private and commercial matters

23. The report submitted to the fourth session of UNCITRAL (A/CN.9/59, para. 24) noted that in 1971 work had been commenced on the preparation of a guide of practice on the subject. This guide will be prepared on the basis of replies by Governments to a questionnaire prepared by the European Committee on Legal Co-operation (CCJ).

Harmonization of rules on investment funds

24. At its meeting in June 1972, CCJ will consider two draft resolutions relating to investment funds (national) and to foreign institutions for collective investment. (See report submitted to the fourth session of UNCITRAL, A/CN.9/59, para. 26.)

Manufacturers' liability

25. A committee of experts under the aegis of the CCJ will hold its first meeting in June 1972 to consider the possibility of harmonization of the substantive law of member States. The work of this committee will be based on a comparative law study on the subject, prepared by UNIDROIT. 10/

E. COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE (CMEA)

Arbitration of disputes arising out of relations concerned with economic, scientific and technical co-operation

26. The CMEA member countries, at a meeting convened in Moscow in January 1972, approved the draft of a convention on the settlement by arbitration of civil law disputes arising out of relations concerned with economic, scientific and

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10/ See para. 45 of this report for activities of UNIDROIT on this matter.

technological co-operation. The draft provides that any disputes between economic organizations of the CMEA countries arising from contractual and other civil law relations in the context of economic, scientific and technical co-operation shall be settled by the arbitration courts attached to the Chambers of Commerce of the member countries; recourse to State courts is precluded. In cases where special courts exist for settling disputes of a special nature, such disputes may, by the mutual consent of the parties, be referred to such special arbitration courts. The Convention is open to accession by non-member countries.

27. Proposals have been drafted on the exchange by arbitration bodies of CMEA member countries of important arbitration awards concerning disputes between economic organizations of member countries. Other such proposals have as their object the exchange of information on the activities of foreign trade arbitration bodies in CMEA member countries.

#### International legislation on shipping

28. CMEA's Standing Commission on Transport drafted an agreement on co-operation in maritime merchant shipping which was signed by the member countries of CMEA on 3 December 1971. The agreement provides that the Contracting Parties shall develop and strengthen the existing co-operation between the member countries of CMEA in the field of maritime merchant shipping, shall promote the effective development of international merchant shipping and, for these purposes, shall co-operate with other countries on the basis of the principle of equal rights, non-interference in internal affairs and mutual advantage. In particular, the parties agree to adopt, on a reciprocal basis, measures to facilitate and speed the transport of goods by sea, reduce the time for which vessels lie in port and, where possible, simplify customs, administrative and other formalities in force in their countries.

29. A working group of the Conference of chartering and ship-owning organizations of the member countries of CMEA has prepared a draft of general conditions for the reciprocal provision of marine tonnage for the transport of foreign trade cargoes of the member countries of CMEA. The purpose of these conditions is to promote the further development and improvement of co-operation between the member countries of CMEA in the field of maritime transport. It is intended that the general conditions shall be used in negotiating and concluding contracts on the transport of goods by sea and the short-term charter of vessels, in so far as these contracts relate to the transport of goods of the member countries of CMEA by sea in vessels owned by the ship-owning organizations of these countries. In April 1972, the Conference of chartering and ship-owning organizations of the member countries of CMEA will discuss these draft general conditions and transmit them for consideration by the appropriate organ of CMEA.

#### General conditions of servicing and assembly

30. Within the framework of CMEA's Standing Commission on Foreign Trade work continues on the refinement of certain normative texts already adopted by the organs of CMEA. These texts include the General Conditions of Technical Servicing CMEA 1962, the General Principles for the provision of spare parts for machines and equipment delivered in trade among member countries of CMEA and with the Socialist

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Federal Republic of Yugoslavia, and the General Conditions of Assembly CMEA 1962. The purpose of the current work is to define more clearly the rights and obligations of sellers and buyers, and to making these documents respond to the growing demands for technical servicing and fit in with the General Conditions of Delivery CMEA, 1968. The work is being performed by a temporary working group created by the Standing Commission on Foreign Trade. The materials prepared by the group will be considered by the Standing Commission on Foreign Trade as they become available.

