formal requisites of negotiable instruments or permissible stipulations on such instruments. [5]

7. More specifically, reference is made to difficulties that may result from the failure to insert the term "cheque" or "promissory note" in the body of the instrument, [6] or from divergent rules in respect of the stipulation of interest. [7]

(b) *Forgery* [8]

8. Several replies refer to problems occurring in connexion with forged signatures. [9] Some of these replies emphasize that the principal cause of legal differences is due to the sharp differences between legal systems. [10]

(c) *Protest and notice of dishonour* [11]

9. Several replies refer to problems that arise as a result of divergencies in the law concerning the form which protest must take and, in particular, the time within which protest must be made or notice of dishonour be given. [12]

10. One respondent notes that an instrument showing certain formal defects cannot, under the law of his country, be protested for non-acceptance or non-payment. [13]

(d) *Other problems*

11. Several respondents draw attention to the incertaintly which results from divergent rules on prescription of actions on an instrument. [14] These divergencies often made it difficult to ascertain whether action on an instrument can still be taken or is prescribed. [15]

12. One respondent points to difficulties that sometimes arise in connexion with the interpretation of foreign legal concepts. [16]

13. The same respondent raises the question whether parties to an instrument (i.e., a promissory note) are at liberty to agree on the application of certain provisions of a law other than that of the place of issuance.

14. Some respondents refer generally to problems that have arisen as a result of different rules concerning the rights and liabilities of parties to a negotiable instrument. [17]

15. Several replies report on the existence of problems occurring in connexion with lost instruments. [18]

[5] E.g., 81, 82, 85, 88, 93.

[6] E.g., 81, 82, 85. As to difference in this respect between the Geneva rules and Anglo-American law, see A/CN.9/38, foot-note 67.

[7] E.g., 87. And see A/CN.9/38, foot-note 71.

[8] See A/CN.9/38, paras. 51-52.

[9] E.g., 81 (indirectly), 85, 88, 89, 90, 92.

[10] See in this respect A/CN.9/38, foot-note 86.

[11] See A/CN.9/38, paras. 55-62, and foot-notes 91, 100 and 107.

[12] E.g., 81, 82, 84, 85, 87, 88, 92, 93.

[13] See 82.

[14] E.g., 84, 85, 93.

[15] See 85.

[16] See 81.

[17] E.g., 81, 85, 87, 88, 93.

[18] E.g., 81, 85, 88, 93.

2. *Analysis of replies of Governments and banking and trade institutions relating to negotiable instrument for optional use in international transactions: report of the Secretary-General (A/CN.9/48)* *

CONTENTS

* 14 December 1970.

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[8] See A/CN.9/38, paras. 51-52.

[9] E.g., 81 (indirectly), 85, 88, 89, 90, 92.

[10] See in this respect A/CN.9/38, foot-note 86.

[11] See A/CN.9/38, paras. 55-62, and foot-notes 91, 100 and 107.

[12] E.g., 81, 82, 84, 85, 87, 88, 92, 93.

[13] See 82.

[14] E.g., 84, 85, 93.

[15] See 85.

[16] See 81.

[17] E.g., 81, 85, 87, 88, 93.

[18] E.g., 81, 85, 88, 93.

2. *Analysis of replies of Governments and banking and trade institutions relating to negotiable instrument for optional use in international transactions: report of the Secretary-General (A/CN.9/48)* *

CONTENTS

* 14 December 1970.

CONTENTS *(continued)*

INTRODUCTION

1. At its third session, held in New York from 6 to 30 April 1970, the United Nations Commission on International Trade Law continued its consideration of the subject of international payments by means of negotiable instruments. The Commission had before it a report of the Secretary-General containing an analysis of the replies received from Governments and banking and trade institutions to a questionnaire on negotiable instruments used for making international payments (A/CN.9/38). That report analysed some seventy-five replies to questions eliciting information in two areas: (*a*) the current practices followed to making and receiving international payments, and (*b*) the problems encountered in settling international transactions by means of negotiable instruments.

2. The questionnaire addressed to Governments and banking and trade institutions was accompanied by an annex setting out questions concerning the possible content of uniform rules applicable to a special negotiable instrument for optional use in international transactions. Pursuant to the decision taken by the Commission at its third session, [1] the present report analyses the replies to those questions.

3. For the purpose of assisting the Commission in evaluating the various comments concerning the substance of possible uniform rules, the analysis of the replies to each individual question is preceded by a brief statement of the basic differences between the Geneva rules of 1930 (Uniform Law on Bills of Exchange) and the Anglo-American law (the United Kingdom Bills of Exchange Act (1882) and the Uniform Commercial Code of the United States). In addition, the analysis often notes the system under which the country of a respondent operates; this was deemed particularly useful in cases where a significant number of replies emanating from countries following the Geneva system expressed preference for a rule obtaining under the Anglo-American law, or vice-versa.

4. Because of the large number of references, individual replies will be identified by numbers as set forth in the list of respondents appearing below. In that list, the name of a country from which a reply emanated is followed by a letter or letters indicating the statute or uniform rules on which the law of negotiable instruments of that country is patterned. The abbreviations used in that list and in this report are as follows:

BEA Bills of Exchange Act, 1882 (United Kingdom);

F Legislation influenced by the (pre-Geneva) French Commercial Code;

G Geneva Conventions of 1930 and 1931 (these Conventions are referred to separately as ULB and ULC; see below);

H Hague Uniform Regulations concerning Bills of Exchange and Promissory Notes of 1912;

H-G Legislation based on Geneva Conventions and Hague Uniform Regulations;

NIL Negotiable Instruments Law (United States); [2]

S-F Legislation influenced by the Spanish and French Commercial Codes;

UCC Uniform Commercial Code (United States);

ULB Geneva Uniform Law on Bills of Exchange and Promissory Notes (1930);

ULC Geneva Uniform Law on Cheques (1931).

List of respondents

Reference Number	*Country of origin (legal system)*	*Respondent*
1.	Argentina (G)	Government
2.	Australia (BEA)	Australian Bankers' Association
3.	Austria (G)	Government (Federal Ministry of Justice)
4.	Austria (G)	Austrian National Bank
5.	Austria (G)	Association of Austrian Banks and Bankers
6.	Austria (G)	Oesterreichische Länderbank
7.	Barbados (BEA)	Government
8.	Barbados (BEA)	East Caribbean Currency Authority
9.	Belgium (G)	Government
10.	Belgium (G)	National Bank of Belgium
11.	Cambodia (G)	Government
12.	China (H)	Central Bank of China
13.	Cyprus (BEA)	Central Bank of Cyprus
14.	Czechoslovakia (G)	Government
15.	Czechoslovakia (G)	Czechoslovak National Bank
16.	Denmark (G)	Federation of Danish Banks
17.	Dominican Republic (F)	Central Bank of the Dominican Republic
18.	Ecuador (G)	Central Bank of Ecuador
19.	El Salvador	Central Bank of El Salvador
20.	Ethiopia (G)	Commercial Bank of Ethiopia
21.	Federal Republic of Germany (G)	Government (Ministry of Justice)
22.	Federal Republic of Germany (G)	German Federal Bank (Deutsche Bundesbank)
23.	Federal Republic of Germany (G)	German National Committee of the ICC
24.	Federal Republic of Germany (G)	Federal Association of German Banks

[1] A/8017, para. 118, *sub* (*b*); *Yearbook of the United Nations Commision on International Trade Law, vol. I: 1968-1970*, part two, III, A.

[2] A uniform law drawn up by a committee appointed in 1895 by the National Conference of State Boards of Commissioners for Promoting Uniformity of Legislation and recommended to the legislatures of the various states of the United States by the Conference in 1896; now replaced in the United States by relevant provisions of the Uniform Commercial Code.

List of respondents (continued)

