

increasing disharmony in the area of international carriage of goods was a source of concern and that it was necessary to provide a certain legal basis to modern contract and transport practices. The carriage of goods by sea was increasingly part of a warehouse-to-warehouse operation and that factor should be borne in mind in conceiving future solutions. Approval was expressed for a concept of work that went beyond liability issues and dealt with the contract of carriage in such a way that it would facilitate the export-import operation, which included the relationship between the seller and the buyer (and possible subsequent buyers) as well as the relationship between the parties to the commercial transaction and providers of financing. It was recognized that such a broad approach would involve some re-examination of the rules governing the liability for loss of or damage to goods.

425. It was observed that the work of some regional organizations, such as the Organization of American States and ECE, were currently considering transport law issues. It was considered that the texts already formulated in those organizations would be useful in the work of the Commission and also that the work in those organizations would be facilitated by universally applicable texts to be developed in the Commission. It was observed that ECE was currently considering whether to undertake work on uniform rules for the multimodal transport of goods. Concern was expressed that, if any such work were to be undertaken by an organization in which not all regions of the world were represented, it would interfere with efforts to prepare a universally applicable regime. Hope was expressed that the organizations concerned would coordinate their work so as to avoid duplication and that States would be mindful of the need for coordination within their own administrations of the work of their delegates in those organizations.

426. The Commission took note of the fact that the secretariat was organizing in cooperation with CMI a Transport Law Colloquium to be held on 6 July 2000 in the context of the current session of the Commission. The purpose of the Colloquium was to gather ideas and expert opinions on problems that arose in the international carriage of goods, in particular the carriage of goods by sea, and to incorporate that information into the report to be presented to the Commission at its thirty-fourth session, in 2001.

427. The Commission was pleased with the progress made since its thirty-second session. It welcomed the fruitful cooperation between CMI and the secretariat. Several statements were made to the effect that it was necessary throughout the preparatory work to involve the other interested organizations, including those representing the interests of cargo owners. It was stressed that only by ensuring the cooperation of all interested industries at all stages of the preparatory work was there hope to develop a regime that would be both broadly acceptable and capable of being implemented within a short span of time. The Commission requested the secretariat to continue to cooperate actively with CMI with a view to presenting, at the next session of the Commission, a report identifying issues in transport law in respect of which the Commission might undertake future work and, to the extent possible, also presenting possible solutions.

XI. ENDORSEMENT OF TEXTS OF OTHER ORGANIZATIONS: INCOTERMS 2000, ISP98 AND URCEB

428. The Commission had before it three reports of the Secretary-General requesting the Commission's endorsement of (a) the International Standby Practices (ISP98), (b) the Uniform Rules for Contract Bonds (URCB) and (c) Incoterms 2000 (A/CN.9/477, A/CN.9/478 and A/CN.9/479, respectively).

429. It was recalled that at its thirty-second session the Commission had been requested by the Institute of International Banking Law and Practice to consider recommending for worldwide use the Rules on International Standby Practices (ISP98), as endorsed by the Commission on Banking Technique and Practice of ICC. The Commission had also been notified of a request from the Secretary-General of ICC that the Commission consider giving its formal recognition and endorsement of URCEB. In order to allow consideration of those requests, the Commission had before it the text of ISP98 (A/CN.9/459) and of URCEB (A/CN.9/459/Add.1). However, while several delegations had indicated their desire to endorse the texts of ISP98 and URCEB at that session, some delegations had indicated that, owing to the fact that late publication of the documents containing the latter text had prevented them from carrying out the consultations required prior to endorsement, they were not prepared to endorse the texts of ISP98 and URCEB at that session. The Commission had regretfully felt obliged to postpone consideration of endorsement until the thirty-third session.²⁴

430. At the thirty-third session, as had already been the case at the thirty-second session, reference was made to the importance of ISP98 as private rules of practice intended to apply to standby letters of credit. It was pointed out that the idea of preparing such rules had been conceived during the deliberations of the UNCITRAL Working Group on International Contract Practices, which had resulted in the United Nations Convention on Independent Guarantees and Stand-by Letters of Credit. The ISP98 Rules had been formulated to complement the Convention. The ISP98 drafting process itself had been undertaken in regular consultation with the UNCITRAL secretariat and had also been used as an opportunity to promote adoption of the Convention. In that context, the Commission recalled with particular appreciation that adoption of the United Nations Convention on Independent Guarantees and Stand-by Letters of Credit had been recommended to Governments by the Banking Commission of ICC. Reference was also made to the importance of URCEB as a commendable practical tool and to the need for wider awareness of that instrument.

431. The Commission welcomed the opportunity to foster its cooperation with ICC. It was recalled that the Commission had endorsed Incoterms 1990 at its twenty-fifth session, in 1992,²⁵ and the Uniform Customs and Practice for Documentary Credits (UCP 500) at its twenty-seventh session, in 1994,²⁶ while it was generally felt that the technical

²⁴Ibid., paras. 422-425.

²⁵Ibid., *Forty-seventh Session, Supplement No. 17* (A/47/17), para. 161.