#### Co-ordination and co-operation

31. The Executive Committee of CMEA has established a Legal Conference of representatives of CMEA member countries. The main functions of the Conference are to work out multilateral draft agreements, conventions, uniform rules and provisions regulating economic, scientific and technological co-operation among CMEA countries, and to develop means which would lead to the improvement, harmonization and uniform application of existing legal rules. Another function of the Conference is the organization of consultations and exchanges of information among agencies in CMEA member countries.

32. Studies are currently being made on problems relating to the substantive responsibility of States; such responsibility is created by agreements on economic co-operation, and particularly agreements on trade, specialization and co-operation in production, and agreements on scientific and technological co-operation. Proposals are also being drafted that are directed to raising the substantive responsibility of economic organizations in the CMEA member countries for partial or complete non-performance of obligations mutually entered into by such organizations.

#### F. HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

##### The law applicable to "products liability"

33. The eleventh session of the Conference (1968) requested the commencement of work on the law applicable to the liability of manufacturers for damage caused by their products. (The early stages of the work are described in paragraph 27 of the report submitted to the fourth session of UNCITRAL (A/CN.9/59).) Two special commissions of governmental experts have met to discuss the subject, and a draft convention was drawn up on 6 April 1971. This draft will be submitted for consideration to the twelfth session of the Conference in October 1972.

##### The law applicable to negotiable instruments

34. At the eleventh session of the Conference, this subject was one of the matters proposed for future consideration by the Conference. However, the Conference has not yet formally dealt with this subject. 11/

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11/ For participation of international organizations in the Draft Uniform Law on International Bills of Exchange presented to UNCITRAL at its fifth session, see A/CN.9/67, introduction, para. 3, note 4.

G. INTERNATIONAL BANK FOR ECONOMIC CO-OPERATION (IBEC)

International commercial arbitration

35. Article 37 of the IBEC Statutes provides that disputes between the Bank and its clients must be settled by arbitration. The arbitrator is either an existing institution or is appointed by the agreement of the parties. In the absence of an agreement, the dispute is referred to the arbitration commission at the Chamber of Commerce in the country of the Bank's domicile. A similar provision is contained in article 28 of the Statutes of the International Investment Bank. The CMEA Convention on the settlement by arbitration of civil law disputes arising out of relations concerned with economic, scientific and technological co-operation adopted in 1972 is not applied to the CMEA international banking organizations. 12/

H. INTER-AMERICAN JURIDICAL COMMITTEE (ORGANIZATION OF AMERICAN STATES)

Draft Convention on bills of exchange and cheques of international circulation

36. A study on this topic was approved by the Inter-American Juridical Committee on 26 March 1971 and submitted to the Permanent Council of the Organization of American States. 13/ At the request of the Permanent Council, the study has been sent to the Governments of the member States for their observations.

Draft Convention on a Latin American Traveller's Cheque (Cheque Latinoamericano de Viajero)

37. The draft convention was approved by the Inter-American Juridical Committee on 3 February 1972. 14/ This document will be sent to the Governments of member States for their observations. The observations of Governments on the Draft Convention on a Latin American Traveller's Cheque and on the study on the Draft Convention on Bills of Exchange and Cheques of International Circulation (para. 33, supra) will be submitted to the Inter-American Juridical Committee at a meeting which will convene on 17 July 1972. 15/

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12/ For participation of international organizations in the preparation of the Draft Uniform Law on International Bills of Exchange presented to UNCITRAL at its fifth session, see A/CN.9/67, introduction, para. 3, note 4.

13/ Document OEA/SER.G,CP/doc.118/7/Rev.1, 30 June 1971.

14/ Document OEA/SER.Q/III/3, 1 March 1972.

15/ For participation in the preparation of the Draft Uniform Law on International Bills of Exchange presented to UNCITRAL at its fifth session, see A/CN.9/67, introduction, para. 3, note 4.