Reference Number	*Country of origin (legal system)*	*Respondent*
25.	Finland (G)	Finnish Bankers' Association
26.	France (G)	Bankers' Association
27.	France (G)	Banque de France
28.	Greece (G)	Bank of Greece
29.	Greece (G)	Greek National Committee of the ICC
30.	Guatemala (H)	Bank of Guatemala
31.	Hungary (G)	National Bank of Hungary
32.	Iceland (G)	Central Bank of Iceland
33.	India (BEA)	Foreign Exchange Dealers' Association
34.	Iraq (G)	Government (transmitting reply of State Organization for Banks)
35.	Iraq (G)	Central Bank of Iraq
36.	Ireland (BEA)	Central Bank of Ireland
37.	Italy (G)	Italian National Committee of the ICC
38.	Japan (G)	Federation of Bankers' Associations of Japan
39.	Jordan (G)	Central Bank of Jordan
40.	Republic of Korea (G)	Government
41.	Republic of Korea (G)	Bank of Korea
42.	Kuwait (G)	Government (transmitting reply of the Central Bank of Kuwait)
43.	Malawi (BEA)	Government
44.	Malawi (BEA)	Reserve Bank of Malawi
45.	Malaysia (BEA)	Government
46.	Malta (BEA)	Central Bank of Malta
47.	Mauritius	Bank of Mauritius
48.	Mexico (H-G)	Government
49.	Mexico (H-G)	Bank of Mexico
50.	Morocco (G)	Government (Ministry of Finance)
51.	Netherlands (G)	Netherlands Committee of the ICC
52.	Norway (G)	Government
53.	Philippines (NIL)	Central Bank of the Philippines
54.	Poland (G)	Government
55.	Portugal (G)	National Committee of the ICC
56.	Sierra Leone (BEA)	Bank of Sierra Leone
57.	Singapore (BEA)	Government (transmitting reply of Development Bank of Singapore)
58.	Singapore (BEA)	Association of Banks in Malaysia-Singapore
59.	Somalia	Somali National Bank
60.	South Africa (BEA)	South African Reserve Bank
61.	Sweden (G)	Government [a]
62.	Sweden (G)	Swedisch Bankers' Association [b]
63.	Sweden (G)	Post Office Bank [b]
64.	Sweden (G)	General Export Association of Sweden; Federation of Swedisch Wholesale Merchants and Importers (Joint reply)
65.	Switzerland (G)	National Committee of the ICC
66.	Thailand (H)	Bank of Thailand
67.	Trinidad and Tobago (BEA)	Central Bank of Trinidad and Tobago
68.	United States (UCC)	Government
69.	United States (UCC)	Federal Reserve Bank
70.	Union of Soviet Socialist Republics	Government
71.	United Kingdom (BEA)	Accepting Houses Committee
72.	United Kingdom (BEA)	Association of British Chambers of Commerce
73.	United Kingdom (BEA)	British Bankers' Association
74.	Venezuela (H)	Government (transmitting reply of the Central Bank of Venezuela)
75.	Bank for International Settlements (Basel, Switzerland)	
76.	Inter-American Development Bank	
77.	International Bank for Economic Co-operation (Moscow, USSR)	
78.	International Bank for Reconstruction and Development (Washington, D.C., United States)	
79.	Bulgaria (G)	Government
80.	Bulgaria (G)	National Bank of Bulgaria
81.	Federal Republic of Germany (G)	Deutscher Sparkassen und Giroverband C.V.
82.	Finland (G)	Government

[a] The Swedish Government states that the competent authorities fully concur in the replies given by the Swedish Bankers' Association, the Post Office Bank, the General Export Association of Sweden, and the Federation of Swedish Wholesale Merchants and Importers.

[b] Reply transmitted by the Central Bank of Sweden.

LIST OF RESPONDENTS (continued)

Reference Number	*Country of origin (legal system)*	*Respondent*
83.	France (G)	Banque française et italienne pour l'Amérique du Sud
84.	Iran	Central Bank of Iran
85.	Italy (G)	Banca d'Italia
86.	Netherlands (G) [c]	Government
87.	Romania (G)	Government
88.	Turkey (G)	Central Bank of the Republic of Turkey
89.	Uruguay	Central Bank of Uruguay
90.	Argentina (G)	Central Bank of Argentina
91.	Denmark (G)	Government
92.	Pakistan (BEA)	State Bank of Pakistan
93.	Ivory Coast (G)	Government

[c] The Netherlands Government states that the reply of the Netherlands Committee of ICC (51) reflects its opinion.

A. Form and contents

I. *Formal requisites*

***Question A 1*: "Should the rules relating to a new negotiable instrument specify requirements as to its form and, if so, what should be the essential requirements?"**

(a) *Basic rules*

5. The Geneva uniform law (ULB) and the Anglo-American law (BEA, UCC) lay down that an instrument must conform to certain formal requisites.

6. The common grounds shared by the two systems are the requirements that such an instrument must:

(*a*) Contain an unconditional order to pay "a determinate sum of money" (ULB, article 1 (2)) or "a sum certain in money" (BEA, section 3 (1); UCC, section 3-104 (1) (*b*));

(*b*) Contain the name of the drawee (ULB, article 1 (3); BEA, section 3 (1), section 6; UCC, section 3-104 (1) (*b*) and section 3-102 (1) (*b*);

(*c*) Be signed by the drawer (ULB, article 1 (8); BEA, section 3 (1); UCC section 3-104 (1) (*a*)).

7. There is also a degree of similarity between the rules concerning the maturity date of a bill of exchange. Under the ULB (article 1 (4)), a bill must contain "a statement of the time of payment"; in the absence of such statement, a bill "is deemed to be payable at sight" (ULB, article 2). The BEA (section 3 (1)) provides that a bill may be payable "on demand or at a fixed or determinable future time". Under section 10 (1) (*a*) BEA, a bill is payable on demand: "(*a*) which is expressed to be payable on demand, or at sight, or on presentation; or (*b*) in which no time for payment is expressed". [3] The UCC (section 3-104 (1) (*c*)) provides that a bill may be payable "on demand or at a definite time". Under section 3-108 (UCC), instruments payable on demand include "those payable at sight or on presentation and those in which no time for payment is stated".

8. However, the ULB, as compared with Anglo-American law, is more rigid in respect of maturities. Article 33 ULB provides that a bill of exchange may be drawn payable at sight, at a fixed period after sight, at a fixed period after date, or at a fixed date; it states expressly that bills at other maturities, [4] are null and void. In contrast, under Anglo-American law, bills may be drawn payable upon or after a specified act or event that is certain to occur (UCC, section 3-109 (1) (*d*)), or at a determinate future time (BEA, section 3 (1)); or by stated instalments (BEA, section 9 (1); UCC, section 3-106 (1)). [5]

9. The ULB imposes other formal requisites not found in Anglo-American law. Thus, the ULB requires that a bill of exchange should conform to the following requisites:

(*a*) The term "bill of exchange" must be inserted in the body of the instrument and expressed in the language employed in drawing up the instrument (ULB, article 1 (1));

(*b*) The date of issue must be stated (ULB, article 1 (7)); [6]

(*c*) The place of issue must be stated (ULB, article 1 (7)); [7]

(*d*) The "name of the person to whom or to whose order payment is to be made" must be mentioned (ULB, article 1 (6)). [8,9]

(b) *Analysis of replies*

(i) *General*

10. In reply to the question concerning the essential formal requirements of the proposed instrument, a significant number of respondents merely refer to, or

[3] And see section 14 BEA regarding "days of grace".

[4] e.g., a bill payable by instalments at successive maturity dates. See paragraph 24 under question A 2 (*b*).

[5] The expression "determinable future time" in section 3 (1) BEA means "something that is bound to happen in the future, although at the time the bill is drawn the actual date of the occurrence is unknown" Cf. F. R. Ryder, *Negotiable Instruments*, 1970, p. 19.

[6] Section 3 (4) (*a*) BEA provides that a bill is not invalid by reason that it is not dated. A similar provision is found in section 3-114 (1) UCC. Section 2 BEA permits the holder to insert the true date if maturity is governed by the date of issue.

[7] Section 3 (4) (*c*) BEA provides that a bill is not invalid by reason that it does not specify the place where it is drawn. A similar provision is found in section 3-112 (1) (*a*) UCC.

[8] This provision rules out a bill of exchange drawn payable to bearer. The Anglo-American law is less rigid: a bill may be made payable to bearer, and it suffices that the payee is indicated with reasonable certainty (BEA, section 7 (1); UCC, section 3-104 (1) (*d*) and section 3-110 (1)).

[9] Article 1 (5) ULB also provides that a bill of exchange must mention the place of payment. However, article 2 ULB provides that, in default of such mention, the place specified beside the name of the drawee (required by article 1 (7)) is deemed to be the place of payment. By section 45 (4) BEA, where no place of payment is specified in the bill, it is payable at the address of the drawee.

produce, the relevant provisions obtaining under their own law. [10]

11. One respondent from a country that has ratified the Geneva Conventions suggests that the formal requisites listed in the Geneva uniform law should be modified to meet the requirements of the common law countries. [11] Another respondent makes the general observation that the formal requirements should be flexible and be reduced to a strict minimum. [12]

12. Other respondents stress the necessity for a rule to the effect that an instrument, in which any of the formal requirements laid down by the proposed Convention is wanting, shall be invalid as a negotiable instrument within that Convention. [13]

13. There is consensus among respondents that the formal requisites to which the proposed instrument must conform should include the four requirements shared by the Geneva uniform law and the Anglo-American law; i.e., the instrument should:

(*a*) Contain an unconditional order to pay a sum certain in money;

(*b*) Be payable on demand (at sight) or at a specific time;

(*c*) Contain the name of the drawee; and

(*d*) Be signed by the drawer.

14. A few replies specify that the statement indicating the sum of money payable should be accompanied by a statement indicating the currency in which payment is to be made. [14]

15. As regards the time of payment, one reply raises the question whether the clause "upon arrival of ship" should be permitted under the new rules. [15] The same reply also suggests that thought should be given to the advantages of creating an instrument with fixed maturity dates only; the current type of bill would continue to be used in cases where it was necessary to stipulate payment at sight, or at a given time after sight. [16]

16. As regards the name of the drawee, some replies suggest that the drawee's name should be accompanied by his address. [17] One reply is in favour of the drawee being a bank only. [18]

[10] Respondents of countries following the Geneva system expressing preference for article 1 ULB: e.g., 1, 6, 11, 16, 21, 24, 32, 39, 40, 41, 50, 58 and 87. Respondents of countries following the Bills of Exchange Act expressing preference for section 3 (1) BEA: e.g., 2, 7, 13, 33, 42, 45, 67, 71 and 72.

[11] See 82. See also 9: the formal requirements of the proposed instrument should be less stringent than those laid down by the Geneva uniform laws.

[12] See 10.

