governments and international organisations, recommended that UNCITRAL in revising the text of the draft convention should reflect the norms and principles underlying the Common and Civil Law systems relatable to negotiable instruments.

(c.) UNCITRAL'S WORK ON NEW INTERNATIONAL ECONOMIC ORDER (NIEO)

The Sub-Committee reviewed UNCITRAL's work relating to New International Economic Order (NIEO) on the basis of a working paper presented by the Secretariat. The working paper had suggested that "the practical utility of the UNCITRAL'S Legal Guide would be considerably increased if it is addressed also to the issues and legal problems that confront the developing countries and their enterprises whilst negotiating and concluding joint venture arrangements in respect of industrial works, involving not merely the construction of an industrial plant or project but also its joint running and management for a stipulated period after construction by the parties."

After hearing the views expresssed by some of the participants and noting with satisfaction and appreciation the progress which UNCITRAL had thus far made in the preparation of the legal guide through its working Group on the New International Economic Order.

The Sub-Committee recommended that UNCITRAL should consider the preparation of an annex to the legal guide dealing with legal issues related to joint ventures arising in the context of industrial contracts, in view of the practical and legal difficulties that may arise out of these arrangements particularly for parties in developing countries;

The Sub-Committee also recommended that UNCITRAL consider taking up item 6 of its programme of work on NIEO-Concession Agreements and other agreements in the field of natural resources in the near future as that topic had gained certain urgency for the developing countries on account of the shift in the pattern of mineral exploration from developing to developed countries.

(iii) Arusha Session

At the Arusha Session, the Sub-Committee on International Trade Law Matters generally considered the work of UNCITRAL and other organisations concerned with international trade law. The Secretariat had also submitted a study on the Legal Framework for Joint Ventures in the Industrial Sector. The study dealt with the salient features of contractual and equity joint ventures, the suitability of equity joint ventures for the countries of the region, the legal structure of joint venture arrangements, the diverse legal regimes in which the joint ventures have to operate and some of the potential problems that arise from the actual operation of joint ventures. The Secretariat sought the direction of the Sub-Committee whether its future work on the topic should concentrate on developing a model of an equity joint venture or preparation of appropriate guidelines on the common legal clauses that are embodied in such agreements so as to assist parties from the countries of this region in negotiating and concluding such arrangements. In the course of the disussions in the Sub-Committee the following observations were made:

First and foremost, it was generally agreed that the basis of industrial co-operation, whether among the countries of the region or between a developing and developed country should be through equity joint ventures rather than contractual joint ventures.

As regards the future work of the Secretariat in this respect, those who supported the idea of preparation of appropriate guidelines on the various legal clauses of a joint venture arrangement and resolving the difficulties encountered in that regard felt that preparation of a model joint venture arrangement would not be appropriate because of the inherent difficulty of including in the model the infinite number of combinations of possible terms and conditions which are possible in a joint venture arrangement. Not only the terms and conditions would depend upon the subject matter of the joint venture arrangement to another , they would also vary depending upon in which host country they would have to operate. The attention of the Sub-Committee was drawn to the fact that there was a great deal of diversity in the investment laws and codes in the countries of the region. However, in view of the practical and real difficulties experienced by the parties from the countries of the region in the negotiation and conclusion of joint venture arrangements which were compounded by the lack of any precedents or models available in this regard, it was finally agreed that the Secretariat should attempt to draft a few sample models taking into account the diverse types of joint ventures in use in the countries of the region. While formulating these models, the Sub-Committee directed the

Secretariat to include therein legal clauses covering all possible terms and conditions accompanied by extensive commentaries and to ensure that the terms are fair and equitable to all the partners of a joint venture. In this entire exercise stress should be laid on establishing standards which are balanced and fair to all the parties, whether they be from developing or industrialized countries. The Sub-Committee requested the Secretariat in the meanwhile to collate the information pertaining to the joint venture arrangements concluded or in operation in the region as also models for such arrangements in use anywhere for transmission to the Member Governments.