## F. INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW (UNIDROIT)

Uniform Law on international sale of goods

38. On 23 February 1972 the Government of the Netherlands declared that the 1964 Hague Convention providing a uniform law on the international sale of goods (corporeal movables) will come into force on 18 August 1972 in respect of Belgium, Israel, San Marino, the Netherlands and the United Kingdom and on 23 August 1972 in respect of Italy, and that the Convention providing a uniform law on the formation of sale contracts will come into force on 23 August 1972 in respect of Belgium, Italy, San Marino, the Netherlands and the United Kingdom. Both Conventions are based on drafts prepared by UNIDROIT.

Protection of bona fide purchaser of goods

39. The Governing Council, at its fiftieth session, discussed the draft uniform law on the protection of the bona fide purchaser of goods. Governments which had not yet communicated their comments on the draft uniform law were requested to submit their comments. (For a discussion of the draft, see paragraph 29 of the report submitted to the fourth session of UNCITRAL (A/CN.9/59).)

Conditions of validity of contracts for the international sale of goods

40. The Committee which was appointed by the Governing Council to draft a uniform law on the condition of validity of contracts for the international sale of goods held its final meeting in October 1971. At this meeting, a preliminary draft of 16 articles was approved; the draft uniform law provides a set of rules on contract avoidance for mistake, fraud and duress. An explanatory report prepared by the Max-Planck Institut was also approved by the Committee. The preliminary draft and the report will be presented to a session of the Governing Council of UNIDROIT.

Agency

41. The Committee of Experts on Agency and Commission held its third session from 27 September to 2 October 1971. Twenty-three States were represented and observers from six international organizations were present at the session.

42. The Committee concluded its preparation of a preliminary draft Uniform Law on agency of an international character in the sale and purchase of goods. This text, comprising 36 articles, proposes a set of rules on the commercial activities of "agents" in the sale and purchase of goods.

43. The preliminary draft resulting from the work of this Committee has been sent to all the member States of UNIDROIT and to interested organizations with a request for comments.

44. A fourth session of the Committee of Experts on Agency and Commission will be held in Rome from 12 to 17 June 1972. The Committee will examine the observations of Governments and organizations in order to evaluate the chances of success of a diplomatic Conference on the subject.

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#### Products' liability

45. At the request of the Council of Europe, UNIDROIT has sent to the Council a collection of studies on current legislation and case-law with regard to products' liability. The inquiry embraced both the legal systems of member countries of the Council of Europe and the legal systems of other countries with large production of industrial goods, namely, the United States of America, Canada and Japan.

#### Penalty clauses in commercial contracts

46. A comparative law research in this field has been undertaken by UNIDROIT at the request of the Council of Europe.

#### International legislation on shipping

47. Priority has been given in UNIDROIT's current programme of work to the preparation of a draft convention on the contract of carriage of passengers and luggage in inland navigation (CVN). A committee of experts has been created to undertake this work. The draft convention will eventually be forwarded to the United Nations Economic Commission for Europe for revision and adoption.

48. The United Nations Economic Commission for Europe has requested UNIDROIT to revise and update the Draft Convention on the Contract for the Carriage of Goods by Inland Waterways (CMN). This draft was prepared by UNIDROIT in 1955; it was then revised by the United Nations Economic Commission for Europe but was not opened for signature. The revision of the draft convention will be carried out by a committee of governmental experts.

49. The Governing Council of UNIDROIT has requested the secretariat to assess the interest of Governments and international organizations active in the field in preparing uniform provisions for the contract of bailment, more particularly with respect to the warehousing of goods before, during and after carriage. A questionnaire on this subject will be submitted to Governments and international organizations.

#### Investment funds

50. On the basis of a study and a text of articles prepared by UNIDROIT, a Committee of the Council of Europe has finalized and adopted draft rules on the structure and working of investment funds. These rules were supplemented by a draft resolution of the Committee of Ministers, enjoining its member States to bring their law into line therewith.

#### Progressive codification of commercial law

51. The General Assembly of UNIDROIT at its twenty-second session approved the provisional study plan for the progressive codification of commercial law. The

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Assembly decided to assign priority to unification of the following subjects:  
(a) formation of contracts (including contracts by correspondence); (b) the conditions of validity of contracts.

52. Among the other subjects included in the Programme of Work for 1972-1974 approved by the General Assembly of UNIDROIT the following are directly or indirectly related to international trade law: transport by pipelines; the contract for hotel accommodation; unfair competition; the legal status of motion picture productions.