[13] e.g., 26 and 75. See also 22 and 87: the proposed rules should determine the consequences of failure to observe requirements as to form. Of course, the implications of the concept of invalidity may be subject to warying interpretations.

[14] e.g., 22, 27 and 48.

[15] See 75.

[16] *Ibid.*

[17] e.g. 26 and 73.

[18] See 60.

(ii) *Designation of the proposed instrument*

17. The Geneva uniform laws depart from the Anglo-American system in requiring on pain of invalidity, that the name of the type of the instrument appear on the instrument. [19]

18. It would appear that two separate issues arise in connexion with the insertion of a designating term in the body of the proposed instrument: (*a*) the insertion of such a term as an element of formal validity, and (*b*) the use of such a term for the purpose of identifying the proposed instrument.

19. The replies that would favour the insertion of a designating term in the body of the instrument, as an element of formal validity, emanate from countries operating under the Geneva system. [20] However, several respondents, including those from countries following the Geneva systems, express the view that the requirements as to form should be flexible and be reduced to a strict minimum. [21]

20. Some respondents advocate that the proposed instrument should be given a special designation in order to distinguish it from instruments governed by existing national laws. [22] Thus, it is suggested that the term "international bill of exchange" [23] or "international negotiable instrument" [24] should appear on the face of the proposed instrument, either in the text or separate from it as a heading, [25] In the view of these respondents, the use of a designating term should not be an essential requirement as to form, but merely serve to identify the proposed instrument for the sole purpose of subjecting it to the proposed uniform rules.

(iii) *Name of payee*

21. There is a significant difference between the two systems in this respect. The ULB (article 1 (*b*)) requires that a bill of exchange "name the person to whom or to whose order payment is to be made" and does not therefore permit the issue of a bill payable to bearer. [26] Anglo-American law, however, allows that a bill be drawn payable to bearer.

[19] One reason for this requirement is that in most civil law countries, the cheque has developped different functions from the bill of exchange, giving rise to different rules in some instances. The obligatory designation of the type of instrument thus assists in distinguishing the two types of negotiable instruments more clearly.

[20] One possible exception (69).

[21] e.g., 9, 10, 36, 75 and 85.

[22] e.g., 8, 9, 15, 22 and 51.

[23] e.g., 69. But see 27: it is desirable to avoid the term "bill of exchange" ("lettre de change") in the proposed instrument.

[24] e.g., 26. See also 85: "tratta internazionale".

[25] e.g., 9.

[26] Article 1 (6) ULB has been criticized on the ground that article 12 ULB provides that endorsement to bearer is equivalent to an endorsement in blank. It is therefore possible for the drawer to circumvent the prohibition of article 1 (6) ULB by drawing a bill to his order and to endorse it subsequently in blank or to bearer (Cf. P. Lescot and R. Roblot, *Les Effets de Commerce*, 1953, vol. I, p. 199). A cheque may be drawn payable to bearer (ULC, article 5).

22. A significant number of replies, from countries that operate under the Geneva system, express preference for an instrument that could also be drawn payable to bearer. [27]

23. One respondent, from a country that has ratified the Geneva Conventions, states his opposition to the adoption of the Anglo-American rule permitting the issue of bills drawn payable to bearer. [28] The reply states that the issue of such bills would make it more difficult to enforce exchange control regulations.

24. Two replies from common law countries do not mention the possibility that the proposed instrument be also drawn payable to bearer. [29]

II. *Stipulation for interest*

***Question A 2 (a)*: "Should the rules permit the instrument to stipulate that the principal amount will bear interest?"**

(a) *Basic rules*

25. The ULB contains strict rules on interest. Article 5 ULB allows a stipulation for interest in the case of bills payable at sight or at a fixed period after sight, but such a stipulation is denied effect ("deemed not to be written") in the case of any other bill of exchange (i.e., bills payable on or at a fixed period after date). A stipulation for interest is also denied effect where the rate of interest is not specified. On the other hand, Anglo-American law (section 9 (1) BEA and section 3-106 (1) (*a*) UCC) provides that the sum payable by a bill is a sum certain in money, although it is required to be paid with interest, and permits therefore the stipulation of interest on any bill.

(b) *Analysis of replies*

26. Although several replies to this question cannot be interpreted with absolute certainty, [30] the replies show that the majority of respondents, including those from countries following the Geneva system, are in favour of a rule permitting the stipulation of interest. [31] The replies opposing such a rule [32] include two from countries whose national law is based on the Bills of Exchange Act, 1882. [33]

27. Some respondents justify their opposition to such a rule on the ground that it would create uncertainty regarding the sum payable [34] and therefore complicate negotiation of the instrument, [35] or on the ground that the calculation of interest on the principal amount would imply an important modification of commercial practice. [36] These respondents note that interest payable up to the maturity date can be included in the amount of the instrument and that, in accordance with current practice, any overdue interest as from the agreed maturity date ("delay interest") should be indicated in the collection schedule or in the commercial contract. [37] Another respondent, noting that the main advantage of the rule prohibiting the stipulation of interest would be that it avoids any uncertainty regarding the amount payable, considers nevertheless that the risks would not be excessive if that rule were abandoned. [38]

28. A few replies suggest that the uniform rules should provide for a uniform legal rate of interest that would be applicable in cases where interest is stipulated but no rate expressed. [39]

III. *Principal amount payable in instalments*

***Question A 2 (b)*: "Should the rules permit the instrument to stipulate that the principal amount may be payable in instalments?"**

(a) *Basic rules*

29. The ULB states that bills payable in instalments are deemed null and void (article 33). Anglo-American law is to the contrary; under section 9 (1) BEA, the sum payable by a bill is a sum certain, although it is required to be paid by stated instalments or "by stated instalments with a provision that upon default in payment of any instalments the whole shall become due". Section 3-106 (1) UCC provides that "the sum payable is a sum certain even though it is to be paid... by stated instalments".

(b) *Analysis of replies*

30. Respondents are about evenly divided on this question. The replies that oppose the possibility that a bill may be payable by instalments emanate largely from countries following the Geneva system. [40] Four replies from common law countries also express their opposition to such a rule. [41]

31. It is noteworthy, however, that a significant number of respondents, from countries operating under

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[27] e.g., 3, 5, 10 (implicitly), 14, 15, 20, 26 and 27.

[28] See 85.

[29] See 69 and 73.

[30] An affirmative reply without further specifications by respondents from countries operating under the Geneva system can be taken to mean preference either for the rule embodied in article 5 ULB or for a rule analogous to the Anglo-American provisions. Similarly, a negative reply by those respondents could indicate either opposition to the stipulation of interest, whatever the maturity date of the bill, or preference for the relevant rule of the Geneva Uniform law.

[31] Affirmative replies from countries operating under the Geneva system: 3, 9, 10, 11, 14, 15, 21, 28, 29, 31, 32, 39, 50, 51, 54, 62, 64, 70, 74, 79, 80, 87 and 92. Affirmative replies from countries operating under Anglo-American law: 2, 7, 8, 13, 33, 44, 45, 56, 58, 60, 69, 71 and 73. Affirmative replies from other countries: 12, 17, 48, 49, 66 and 74.

[32] e.g., 1, 5, 6, 16, 20, 22, 24, 25, 26, 27, 37, 40, 41, 64, 81, 82 and 88.

[33] See 36 and 42.

[34] e.g., 22, 27 and 81.

[35] e.g., 22 and 27.

[36] e.g., 27 and 85.

[37] e.g., 22, 26, 27 and 81.

[38] See 75.

[39] See 27, 75 and 85.

[40] e.g., 3, 5, 6, 11, 12 (national law based on Hague Regulations), 14, 15, 16, 20, 21, 22, 24, 25, 26, 27, 28, 39, 40, 41, 43, 44, 49 (national law based on Hague Regulations and Geneva Uniform Law), 64, 66, 81, 82 and 88.

[41] See 2, 33, 36 and 56.

the Geneva system, [42] join the majority of respondents from common law countries [43] in permitting bills payable by instalments.

32. One respondent considers that to permit payment of the amount of the bill by instalments "would be contrary to the nature of a negotiable instrument". [44] Another respondent is of the opinion that this might lead to difficulties in enforcing payment of the amount of the bill. [45] It is further noted that any payment by instalments should be provided for outside the instrument, and that it would be preferable either to divide the amount to be paid at the outset among several instruments or to cancel the instrument for the full amount and replace it by a number of instruments with a different maturity date for each instalment to be received. [46]

IV. *Stipulation for effective payment in a foreign currency*

***Question A 2 (c)*: "Should the rules permit the instrument to stipulate that the holder may demand payment in a specified currency which is not that of the place of payment?"**

(a) *Basic rules*

33. The ULB and the UCC contain substantially similar provisions regarding payment of a bill drawn for a sum expressed in a currency which is not that of the place of payment. Article 41 ULB permits the drawer to stipulate that payment be made in a certain specified currency (the so-called "effective payment clause"), and section 3-107 (2) UCC states that if an instrument specifies a foreign currency as the medium of payment, the instrument is payable in that currency. No such rule is to be found in the BEA.

