
VI. TRADE LAW MATTERS

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At the Tehran Session, a Sub-Committee composed of the representatives of Egypt, Bangladesh, India, Indonesia, Iraq, Japan, Malaysia, Nepal, Pakistan, Sierra Leone, Sri Lanka and Tanzania was constituted to consider the trade law items included in the agenda of the session, namely (i) General Conditions of Sale and Model or Standard Contracts in International Sale of Goods; (ii) International Commercial Arbitration; and (iii) International Shipping Legislation. Although the Sub-Committee had before it extensive briefs and documents prepared by the Committee's Secretariat on all the topics referred to above, to assist in its deliberations, due to lack of time the Sub-Committee was only able to give detailed consideration to the question of drawing up of model contracts and general conditions of sale.

The Committee's involvement with the question of standard forms of contract and general conditions of sale dates back to its Accra Session held in 1970 at which a suggestion had been made by the Chief of UNCITRAL that the Committee might profitably undertake the preparation of standard forms to contract and general conditions of sale in respect of commodities of special interest to the buyers and sellers of the Asian-African region on the same lines as was being done by the Economic Commission for Europe (ECE) for European region. As the Committee appeared to be favourably inclined to the acceptance of this suggestion, the governments of almost all Asian-African States and their trade organisations and chambers of commerce were consulted with regard to this question. As their response was favourable, the matter was taken up at the Colombo Session of the Committee in 1971 for determining the mode and manner of proceeding with this topic. It was agreed that the Committee should proceed on the topic of model contracts, meaning by that term not contracts of adhesion, but standard contracts with general terms which could be modified by the parties. The commodities considered suitable as a starting point for such

model contracts were rubber, timber, rice, textiles, machinery, oil and coconut products and it was agreed that member governments and the chambers of commerce in the Asian-African region be consulted with regard to other commodities. It was also agreed that work could proceed both in commenting on existing contracts and drafting new ones where necessary. In pursuance of this decision, the Committee's Secretariat studied the model contracts in use in other regions and prepared the draft of a standard form of contract for sale of agricultural products and other goods where Asian-African countries were sellers on F.O.B./F.A.S. basis. The draft contract was submitted to the governments and trading organisations in the Asian-African region and useful suggestions were received. The draft contract was thereafter considered by a Standing Sub-Committee during the Lagos Session (1972) of the Committee and revised in the light of the comments received. At that session it was agreed that the Committee's Secretariat should prepare another draft standard form of contract together with corresponding general conditions of sale in respect of certain commodities in respect of which Asian-African countries were mainly importers. Light machinery and durable consumer goods were chosen for the purpose of this draft.

The Sub-Committee constituted at the Tehran Session considered both the draft standard forms of contract and general conditions of sale as prepared by the Committee's Secretariat together with the comments received from Governments, chambers of commerce and expert bodies and institutions engaged in the field. After careful consideration, the Sub-Committee was able to finalise the draft of a standard contract on F.O.B./F.A.S. basis in respect of commodities where Asian-African countries have the role of sellers and another draft standard contract on C.I.F. (Maritime) basis in respect of finished goods and light machinery together with the relative general conditions of sale. The Committee during the Tehran Session endorsed the recommendation of the Sub-Committee to organise a meeting of experts in the spring of 1976 with the participation of the representatives of trade in the region and such of the expert organisations as may be interested, to finalise the aforesaid contracts.*

*A meeting of experts was convened in Kuala Lumpur under the auspices of the Asian-African Legal Consultative Committee from 6th to 9th July 1976 which finalised two model contracts, one on F.O.B. basis and another on F.A.S. basis for sale of goods in international transactions. These contracts are intended to be used in trade between countries of the Asian-African region and parties outside.