53. The General Assembly of UNIDROIT has also ratified the Governing Council's resolution authorizing the President to convene, in 1973, the 5th meeting of organizations concerned with the unification of law.

J. WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)<sup>16/</sup>

Patent Co-operation Treaty (PCT)

54. The Treaty adopted at Washington on 19 June 1970 and signed by 35 States, is not expected to enter into force before 1974. Three States have so far deposited instruments of ratification or accession. The three PCT Interim Committees, established by the Paris Union in implementation of the recommended measures for the entry into force of the PCT met for their first sessions. One of these Committees considered the following questions of particular interest: (a) options for national legislations under the PCT; and (b) model provisions for implementing the PCT, particularly in respect of the 1965 BIRPI Model Law for Developing Countries on Inventions.

Strasbourg Agreement Concerning the International Patent Classification

55. Upon the entry into force of the Strasbourg Agreement of 1971, the administration of the International Patent Classification (IPC) will be transferred to the International Bureau of WIPO. The Common Administration of the IPC is ensured by a Joint ad hoc Committee of the Council of Europe and WIPO. Work on the revision of this Classification, now used by 40 countries, continued to be carried out through five working groups under the direction of the Joint ad hoc Committee.

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<sup>16/</sup> The current work of WIPO is based upon the programme adopted in 1970 and 1971 by the competent bodies of WIPO and of the various Unions for which WIPO performs the administrative tasks, including in particular the International (Paris) Union for the Protection of Industrial Property and the International (Berne) Union for the Protection of Literary and Artistic Works.

The activities of WIPO in the area of training and assistance are set out in the report of the Secretary-General on training and assistance in the field of international trade law, A/CN.9/65, para. 12 (f).

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### Proposal for a patent licensing convention

56. The proposal for a patent licensing convention has two purposes: (a) to promote the dissemination among developing countries of technology originating in industrialized countries, and (b) to facilitate the conclusion of license contracts in industrialized and developing countries. At its session in September 1971, the Executive Committee of the Paris Union noted the observations received from a number of countries in reply to a questionnaire prepared by the International Bureau on the proposal and asked the International Bureau to analyse these observations and make a study of the possible solutions in a report which is to be submitted to a Committee of Experts specially convened for the purpose in October 1972.

### International registration of marks

57. A Committee of Experts was convened in 1971 to seek the best solutions for creating a system for the international registration of marks which would be more universally acceptable than the existing Madrid Agreement Concerning the International Registration of Marks. The main service to be performed by such a system would be to enable any owner of a mark to register his mark in one central place (the International Bureau of WIPO) and give this central registration the same effect as registration in each of the national registers of the countries party to the instrument concerned. The deliberations resulted in a series of proposals for the amendment of a draft treaty prepared by the International Bureau. The International Bureau is to prepare an amended draft on this basis, which will be submitted to a second committee of experts in May 1972. A Diplomatic Conference on the subject is scheduled for Vienna in 1973.

### Model laws on industrial property

58. Model laws on three main topics (inventions, marks, industrial designs) have been prepared in consultation with representatives of developing countries. In 1971 work started on a fourth topic - appellations of origin. A committee of experts of Arab States, under the auspices of the Industrial Development Centre for Arab States (IDCAS) and with the assistance of WIPO, examined the "first draft of the Model Law for Arab States on inventions".

### Berne Convention

59. The Berne Convention for the Protection of Literary and Artistic Works was revised at a Diplomatic Conference which met at Paris in July 1971. The Diplomatic Conference unanimously adopted the Paris Act of the Berne Convention. An appendix forming an integral part of the Act contains provisions, of special significance for developing countries, for a system of non-exclusive and non-transferable compulsory licences in respect of translation and reproduction of works protected by the Convention.

60. The work programme for 1972 in the field of copyright provides for the establishing of a model law on copyright for developing countries, for further study of possible solutions to the copyright problems posed in connexion with the use of electronic computers for storing and reproducing copies of protected works, and the convening of a second committee of governmental experts on the questions raised by the use of communications satellites. Work on the preparation of a model law to facilitate accession to and application of the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations will continue in collaboration with the International Labour Office and UNESCO.