In this context, attention was drawn to the problem of protectionism resorted to by some of the industrialized countries towards the products of industrial ventures of the developing countries, which often made such ventures non-viable. It was pointed out that once industrial ventures in the countries of the region started producing products comparable in quality and standards to those of the industrialized countries, market access was denied to them in the industrialized countries by raising protectionist barriers. Apart from an attempt to deal with this problem in the legal framework of joint ventures, the Sub-Committee recommended that the AALCC should address itself to this problem at a suitable time and that by way of a beginning the Secretariat should prepare a study monitoring the work of all institutions and agencies within or outside the U.N. system set up for the promotion of free trade in order to ascertain whether they have been effective in attaining their goals, particularly in relation to developing countries. The Committee should also study and recommend ways and means to enable the products of industrial ventures of developing countries to enjoy greater market access throughout the world. The Committee should also collect information about the work done by these institutions to tackle the problem of protectionism and the recommendations they have made for transmission to the Member Governments. The Sub-Committee felt that this would enable the Member Governments to consider the steps that the Committee should take to make those recmmendations effective.

Attention of the Sub-Committee was drawn to the fact that most of the countries in the region have enacted legislation on foreign investment offering competitive protection and incentives to attract foreign investors which have led to certain disadvantages to these countries, and it was proposed for its consideration whether an attempt should be made to harmonize these codes and laws. A suggestion made in this regard was that the Secretariat should attempt to formulate a Model Statute on Investments and Joint Ventures to assist in achieving some degree of unification in this area. The Model Statute could include provisions on applicable law, feasibility studies, formation

of contract, variation of the contract, interpretation of contract, transfer of technology, transfer of property, drawings and descriptive documents, supply of raw materials and industrial output, passing of risk, delays and remedies, damages and limitation of liability, training and acquisition of skills, maintenance and spare parts, price and revision of price; payment conditions, performance guarantees, insurance, customs duties and taxes, termination of contract etc.

WORK OF UNCITRAL AND OTHER ORGANIZATIONS CONCERNED WITH INTERNATIONAL TRADE LAW

The Sub-Committee heard a statement by the Secretary of UNCITRAL on the current activities of that body of particular interest to the member States of the Committee. These had included the recent adoption of UNCITRAL's Model Law on International Commercial Arbitration, the Draft Legal Guide on drawing up of Major Industrial Works, which was oriented to the purchasers of such works, namely the developing countries, and the UNCITRAL-UNCTAD promotional effort to secure ratifications of the UN Convention on the Carriage of Goods by Sea, 1978 (the Hamburg Rules) which was in the interest of the developing countries.

The Sub-Committee noted with appreciation the current work programme of the UNCITRAL and commended the UNCITRAL for its serious attention to subjects of international trade law which were of importance to States from all regions, and in particular to the developing States of Asia and Africa. Noting that the U.N. Convention on the Carriage of Goods by Sea, 1978 had not yet come into force, the Sub-Committee requested the Committee to recommend to the member States to consider the desirability of ratifying that Convention.

In respect of the UNCITRAL's Model Law on International Commercial Arbitration, the Sub-Committee expressed its satisfaction with the response of UNCITRAL to the concerns expressed by the Committee at its Kuala Lumpur Session in 1976. It recalled that the draft of the Model Law had been discussed by the Committee at its Kathmandu Session in 1985 as well as at the Regional Seminar on International Commercial Arbitration held in New Delhi in March 1984 under the joint auspices of the UNCITRAL Secretariat and the AALCC. The views expressed by the AALCC on the draft had been before the UNCITRAL and had been actively taken into account during the adoption of the final text.

The Sub-Committee noted that the Model Law not only responded to the concerns expressed by it in 1976 but also provided a modern law for international commercial arbitration. This was of particular importance

to the developing countries since they had seldom been the seat of such arbitrations, in part because the domestic law of arbitration often contained rules which were appropriate for domestic arbitration but were inappropriate for international commercial arbitration. The Sub-Committee was of the view that one of the important steps which could be taken by the Member States of the AALCC to promote the holding of arbitrations in the Asian-African region was the adoption, by those States, of the Model Law.