34. The ULB, the BEA and the UCC set forth provisions regarding the calculation of the rate of exchange where a bill is drawn in foreign currency. The ULB (article 41, the BEA (section 72 (4)), and the UCC (section 3-107 (2)) unite in permitting the drawer to specify the rate of exchange in the bill. If there is no express stipulation as to the rate of exchange, the bill drawn payable in a currency which is not that of the place of payment may be ULB, UCC) or shall be (BEA) paid in the currency of the place of payment:

(*a*) According to its value on the date of maturity (article 41 ULB);

(*b*) According to the rate of exchange for sight drafts at the place of payment on the day the bill is payable (section 72 (4) BEA);

(*c*) At the buying sight rate for that currency on the day on which the instrument is payable or, if payable on demand, on the day of demand (section 3-107 (2) UCC).

35. Unlike the BEA and the UCC, the ULB gives the holder an option if the debtor is in default. In such event, the holder may demand payment according to the rate prevailing on the date of maturity or that on the date of payment.

(b) *Analysis of replies*

36. Under a majority of replies, the holder should be empowered to demand payment in a specified foreign currency, provided that the proposed instrument is drawn for a sum expressed in that currency. [47] Several replies note, however, that this rule would necessarily be subject to the exchange control regulations of the country of the place of payment. [48] Other replies specify that the currency in which the instrument is drawn should be one regularly quoted in the country of payment [49] or be convertible. [50] One respondent qualifies his affirmative reply by the observation that practice has shown it to be undesirable to permit a stipulation for effective payment in a foreign currency. [51]

37. Two replies would limit the kinds of currency in regard to which such a stipulation would be effective. According to one reply, the stipulation should only be effective if the currency specified in the instrument is that of the country in which the instrument is drawn. [52] Another reply would allow an effective stipulation only when the instrument is drawn in the currency of the country either of the drawer, the origin of the goods, or the shipment of the goods. [63]

38. Some of the respondents who oppose the stipulation for effective payment in a foreign currency [54] explain their opinion by stating that bills with a so-called "effective payment clause" occur very seldom and that there will be, in actual practice, no need to provide for this possibility in respect of the proposed instrument. [55]

39. One reply [56] notes that the question of the "effective payment clause" should be considered under various aspects. An instrument denominated in a foreign currency will not generally be settled in that currency at the place of payment since settlement will be made either in local currency or by means of a banking operation cheque, credit of transfer). Moreover, once there is an action at law, the problem of conversion of the currency stated in the instrument into the currency

[42] e.g., 1, 9, 10, 29, 31, 32, 50, 51, 54, 62, 70, 79, 80, 85, 87 and 92. See also 17, 48 and 75.

[43] e.g., 7, 8, 13, 45, 60, 69, 71 and 73.

[44] See 24.

[45] See 22.

[46] See 21, 24, 26 and 81.

[47] e.g., 1, 2, 3, 5, 6, 8, 9, 10, 11, 13, 14, 15, 16, 20, 21, 24, 25, 26, 27, 28, 29, 31, 32, 36, 37, 39, 40, 41, 42, 44, 45, 48, 51, 54, 58, 60, 62, 69, 70, 79, 80, 81, 82, 84, 85 and 92.

[48] e.g., 13, 26, 40, 84 and 92.

[49] See 26. The comments referred to in foot-notes 49 to 51 might be considered as referring to preferred commercial practice rather than to legal requirements.

[50] See 60.

[51] See 51.

[52] See 2.

[53] See 8.

[54] e.g., 12, 17, 22, 23, 49, 50, 56 and 88.

[55] See 22.

[56] See 75.

of the forum arises. [57] The reply expressed the opinion, however, that these are not sufficient grounds for depriving the parties of the right to stipulate an effective payment clause. A second aspect concerns the rate of exchange to be adopted for the conversion into local currency. [58] The reply advocates the adoption of a rule similar to article 41 of the ULB, the principles of which are also embodied in the European Convention on Foreign Currency Bonds of 11 December 1967.

V. *The form of signature*

***Question A 3*: "Should the rules specify the form of 'signature', e.g., written, facsimile, perforated, by symbols or otherwise?"**

(a) *Basic rules*

40. The ULB and the BEA [59] do not define the term "signature". The UCC (section 3-401 (2)) provides that "a signature is made by use of any name, including any trade or assumed name, upon an instrument, or by any word or mark used in lieu of a written signature". Under section 1-201 (39 and 46) UCC, " 'signed' includes any symbol executed or adopted by a party with present intention to authenticate a writing".

(b) *Analysis of replies*

41. Respondents are, with few exceptions, [60] in favour of a rule specifying the form of "signature". Most replies indicate the form which a signature should take.

42. The majority of these replies express preference for a signature written by hand. [61] The reason sometimes given is that forms other than a written signature are more susceptible to forgery. [62]

43. Some replies distinguish between the signature of:

(*a*) The drawee or the giver of an aval; and

(*b*) The drawer and the endorser.

In the former case, these replies would receive a signature in written form; in the case of the latter, a non-written form of signature should be permitted. [63] One reply stresses the importance of defining the term "written" if the new rule should require the signature to be written. [64]

44. A number of replies note that there is a tendency favouring facsimile or other mechanical forms of signature on negotiable instruments and observe that the increased use of automated processes for the issuance of these instruments requires a flexible approach to the problem of signature. These replies generally favour a rule permitting the use of mechanically impressed signature, [65] or do not exclude a widening of possibilities in this respect. [66] One respondent notes that this would not necessarily be in conflict with the spirit of the ULB. [67] Other respondents are of the opinion that the reservations in respect of non-written signatures could disappear once the consequences are clearly established for the fraudulent use or forgery of signatures by mechanical means. [68]

B. Rights and liabilities of parties

VI. *Claims and defences*

***Question B 1*: "Should the rules specify the circumstances under which the holder of an instrument may acquire it free from:**

(*a*) Claims of prior parties or holders; and

(*b*) Defences which would have been available to the defendant if the defendant had been sued by a prior party? If so, what should be the circumstances?"

(a) *Basic rules*

45. Inspired by the usages and customs of merchants, the three legal systems protect the *bona fide* holder of an instrument from claims and defences of prior parties. However, the legal systems differ in respect of the circumstances under which a holder acquires the instrument free from claims or defences of prior parties, and the nature of the claims and defences affected.

46. The Geneva Uniform Law (ULB) protects the *bona fide* or non-negligent possessor of a bill. In order to qualify for this protection, three conditions must be fulfilled: (*a*) possession of the instrument; (*b*) possession resulting from a series of endorsements (the fact that one or more of the endorsements are forged has no effect, as long as a claim of uninterrupted endorsements leads ostensibly to the holder), and (*c*) *bona fide* and (in some circumstances) free from gross negligence possession of the instrument (articles 16 and 17).

47. Under the BEA, in order to overcome claims and defences, a person must be a "holder in due course" (section 22). In order to be a holder in due course, the BEA, in addition to the condition of *bona fide* possession found in the ULB, requires that additional conditions be satisfied. The most important of those are the following three:

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[57] *Ibid.* See also 69; the courts of the country of the place of payment will normally render judgements expressed only in the currency of the place of payment.

[58] See also 73 and 85.

[59] See section 91, seal of corporation as signature; also see *George* v. *Surrey* (1830) M and M 516; 173 E.R. 1243 (signature by a mark admitted, provided there is evidence that the person signing by mark habitually so signs) and *Goodman* v. *J. Eban Ltd* (1954) 1 Q.B. 702 (signature by impressing a rubber stamp with the person's own facsimile signature on it admitted).

[60] See 16, 60 and 64.

[61] e.g., 1, 2, 3, 5, 6, 14, 15, 17, 20, 22 (with the proviso that "written" should be defined in the new rules), 28, 31, 32, 36, 37, 40, 41, 42, 49, 53, 54, 56, 58, 62, 70, 79 and 80.

[62] e.g., 2, 5, 28, 49, 58 and 79.

[63] See 26 and 27. See also 11; a handwritten signature should be mandatory, but an endorsement could be also effected by a stamp or special seal.

[64] See 22.

[65] e.g., 10, 24, 27, 45, 48, 69, 73, 74 (implied), 75 and 85.

[66] e.g., 51, 79, 81 and 92.

[67] See 85; it results from the verbatim records of the Geneva Conference (discussions under No. 8 of article 1) that the term "signature" should be interpreted in the widest possible sense.

[68] See 73, 75, 79, 81 and 82.

(*a*) The possessor of a bill must be a "holder". A forged instrument prevents subsequent parties from becoming a "holder" (as against parties who signed the instrument before the forgery); therefore a person who acquired an instrument through a forged endorsement cannot be considered a holder in due course;

(*b*) The bill must the acquired for value (consideration). A person who receives an instrument by way of gift is therefore not a holder in due course;

(*c*) The holder must have received possession of the bill before it was overdue (sections 29 and 36 (2)).

48. Like the BEA, the UCC gives protection only to the "holder in due course", who is defined as a holder who takes the instrument for value, in good faith and without notice that it is overdue or has been dishonoured (section 3-302). The effect of a forged endorsement and of lack of value is generally like under the BEA. However, the UCC ressembles the ULB by providing that the mere fact that the instrument was taken when overdue does not prevent a person from being a holder in due course (knowledge that the instrument was overdue does prevent such protection).

49. From the foregoing analysis it will be seen that significant differences with respect to protection may arise under the legal systems when the instrument is acquired under the following circumstances:

(*a*) Through a forged endorsement;

(*b*) Without value (consideration);

(*c*) After maturity.