#### Protection of phonograms

61. The Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms, adopted at a Diplomatic Conference convened by WIPO and UNESCO, was signed on 29 October 1971 by the plenipotentiaries of 23 States.

#### Harmonization: legal protection of computer programmes

62. A further advisory group will be convened to advise the International Bureau on the studies to be undertaken on the economic and legal aspects of the protection of computer programmes, with particular reference to the needs of developing countries. The project stems from a recommendation contained in a report of the Secretary-General of the United Nations on the application of computer technology for development.

### III. INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS

#### A. INTERNATIONAL CHAMBER OF COMMERCE

##### International sale of goods

63. (a) Uniform rules: the ICC is following the studies under way within UNCITRAL for the revision of the 1964 Hague Convention on Uniform Law of Sale. ICC observers attend the meeting of UNCITRAL's Working Group and put forward the views of National Committees on particular points of interest for the business world, based on the result of inquiries and discussions within the ICC Commission on International Commercial Practice.

(b) Agency: the ICC is also studying the UNIDROIT draft uniform law on agency in the field of international sales, with a view to participating in the further work of UNIDROIT.

(c) Time-limits: the ICC has considered the draft law submitted by UNCITRAL's Working Group and ascertained the views of its members which will enable its observer at the fifth session to inform UNCITRAL of the suggestions made.

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(d) General conditions of sale: the ICC is studying (a) the extension of its "Incoterms 1953" to cover sales involving air transport and combined container traffic, and (b) the possible need for revision of "Incoterms 1953" due to the progress of automatic data processing and other devices for facilitating modern trade procedures.

#### International payments

64. (a) Negotiable instruments: after the active participation of several ICC experts in the preliminary UNCITRAL work on the international negotiable instrument, the ICC is continuing its support in the drafting of a uniform law. 17/

(b) Documentary credits: the revision of the ICC's Uniform Customs and Practice for Documentary Credits (Br. No. 222) with the active assistance of countries outside the ICC through the United Nations Secretariat is now well under way. A special report was submitted by the Working Party on the subject which met on 14-16 February 1972 to the Commission on Banking Technique and Practice.

(c) Guarantees and securities: the ICC is co-operating with UNCITRAL (a) in the elaboration of uniform rules for "contract guarantees" (tender, performance and repayment guarantees), and (b) in the study of payment guarantees.

#### International commercial arbitration

65. The ICC is continuing its co-operation in preparing for the IVth International Arbitration Congress (Moscow, 3 to 6 October 1972). Within the framework of its own arbitration system, the ICC has started the revision of its rules in the light of modern conditions.

#### International legislation on shipping

66. Within the area of international legislation on shipping, the work of the ICC is at present concentrated on two areas. First, in following closely the work of UNCITRAL regarding the responsibility of carriers for loss or damage to cargo in the context of bills of lading, the ICC submitted its initial views in reply to an UNCITRAL questionnaire on the matter. The ICC is currently consulting with shippers and shipowners concerning recent developments with a view to making more detailed comments at a later date. Secondly, within the framework of UNCTAD, the ICC has been involved in the work relating to the establishment of a code of liner conference practice, and has submitted a statement on behalf of shippers and shipowners to the third United Nations Conference on Trade and Development to be held in Santiago in 1972.

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17/ For participation of international organizations in the Draft Uniform Law on International Bills of Exchange presented to UNCITRAL at its fifth session, see A/CN.9/67, introduction, para. 3, note 4.

B. INTERNATIONAL LAW ASSOCIATION (ILA)

International commercial arbitration

67. The Committee on International Commercial Arbitration has undertaken work on the development of methods to increase the use of arbitration for the settlement of disputes arising out of government contracts with foreign-owned firms. A report has been prepared for the 55th Conference of the ILA which will be held in New York from 20 to 26 August 1972.

Foreign investments in the developing countries

68. The study of this subject has been carried on since 1966. The final text of a model contract on the subject of the establishment of textile enterprises in a developing country by foreign capital will be submitted for approval to the 55th Conference.

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