The Sub-Committee recommended the Committee to request its Member States to consider the desirability of reviewing their law governing international commercial arbitration with a view to considering adoption of the UNCITRAL Model Law on International Commercial Arbitration as it appears in Annex I of the Commission's report on its eighteenth session (A/30/17).

The report of the Trade Law Sub-Committee was adopted by the plenary of the Committee.

Debt Burden of Developing countries

The item "Debt Burden of developing countries" had been included in the programme of work of the Committee pursuant to a decision taken at the Kathmandu Session. The Secretariat accordingly submitted a preliminary study for consideration at the Arusha Session. The study outlined the dimensions of the external indebtedness of the developing countries on the basis of the data collected from various sources and highlighted the problems faced by those countries on account of the debt burden. It also dealt with the causative factors and forces which had brought about the international debt situation and referred to the various proposls which had been advanced in the various international fora. These had included *inter alia:* (i) Debt restructuring or rescheduling- a process in which the repayment of a debt is deferred when it reaches maturity; (ii) Declaring a moratorium on the repayment of debts; (iii) Ceiling on the rate of repayment, i.e. the repayment of the debt should be limited to a certain percentage of the total value of exports; (iv) Repudiation of the existing debts; and (v) Debt redemption, i.e. to restrict repayment to the borrowed capital precluding the accummulated interest. The main suggestion offered by the study for alleviating the debt burden of the developing countries was to convene an international conference of creditor and debtor nations together with commercial banks and international lending agencies.

The Committee took up this item for consideration at the fourth Plenary meeting. In the course of the general discussions, a view was

expressed that the debt burden could be alleviated, first by replacing the existing international monetary, financial and trade systems by a new international economic order; and secondly by the adoption of wise and far sighted policies and guidelines by the creditor nations and international lending agencies in consultation with the debtor nations. It was felt that the developed countries should help promote the debt service of the debtor nations through the latter's development instead of asking them to curtail outlays and to repay their debts before achieving development. It was observed that although the impact of the debt burden was devastating for the developing countries, the creditor nations and institutions would also not remain unaffected because the world was now more interdependent than at any other time in history. While recognising the need for concerted international efforts and international solidarity for alleviating the burden of the debtor nations, it was felt that the problem, had remained intractable because it had been approached in a piecemeal fashion rather than being addressed globally and indepth. For this reason, it was suggested to convene a global conference under the auspices of the United Nations which would bring together the debtor and creditor nations, private commercial banks and international agencies and consider the various ways and means of resolving this problem.

One delegation noted with satisfaction that the debtor nations were now joining forces as a negotiating front which was evident from the creation of the eleven-nation Cartagena Group in June 1984 which had made it clear that no effort on the part of the indebted countries alone would be sufficient without the co-operative efforts of the developed countries and from the OAU's Addis Ababa Declaration calling upon the developing countries to coordinate their activities with respect to their debts. In this context, he also referred to the Baker Plan presented at the World Bank-IMF Meeting held in Seoul in October 1985 according to which creditor nations, commercial banks and international lending institutions would assure the debtor nations of adequate flow of money to finance their economic growth. He pointed out that although the Plan had been favoured in certain quarters, it had been criticized in the debtor nations for its failure to deal with high interest rates, low commodity prices and protectionsm in the export markets. Finally, he stressed that the developing countries must agree on a joint programme of action and at the same time both developing and developed countries must co-operate with one another with a view to restructuring the international financial and trade systems so that the debt crisis might be brought to an end.

It was suggested that the Committee should convene an expert group meeting in New Delhi with the mandate to prepare an indepth study suggesting practical solutions to the problem.

The Committee took note of the various suggestions and requested the Secretariat to prepare another study on the topic with the help of experts in this field.