50. It may be added that according to the BEA, as interpretated by the courts, the payee of an instrument may never qualify as a holder in due course. This may have important consequences when a bill is endorsed by the payee to an endorsee for collection, since the endorsee for collection will not acquire independent protection as a holder in due course. According to the UCC, the payee may be a holder in due course (see section 3-302 (2)). No distinction between the payee and other holders is made under the ULB.

51. The ULB generally imposes liability on anyone who signed an instrument, notwithstanding any defence or claim of previous parties. The fact that the obligation was incurred by way of fraud or mistake, or that a previous party lost possession by illegal means is no defence against the *bona fide* possessor of the bill. The fact that, for some reason, a previous party is not liable upon the instrument (i.e., through incapacity) will not constitute a defence against the other parties to the instrument (articles 16 and 17).

52. Protection under the BEA is more restricted. While a holder in due course is protected against certain important defences (fraud, absence or failure of consideration, duress, breach of trust (section 29)), there are circumstances under which even a holder in due course has no rights. These include mistake as to the legal character of the instrument ("*non est factum*") or other "real defences" and payment after maturity by the drawee (section 59).

53. The UCC's position is in between the ULB and the BEA, although the basic premises are similar to those of the BEA. Like the BEA, the UCC provides that certain claims and defences are not available as against a holder in due course, i.e., the claim that the instrument was acquired by a previous party by some illegal means, the defence of fraud, breach of trust, conditional delivery, etc. (section 3-305). As under the BEA, there are circumstances in which even a holding in due course will be of no help, i.e., mistake as to the legal character of the instrument ("*non est factum*"), duress or illegality that renders the obligation of a party a nullity, etc. (section 3-307). Unlike the BEA, however, payment after maturity by the drawee is not a defence against a holder in due course (section 3-602).

54. From the foregoing analysis, it will be seen that significant differences exist between the legal systems in the following cases:

(*a*) Mistake, duress, or illegality of the transaction that renders the obligation of the party a nullity; and

(*b*) Payment after maturity by the drawee.

(b) *Analysis of replies*

55. The replies reveal that the question as to the circumstances under which a holder of an instrument may acquire it free from claims and defences was unclear to many of those questioned. [69] In addition, many respondents did not reply to this question.

56. The replies show a general adherence of respondents for rules based on their national law. Respondents whose law is based on the BEA indicate that the solutions embodied in that Act should be followed, [70] while those whose law is based on the Geneva uniform law indicate, directly or indirectly, that the rules obtaining under that law should be followed. [71]

57. One reply points out that the rules should specify as precisely as possible the operation and effect of the proposed instrument. [72] Other replies stress the importance of listing exhaustively the defences available to the defendent against the holder. [73]

58. A number of replies point out that the holder should acquire the instrument free from any defences available against prior parties, [74] with the exception of fraud [75] or lack of good faith. [76]

59. Several replies refer to some specific points that should be taken into account by the proposed uniform rules. Defences should not be excluded if the holder asserts a claim only for the account of the preceding party. [77] Another reply suggests that defences and claims should also be allowed against a holder who

[69] In some cases, this is stated expressly: e.g., 9 and 71. In other cases, this results from answers which do not relate to the question: e.g., 11, 12, 17, 34, 36, 37, 43, 44, 45, 50, 84 and 88.

[70] e.g., 2, 7, 8, 13, 33, 43, 44, 56, 57, 58, 59, 60 and 92.

[71] e.g., 1, 4, 6, 11, 16, 20, 24, 25, 27, 28, 29, 32, 39, 54, 61, 62, 66, 70, 79, 80, 82, 87, 91 and 93.

[72] See 72.

[73] e.g., 48 and 50.

[74] e.g., 14, 22, 24, 31, 38, 49 and 51.

[75] See 9, 22 and 24.

[76] e.g., 1, 3, 48 and 70.

[77] See 3.

takes the instrument "for collection only". [78] One reply suggests that the defences of fraudulent alteration and forged endorsement should be available against the holder. [79]

60. One reply attempts to bridge the Anglo-American law and the Geneva uniform law in the case of a forged endorsement. The suggestion is made that the proposed instrument be governed by a provision which allows for only one non-bank ("commercial") endorsement, and that all other endorsements should be by banks. It is emphasized that such a rule would not disturb commercial practice as, in fact, there is usually no more than the single endorsement. [80] The same reply suggests that it is possible to reconcile the concept of not "acting knowingly to the detriment of the debtor" with the concept of "holding in due course". It is asserted that both concepts rely on *dolus* and *bona fides* and that it is quite reasonable to distinguish between the case of a bill given for value and the case of a bill given by way of gift—a distinction recognized by the Anglo-American law, but also known to operate under the Geneva uniform law. Another reply points out that any solution to the "forged endorsement problem" should not impede the possibilities of the rediscounting of the bill by the Central Banks. [81]

61. As to the conditions which a holder must satisfy in order to overcome defences and claims of previous parties, respondents generally base their reply on their national law.

VII. *Types of endorsement*

Question B 2: "Should the rules specify permissible types of endorsement and, if so, what types?"

(a) *Basic rules*

62. The three legal systems do not differ substantially as regards the rules on endorsement. It is common to all that an endorsement must be in writing on the bill or on an *allonge* (BEA section 32; UCC section 3-202; ULB article 13). All three systems recognize the blank (or bearer) endorsement and the special (full) endorsement; an endorsement in blank specifies no endorses, and a bill so endorsed becomes payable to bearer (BEA section 34; UCC section 3-204; ULB article 12), while a special endorsement specifies to whom the bill is to be payable. The three legal systems provide that the endorsement must be of the entire bill. A partial endorsement has no effect as an endorsement (BEA section 32 (2); UCC section 3-202 (3); ULB article 12). All the systems allow the endorser to avoid liability upon the bill (BEA section 16; UCC section 3-302 (4); ULB article 15).

63. The three legal systems differ with respect to the effects of certain types of endorsements, namely, endorsements "for collection", endorsement to pay "payee only", and endorsement "in pledge". All those are known under the BEA and UCC as "restrictive endorsement".

64. The most common example of a "restrictive endorsement" is an endorsement "for collection". The three systems regard this kind of endorsement as creating an agency relation between the endorser and the endorsee for collection enabling the latter to sue on the bill and collect it on behalf of the endorser (BEA section 35; UCC section 3-206; ULB 18). According to BEA, the endorsee for collection has no better right than his endorser. He can never be a holder in due course in his own right. He may negotiate the bill further only if, on the face of the bill, he is expressely authorized to do so. According to the UCC, the endorsee for collection can be a holder in due course. Fruthermore, he may negotiate the bill (section 3-206). According to the ULB, the endorsee for collection may exercise all rights arising out of the bill, including the right to negotiate it, but in these cases he will endorse it in his capacity as an agent. The parties liable upon the bill can only set up against the holder defences which could be set up against the endorser (article 18).

65. Results also differ with respect to endorsements to pay "payee only". The BEA views it as a restrictive endorsement, and the rules mentioned above apply, namely, such endorsee has no better rights than his endorser, he cannot be a holder in due course, and he cannot transfer the bill (BEA section 35). According to the UCC such endorsement has no restrictive effect. The payee may be a holder in due course, and may negotiate the instrument (section 3-206). According to the ULB, such endorsement has a limited effect. It does not stop the negotiability of the bill, but the endorser gives no guarantee to the persons to whom the bill is subsequently endorsed (article 15).

66. The ULB (article 19) mentions a special kind of endorsement in "pledge" or in "security". Under such an endorsement the holder may exercise all the rights arising out of the bill, including further negotiation, but in this case the endorsement has the effects of an endorsement by an agent. The parties liable cannot set up against the holder defences founded on their personal relations with the endorser, unless the holder in receiving the bill, has knowingly acted to the detriment of the debtor. No such endorsement is mentioned specifically by the BEA or UCC, and it seems that the rules governing endorsement "for collection" will apply.

67. The three legal systems also differ slightly as far as a "conditional endorsement" (e.g., "pay on the arrival of ship *x* in port *y*") is concerned. According to the BEA, where a bill purports to be endorsed conditionally, the condition may be disregarded by the payer, and payment to the endorsee is valid whether the condition has been justified or not (section 33). According to the ULB, the endorsement must be unconditional and any condition to which it is made subject is without effect (article 12). The UCC contains no separate rule on conditional endorsements. Instead, such endorsements are treated as restrictive endorsements.

[78] See 26.
[79] See 67.
[80] See 85.
[81] See 75.

(b) *Analysis of replies*

68. The majority of respondents reply that the rules should specify permissible types of endorsement. Only two replies are negative; one without offering any reason [82] and the other on the basis that acceptable types of endorsement depends on the custom, usage and trade practices of each country. [83]

69. As to the types of endorsement, several respondents [84] refer to the relevant sections of their national law. However, most of the replies specify which types of endorsement should be permitted by the new rules.

70. Most replies consider it important to provide for the following types of endorsement:

(*a*) Full endorsement (also referred to as "special endorsement"); [85]

(*b*) Blank endorsement; [86]

Only one reply suggests that blank endorsement should not be allowed. [87]

(*c*) Endorsement for collection; [88]

(*d*) Endorsement in pledge; [89] one reply points out that there is no need for endorsement in pledge; [90]

(*e*) Power of attorney endorsement. [91]

Only two replies referred to the legal effects of this endorsement; all other replies omit any references on this score.