²⁶Ibid., *Forty-ninth Session, Supplement No. 17* and corrigendum (A/49/17 and Corr.1), para. 230.

quality of ISP98 and URCB made those instruments worthy of wider dissemination and use in international trade, a question was raised as to the meaning of an endorsement of those instruments by the Commission. It was pointed out that, in a number of countries, not all provisions of ISP98 would be in conformity with existing legal rules, which might not fully recognize, for example, the role of stand-by letters of credit as independent guarantees. In that connection, concern was expressed that the notion of “endorsement” (which in a number of language versions was a synonym for “approval”) should not be misinterpreted as indicating that, once they had been “endorsed”, the instruments in their totality would necessarily become applicable in any country.

432. In response to that concern, it was generally agreed that, in the context of legal instruments emanating from other international organizations, “endorsement” should be interpreted as an indication by the Commission that those instruments were commended for use by the parties as a record of good international commercial practices. However, such an “endorsement” should carry no implication as to the conformity of those instruments with existing law. In addition, it was pointed out that the text of ISP98 itself made it clear that it was not intended to displace any provision of applicable law, since article 1.02.a indicated that the rules contained in ISP98 were intended to “supplement the applicable law to the extent not prohibited by that law”.

433. With respect to Incoterms 2000, consistent with its previous endorsement of the text of Incoterms 1990 at its twenty-fifth session, in 1992,²⁵ the Commission expressed its appreciation for the efforts that had led to the development of those rules of practice and welcomed the request for their endorsement.

434. After discussion, the Commission adopted the following decision, endorsing the text of Incoterms 2000, ISP98 and URCB:

The United Nations Commission on International Trade Law,

Expressing its appreciation to the International Chamber of Commerce for having transmitted to it the revised text of Incoterms 2000, the Rules on International Standby Practices (ISP98) and the Uniform Rules for Contract Bonds (URCB),

Congratulating the International Chamber of Commerce on having made a further contribution to the facilitation of international trade by revising Incoterms to adapt them to contemporary commercial practice, by adopting the Rules on International Standby Practices (ISP98), as prepared by the Institute of International Banking Law and Practice, and by elaborating the Uniform Rules for Contract Bonds (URCB),

Noting that Incoterms 2000, the Rules on International Standby Practices (ISP98) and the Uniform Rules for Contract Bonds (URCB) constitute a valuable contribution to the facilitation of international trade,

Commends the use of Incoterms 2000, the Rules on International Standby Practices (ISP98) and the Uniform Rules for Contract Bonds (URCB) by the parties in international trade and financing transactions.

XII. TRAINING AND TECHNICAL ASSISTANCE

435. The Commission had before it a note by the secretariat (A/CN.9/473) setting forth the activities undertaken since its thirty-second session and indicating the direction of future activities being planned, in particular in view of the increase in the requests received by the secretariat. It was noted that training and technical assistance activities were typically carried out through seminars and briefing missions, which were designed to explain the salient features of UNCITRAL texts and the benefits to be derived from their adoption by States.

436. It was reported that, since the previous session, the following seminars and briefing missions had been organized: Johannesburg, South Africa (6 and 7 May 1999); Stellenbosch, South Africa (9 and 10 May 1999); Pretoria (11 and 12 May 1999); Yaoundé (10-12 May 1999); Abidjan (13 and 14 May 1999); Rio de Janeiro, Brazil (12 and 13 August 1999); Lima (19 and 20 August 1999); Cuzco, Peru (23-25 August 1999); Brasilia (30 and 31 August 1999); São Paulo, Brazil (2 and 3 September 1999); Moscow (2-4 November 1999); and Antananarivo (6-8 March 2000). The secretariat of the Commission reported that a number of requests had had to be turned down for lack of sufficient resources and that for the remainder of 2000 only some of the requests made by countries in Africa, Asia, Latin America and Eastern Europe could be met.

437. The Commission expressed its appreciation to the secretariat for the activities undertaken since its previous session and emphasized the importance of the training and technical assistance programme for promoting awareness and the wider adoption of the legal texts it had produced. Training and technical assistance were particularly useful for developing countries lacking expertise in the areas of trade and commercial law covered by the work of UNCITRAL and the training and technical assistance activities of the secretariat could play an important role in the economic integration efforts being undertaken by many countries.

438. The Commission noted the various forms of technical assistance that might be provided to States preparing legislation based on UNCITRAL texts, such as review of preparatory drafts of legislation from the point of view of UNCITRAL texts, preparation of regulations implementing such legislation and comments on reports of law reform commissions, as well as briefings for legislators, judges, arbitrators, procurement officials and other users of UNCITRAL texts as embodied in national legislation. The upsurge in commercial law reform represented a crucial opportunity for the Commission to further significantly the objectives of substantial coordination and acceleration of the process of harmonization and unification of international trade law, as envisaged by the General Assembly in its resolution 2205 (XXI) of 17 December 1966.

439. The Commission took note with appreciation of the contributions made by Canada, Cyprus, Greece, Mexico, Switzerland and the United Kingdom of Great Britain and Northern Ireland towards the seminar programme. It also expressed its appreciation to Singapore for its contribution