71. Most replies suggest that endorsements should be as simple as possible. [92] Some replies consider that the proposed uniform law should not permit the following types of endorsement:

1. Partial endorsement; [93]
2. Conditional endorsement. [94]

72. Some replies suggest that the new rules should permit the restricted endorsement; [95] others consider that restrictive endorsement should be severely limited, if at all permitted. [96]

73. A few replies favour the endorsement "without recourse". [97]

74. One reply observes that it should be considered whether an endorsement after maturity should be specified as a separate type of endorsement. [98]

75. The following additional observations are made by respondents:

(*a*) An endorsement should require a signature that is subject to the same conditions as to validity as the signature of the drawer; [99] endorsement must take the form of a signature written on the instrument or on an *allonge*; [100]

(*b*) The use of a signature produced by mechanical means (a non-autographic signature) should be allowed. [101]

VIII. *Partial acceptance*

Question B *3*: "Should the rules provide that the holder be obliged to accept partial acceptance?"

(a) *Basic rules*

76. The approach adopted on the issue by the BEA and the UCC differs sharply from that of the ULB. Under the BEA (section 44) and the UCC (section 3-412 (1)), the holder is given the option of taking or refusing the drawee's offer of partial acceptance. On the other hand, under the ULB (article 26), the holder of a bill is required to take a partial acceptance, at the drawee's option.

77. According to the BEA and the UCC, the holder may refuse partial acceptance; he may treat the bill dishonoured by non-acceptance and has immediate rights against the drawee and endorsers. On the other hand, he may decide to take partial acceptance; in this case, the BEA provides that the holder must give to the other parties to the bill due notice that he accepted partial acceptance (section 44 (2)). He may then exercise his rights immediately against the drawer and endorser as far as the amount not accepted is concerned. According to the UCC, if the holder decides to take partial acceptance, each drawer or endorser who does not affirmatively assent is discharged (section 3-412 (1)).

78. According to the ULB, as mentioned above, the holder is obliged to accept partial acceptance at the drawee's option (article 20). In such a case, he may either wait until maturity and then exercise his rights of recourse against the endorser, drawer and other parties for the part of the bill on which payment was not made, or he may exercise those rights immediately even before maturity (article 43).

(b) *Analysis of replies*

79. Nearly half the replies would favour a rule imposing on the holder the duty to accept partial acceptance [102] while the other half would oppose such a rule. [103] The balance is slightly in favour of dispensing with that duty.

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82 See 3.

83 See 25.

84 e.g., 2, 8, 28, 42 and 56.

85 e.g., 1, 5, 6, 12, 14, 15, 17, 20, 22, 24, 31, 32, 39, 41, 48, 49, 54, 57, 58, 60, 67, 70, 76, 82, 89 and 90.

86 e.g., 1, 5, 7, 10, 11, 12, 13, 14, 15, 17, 20, 22, 31, 32, 40, 43, 44, 54, 57, 58, 60, 67, 70, 76, 89 and 90.

87 See 88.

88 e.g., 5, 14, 15, 20, 24, 25, 31, 48, 54, 62, 71, 82 and 85.

89 e.g., 1, 20, 39, 48, 49, 54, 74, 85, 89 and 90.

90 See 24.

91 See 22.

92 e.g., 69 and 70.

93 e.g., 13, 54 and 71.

94 e.g., 11, 13, 69, 70, 74, 71 and 90.

95 e.g., 7, 12, 20, 43, 44, 58, 60 and 67.

96 e.g., 69 and 70.

97 e.g., 25, 43, 44, 62, 71 and 82.

98 See 31.

99 See 9.

100 e.g., 13 and 66.

101 See 36.

102 e.g., 1, 7, 9, 10, 17, 20, 27, 32, 39, 42, 48, 49, 50, 54, 61, 62, 64, 76, 80, 82, 85 and 87.

103 e.g., 2, 5, 8, 12, 13, 16, 22, 24, 26, 33, 36, 37, 40, 41, 43, 45, 51, 56, 57, 58, 60, 66, 67, 69, 70, 74, 71, 73, 81, 88, 89, 90, 92 and 93.

80. One reply [104] points out that the need for partial acceptance is not very great. Another reply suggests that the question should be left to the initiative of the parties, and that no obligation to accept partial acceptance should be imposed.

81. Two replies suggest that the rules should provide that the holder is obliged to take partial acceptance (but on the condition that the acceptor is liable under the bill up to the amount of acceptance. Where acceptance is refused, the holder should have the right to exercise recourse prior to maturity of the bill). [105]

82. Another reply [106] points out that the rule should specify compulsory acceptance by the holder of partial acceptance, but the acceptor should not be permitted to stipulate any other condition for acceptance. One reply [107] suggests that no partial acceptance should be allowed when there are endorsers. If no endorsers exist, then partial acceptance could be made.

IX. *Partial payment*

***Question B 4*: "Should the rules provide that the holder be obliged to accept partial payment?"**

(a) *Basic rules*

83. According to the BEA (section 47) and the UCC (cf. 3-603), the holder is not obliged to accept partial payment. He has an option: he may accept partial payment, in which case the bill will be discharged *pro tanto;* or he may refuse partial payment, in which case the bill is considered dishonoured by non-payment. According to the ULB, the holder may not refuse partial payment (article 39). This, of course, does not discharge his rights upon the bill for the part unpaid.

(b) *Analysis of replies*

84. A significant number of respondents would favour a rule imposing on the holder the duty to accept partial payment, [108] but an almost equal number oppose such a rule. [109]

85. One reply [110] suggests that the question should be left to the initiative of the parties. Another reply [111] points out that, according to its national law, acceptance of partial payment can only take place with the authorization of a judge. Two replies, [112] which answered the question affirmatively, add that the holder should not forego the right to exercise his rights under the bill up to the amount of the part outstanding.

86. One reply [113] points out the relation between partial payment and partial acceptance. The holder should be obliged to accept partial payment only if the bill specifically permits partial acceptance, and such partial acceptance does not make the partial payment a full discharge. Another reply [114] suggests that no partial payment should be allowed when there are endorsers. If no endorsers exist then partial payment could be made permissible.

X. *Stipulation by drawer restricting liability*

***Question B 5*: "Should the rules provide that the drawer shall have a right to restrict his liability to the holder?"**

(a) *Basic rules*

87. There is a sharp difference between the BEA and the UCC, on the one hand, and the ULB, on the other concerning this question. According to the BEA (section 16) and the UCC (section 3-413 (2)), the drawer may negative or limit his liability to the holder. The ULB on the other hand makes a distinction between the drawer's release from his guarantee of acceptance and his release from his guarantee of payment. It is provided that the drawer may release himself from guaranteeing acceptance, but he is not allowed to release himself from guaranteeing payment: every stipulation by which the drawer releases himself from the guarantee of payment is "deemed not to be written" (article 9).

(b) *Analysis of replies*

88. The greater part of the replies would oppose a rule to that effect. [115] The remainder of the replies would have no objection. [116]

89. One reply [117] suggests that it should be left to the will of the parties to the contract whether or not the drawer could restrict his liability.

90. One reply [118] suggests that, in principle, the drawer cannot restrict his liability, and that the final solution would depend upon his place in the legal relationship involved in the instrument.

C. Presentment and dishonour

XI. *Place of presentment*

***Question C 1*: "Should the rules permit alternatives as to the place of presentment?"**

(a) *Basic rules*

91. The Geneva uniform law (ULB) requires that the place of payment be mentioned in a bill of exchange;

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104 See 25.

105 e.g., 14 and 15.

106 See 31.

107 See 34.

108 e.g., 1, 3, 4, 9, 10, 12, 14, 20, 22, 24, 25, 31, 32, 39, 42, 43, 44, 48, 49, 50, 51, 54, 61, 62, 64, 70, 79, 80, 81, 82, 85 and 90.

109 e.g., 2, 5, 7, 8, 13, 16, 26, 33, 36, 37, 40, 41, 45, 56, 57, 58, 60, 66, 67, 69, 73, 74, 88, 89, 92 and 93.

110 See 1.

111 See 17.

112 e.g., 14 and 15.

113 See 71.

114 See 34.

115 e.g., 4, 8, 12, 14, 15, 16, 17, 20, 22, 24, 25, 26, 27, 28, 32, 34, 36, 37, 38, 42, 43, 44, 48, 56, 57, 58, 60, 67, 74, 71, 76, 79, 80, 81, 82, 85, 89, 90, 92 and 97.

116 e.g. 1, 2, 5, 7, 13, 31, 40, 41, 50, 51, 54, 61, 62, 66, 69, 70, 73, 83 and 87.

117 See 11.

118 See 49.

the place of payment is the place expressly so indicated (ULB, article 1 (5)), or in default thereof, the place specified beside the name of the drawee, i.e., his place of domicile (ULB, article 2, (3)). Failure to indicate the place of payment in this manner makes the instrument invalid as a bill of exchange. The drawer may indicate as the place of payment the domicile of a third party (ULB, article 4).

92. Under the BEA and the UCC, failure to specify the place of payment does not affect the validity or negotiability of a bill. If the place of payment is indicated, the bill must be presented at that place (BEA, section 45 (4)); UCC section 3-504 (2) (*c*)). When no place of payment is specified, these laws provide rules for the proper place of presentement. [119]

(b) *Analysis of replies*

93. Many respondents appear to have interpreted this question to mean: should the rules permit the instrument to indicate alternative places of presentment? Other respondents have understood the question to mean: should the rules specify the proper place of presentment where no place of payment is indicated in the instrument? Consequently, the replies stating a mere "yes" or "no" cannot be interpreted with any certainty and are therefore not included in the analysis. The replies to the two questions as formulated above are analysed separately in the following paragraphs.

(i) *Should the rules permit the drawer to indicate in the instrument alternative places of presentment?*

94. Most respondents oppose a rule to that effect. [120] The reasons given are that alternatives as to the place of presentment would give rise to uncertainties [121] would complicate the rules in respect of dishonour, [122] might oblige the drawee to have funds available at two or more places at a time [123] or might result in the payment being misdirected and thus increase the danger of the instrument remaining unpaid. [124]

95. One reply notes that the problem of an instrument in which more than one place of payment is indicated has not been solved explicity by the ULB. [125]

96. Several respondents indicate that they have no objection to a rule permitting the drawer to specify alternative places of presentment. [126] It is noted, in this respect, that the adoption of such a rule would require an extension of the time-limits for notice of dishonour and protests. [127]

(ii) *Should the rules specify the proper place of presentment where no place of payment is indicated in the instrument?*

97. Most of the replies to this question are affirmative. [128] Some replies express preference for a rule that would make the domiciliation at a bank obligatory. [129]

XII. *Domiciliation of the instrument at a bank*

***Question 2*: "Should the rules permit that the instrument be payable only by, at, or through a bank?"**

(a) *Basic rules*

98. The replies suggest that this question may have been ambiguous. Some respondents appear to have understood the question to mean: may the drawer effectively stipulate that the instrument may only be paid by, at, or through a bank? Others have interpreted the question to mean: should the rules specify that the rules be applicable only to instruments payable by, at or through a bank?

99. The existing rules give effect to the drawer's stipulation as to the place for presentment (ULB, articles 4 and 27; BEA, section 45 (4) (*a*); UCC, section 3-120).

100. The second interpretation of this question would appear to raise an issue of policy and does not, therefore, involve the comparison of the two systems.

101. The replies will be analysed under each interpretation separately.

(b) *Analysis of replies*

(i) *May the drawer effectively stipulate that the instrument may only be paid by, at, or through a bank?*

102. Respondents are, with few exceptions, [130] in favour of a rule to that effect. [131] One respondent notes that such a rule should be complemented by a provision determining what the liability of the paying bank would be in such circumstances. Other respondents note that it would be necessary to define what is meant by "bank". [132]

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[119] Section 45 (4) BEA provides that a bill is presented at the proper place: (*a*) at the address of the drawee or acceptor if the address is given in the bill; (*b*) if no address is given, at the drawee's or acceptor's place of business if known, if not, at his ordinary residence if known; (*c*) in any other case if presented at his last known place of business or residence. The UCC sets forth rules that are basically similar to those of the BEA. Presentment may be made at the place of payment specified in the bill, or, if no place of payment is specified, at the place of business or residence of the party to pay (UCC, section 3-504 (2)). Further rules in the UCC on presentment may be found in section 3-504 (4) (a draft made payable at a bank in the United States must be presented at such bank) and section 4-204 (3) (presentment may be made by a presenting bank at a place where the payor bank has requested that presentment be made).

[120] e.g., 2, 6, 14, 15, 22, 24, 29, 33, 42, 60, 79, 81 and 85.

[121] e.g., 24, 29, 33 and 81.

[122] e.g., 24.

[123] e.g., 6, 24 and 79.

[124] See 22.

[125] See 85, which refers in this respect to article 2 of the Italian law on negotiable instruments (*Regio Decreto 14 dicembre 1933*, n. 1669) according to which the holder of a bill of exchange in which several places of payment are indicated may present the bill in any of those places for acceptance and payment.

[126] e.g., 9, 10, 11, 12, 25 (?), 27 and 74.

[127] See 12 and 27.

[128] e.g., 2, 7, 8, 21, 43, 44, 46, 48, 49, 60, 69 and 79.

[129] See 26 and 37.

[130] e.g., 39, 43, 44 and 56.

[131] e.g., 1, 6, 8, 10, 15, 16, 17, 20, 21, 30, 32, 36, 42, 45, 48, 50, 51, 54, 58, 60, 62, 64, 66, 70, 73, 75, 79, 80, 82, 87, 88 and 89.

[132] e.g., 10 and 75.

103. One respondent, opposing such a rule, states that the law of his country does not so permit. [133]

(ii) *Should the rules specify that the proposed rules would be applicable only to instruments payable by, at, or through a bank?*

104. A number of replies advocate the adoption of a rule to that effect. [134] Some respondents note that, under current practice, bills are usually domiciled with a bank [135] and that such a rule would facilitate collection and simplify the formalities of protest. [136]

105. Other respondents point out that such a rule, while having its advantages, would give rise to difficulties [137] or is "questionable". [138] Two respondents state that it is desirable that the proposed instrument be made payable only at a bank, but would not consider this a condition of its validity. [139]

106. It is relevant to note that an analysis of question 5 of the questionnaire on negotiable instruments addressed to governments and banking and trade institutes (to what extent are negotiable instruments drawn on a bank or a non-bank drawee?) shows that:

(*a*) Large numbers of bills of exchange are drawn on non-banks such as the buyers of goods;

(*b*) In most cases, if not regularly, bills of exchange are drawn on a bank when issued under a documentary credit, or when a bank intervenes directly in the financing of a transaction;

(*c*) The prevailing practice appears to be that bills of exchange are usually made payable ("domiciled") at a bank. [140]

XIII. *Protest on dishonour*

***Questions C 3 and C 4*: "Should the rules provide that protest on dishonour be essential, or that a less formal kind of evidence is sufficient?**

If protest is considered essential:

(*a*) For what reason is it considered essential?

(*b*) Could present practice be simplified?"

(a) *Basic rules*

107. Under articles 44 and 46 ULB regarding default of acceptance or of payment, rights of recourse must be evidenced by an authenticating act (protest for non-acceptance or non-payment). However, the stipulation "*retour sans frais*", "*sans protêt*", or any other equivalent expression written on the instrument and signed, may release the holder from having a protest drawn up in order to exercise his right of recourse (ULB, article 46). Such a waiver, if written by the drawer, is operative in respect of all persons who sign the bill; if written by an endorser or an avaliseur, it operates only in respect of such endorser or avaliseur (*ibid.*).

108. The BEA (section 51 (1) (2)) and the UCC (section 3-501 (3)) require protest only in the case of foreign bills. [141] It is relevant to note that "it is for the sake of uniformity in international transactions that by English law as in that of the United States only foreign bills must be protested". [142] Failure to protest will discharge the drawer and endorsers (BEA, section 51 (2); UCC, section 3-501 (3)). Like the ULB, the BEA and the UCC permit protest to be waived by the drawer or any endorser (BEA, section 51 (9) in conjunction with section 50 (2); UCC, section 3-511 (2) (*a*)). Unlike the ULB, which requires that the waiver be written and signed by the party to be charged, the BEA and the UCC allow the waiver to be implied or oral. It seems, however, that, under standard commercial usage, protest is usually waived by writing the words "protest waived" or "waiving protest" or some similar phrase on the instrument. [143]

109. Formalities of protest are treated in the Geneva Convention for the Settlement of Certain Conflicts of Law in connexion with Bills of Exchange and Promissory Notes, article 8 of which provides:

> "The form of and the limits of time for protest, as well as the form of the other measures necessary for the exercise or preservation of rights concerning bills of exchange or promissory notes, are regulated by the laws of the country in which the protest must be drawn up or the measures in question taken."

110. Under section 51 (7) BEA, a protest must contain a copy of the bill, and must be signed by the notary making it; it must also specify the person at whose request the bill is protested, and the place and date of protest, the cause or reason for protesting the bill, the demand made and the answer given, if any, or the fact that the drawer or acceptor could not be found (see also section 94 BEA: "householder's protest"). By section 3-509 UCC; "A protest is a certificate of dishonor made under the hand and seal of a United States consul or vice-consul or a notary public or other person authorized to certify dishonor by the law of the place where dishonor occurs". The protest must identify

133 See 39.

134 e.g., 11, 26, 27, 31, 37, 74, 81 and 85.

135 e.g., 27 and 85.

136 See 81.

137 See 71.

138 See 75.

139 See 22 and 24. It might be noted that if the new rules should exclude instruments not made payable by, at, or through a bank, troublesome questions might arise as to the impact of the uniform rules on international negotiable instruments that in error use the identifying label invoking the rules.

140 See A/CN.9/38, paras. 32-34.

141 It follows from section 4 BEA that a foreign bill is a bill which is not (*a*) both drawn and payable within the British Islands, or (*b*) drawn within the British Islands upon some person resident therein. Under section 3-501 (3) UCC, protest of dishonour is necessary to charge the drawer or endorsers of any draft which on its face appears to be drawn or payable outside of an area embracing the Unites States and related territories, dependencies and possessions. (The precise definition is subject to a current recommendation for amendment.)

142 Cf. *Byles on Bills of Exchange*, 22nd ed., 1965, p. 170. See also *Uniform Commercial Code, 1962 Official Text*, Comment on section 3-501: "The requirement (of protest) is left as to such international drafts because it is generally required by foreign law, which this Article cannot affect".

143 Cf. Byles, op. cit., p. 175; *UCC, 1962 Official Text*, Comment on section 3-511, *sub.* 3.

the instrument and certify either that due presentment has been made or the reason why it is excused and that the instrument has been dishonoured by non-acceptance or non-payment.

111. Under the Anglo-American law, the dishonour of an inland bill may be evidenced by noting, i.e., the marking of the bill as noted for protest by a notary or other person authorized to certify dishonour by the law (BEA, section 51 (1) UCC, section 3-509 (5)). Under section 3-510 (*b*) UCC, "the purported stamp or writing of the drawee, payor bank or presenting bank on the instrument or accompanying it stating that acceptance or payment has been refused for reasons consistent with dishonor" is admissible as evidence of dishonour and of notice of dishonour.

(b) *Analysis of replies*

112. Most respondents consider it essential that the fact of the dishonour of the proposed instrument be evidenced in a manner to be specified by the rules, but are virtually unanimous in considering that the present rules on protest should be simplified.

113. The majority view is that it should be possible to evidence dishonour by a certificate or attestation of non-acceptance or non-payment drawn up by a bank or clearing-house. [144] Some respondents link this suggestion with the suggestion that the proposed instrument should be payable only at or through a bank. [145] Some replies specify that a rule prescribing an attestation of non-payment by a bank in lieu of protest should be accompanied by the proviso that a more formal protest can be made later to have effect as of the date of the attestation. [146] One respondent states that it is questionable whether the bank entrusted with the collection of the instrument would be willing to issue an attestation having the effect of protest since this could be regarded as an action directed against its own client. [147]

114. The replies contain various suggestions as to procedures that could conveniently be substituted for the present practice of protest:

(*a*) The procedure provided for by article 46 ULB [148] should be reversed; i.e., protest should not be required unless there were an express stipulation to that effect, such as "with protest", "*avec frais*", etc. [149] It is noted that protest is frequently waived in commercial practice. [150]

(*b*) The practice of "noting" for protest, as known under Anglo-American law, should be adopted. [151] Some of these replies consider that the attestation by a bank, referred to in paragraph 113 above, if written on the instrument, should be adequate.

(*c*) If the rules must contain provisions on protest, they should be as per article 40 of the Geneva Uniform Law on Cheques which authorizes alternatives similar to the "noting" procedure. [152]

115. A few replies express the opinion that the present formalities of protest should not, or cannot, be simplified. [153]

XIV. *Notice of dishonour*

***Question C 5*: "In respect of notice of dishonour, what should the rules provide with reference to:**

(i) Its form?

(ii) The persons by and to whom it should be given?

(iii) The effects of failure to give notice within a specified time-limit?"

(a) *Basic rules*

(i) *The form of notice of dishonour*

116. The ULB, BEA, and UCC all permit great flexibility as to the form of notice of dishonour: "in any form whatever" (ULB, article 45), or "in any reasonable manner" (UCC, section 508 (3)). Both the BEA and the UCC specify that the notice may be oral or written, and be given in any terms which sufficiently identify the bill (BEA, section 49 (5); UCC, section 3-508 (3)). All three systems provide that the return of a dishonoured bill is deemed a sufficient notice of dishonour (ULB, article 45; BEA, section 49 (6); UCC, section 3-508 (3): sending an instrument bearing "a stamp, ticket, or writing stating that acceptance or payment has been refused", is one sufficient form of notice). The BEA and the UCC set forth certain additional provisions that are not found in the ULB (BEA, section 49 (7); UCC section 3-508 (3)).

(b) *Analysis of replies*

117. A significant number of respondents favour a rule that would conform to the rules obtaining under the Geneva system and the Anglo-American law, i.e., no particular form of notice should be required.

118. Some respondents, however, express preference for a standardized form of notice, [154] or advocate that notice should be given in writing [155] or be authenticated. [156]

119. Three replies set forth the view that notice of dishonour could be dispensed with: one reply would

144 e.g., 3, 5, 6, 10, 13, 14, 16, 21, 22, 24, 26, 27, 32, 33, 37, 40, 41, 49, 62, 70, 75, 81 and 85.

145 e.g., 3, 22 and 75.

146 e.g., 70 and 85.

147 See 15.

148 See paragraph 107 above (the holder is released from having a protest drawn up when the stipulation "without protest", etc. is written on the instrument).

149 See 22, 27 and 75.

150 See 75 and 85.

151 e.g., 6, 8, 20, 31 (implied), 43, 49 and 54.

152 See 27 and 69. Article 40 ULC provided that the holder may exercise his right of recourse if the non-payment is evidenced by protest, or a declaration dated and written by the drawee on the cheque and specifying the date of presentment, or a dated declaration by a clearing-house stating that the cheque has been delivered in due time and has not been paid.

153 See 28, 39, 43, 58, 60 and 82.

154 See 27, 45, 66 and 71. See also 32: "... a specific term of notice should be required", and 49: "... the form of notice should be established by law".

155 e.g., 8, 11 (registered letter), 12 *(idem)*, 16, 33, 36, 40 (and return of the bill) 70, 73 (or telex message), 79, 81 and 88.

156 See 1, 48 and 87.

replace notice of dishonour by a formal protest; [157] two other replies state that the new rules should provide that notice of dishonour would only have to be given if a stipulation to that effect was written on the instrument. [158]

(a) *Basic rules*

(ii) *The persons by and to whom notice should be given*

120. Under the ULB (article 45), the holder need give notice only to his immediate endorser and each endorser to his immediate endorser, until ultimately the drawer is notified by the first endorsee. On the other hand, the BEA and UCC require the holder or an endorser liable on the bill to notify any other party in the chain (or all parties) against whom he may wish to proceed.

121. Under the BEA, notice must be given by the holder, or by an endorser who, at the time of giving it, is himself liable on the bill (section 49 (1)) to the drawer and each endorser, and any drawer or endorser to whom notice is not given is discharged (section 48). Notice given by the holder operates "for the benefit of all subsequent holders and all prior endorsers who have a right of recourse against the party to whom it is given" (section 49 (3)). Similarly, notice given by the endorser who, at the time of giving it, is himself liable on the bill operates "for the benefit of the holder and all endorsers subsequent to the party to whom notice is given" (section 49 (4)).

122. The relevant provisions of the UCC are substantially similar to those of the BEA. Under section 3-508 (1), notice of dishonour may be given to any person who may be liable on the instrument by the holder or any party who has himself received notice, or any other party who can be compelled to pay the instrument. Notice operates for the benefit of all parties who have rights on the instrument against the party notified (section 3-508 (8)).

123. The BEA and the UCC set forth other provisions concerning notice that are not found in the ULB, e.g., notice given by an agent, bankruptcy or insolvency of a party, death of a party.

(b) *Analysis of replies*

124. Respondents support, by and large, the rules obtaining under their country's system.

125. A few respondents note that, apart from the holder, the new rules should provide for notice of dishonour where the instrument is collected through banks; in such cases, notice of dishonour should be given by the last collecting bank, even if this were also the bank at which the instrument was made payable. [159]

(a) *Basic rules*

(iii) *The effects of failure to give notice within a specified time-limit*

126. There is a considerable difference in this respect between the Geneva uniform law and the Anglo-American law. Under the BEA and the UCC, the giving of notice of dishonour within a specified time-limit is necessary to charge secondary parties to an instrument. Under the ULB, however, a party who fails to give notice within the specified time-limit does not discharge the prior endorsers' or drawer's undertaking with respect to the instrument but merely makes that party responsible for the damages resulting from such failure.

127. Article 45 ULB provides that a person who does not give notice within the specified time-limit does not forfeit his rights, but is "responsible for the injury, if any, caused by his negligence". However, the damages to be paid by such a person may not exceed the amount of the bill.

128. Section 48 BEA provides that any drawer or endorser to whom the required notice of dishonour is not given is discharged. However, where a bill is dishonoured by non-acceptance, the rights of a holder in due course subsequent to the omission are not prejudiced by the omission (section 48 (1)).

129. Section 3-502 (1) (*a*) UCC provides that any endorser is discharged where without excuse notice of dishonour is delayed beyond the time when it is due. The liability of a drawer or acceptor of a draft drawn on a bank is discharged only under certain narrow conditions (cf. section 3-502 (1) (*b*)).

(b) *Analysis of replies*

130. It will be recalled that some respondents in their reply to question C 5 (*b*) indicated their preference for a rule patterned on the rules obtaining under their national law. These respondents express the same preference in their replies to the present question.

131. One respondent, from a common law country, advocates a rule under which all parties who have not received notice within the specified time-limit are discharged, with the exception however of "the debtor". [160] On the other hand, one respondent from a country operating under the Geneva system, expressed preference for a rule whereby the party who fails to give due notice forfeits his right of recourse. [161]

132. Another respondent suggests that damages to be paid by a party who fails to give notice should be determined by the bank through which the instrument was made payable. [162]

XV. *Delay in presentment, protest, or giving notice of dishonour*

***Question C 6*: "In what circumstances should delay in presentment, protest, or giving notice of dishonour be:**

(i) Excused by the rules?

(ii) Dispensed with altogether by the rules?"

(a) *Basic rules*

(i) *Excused*

133. The ULB, the BEA and the UCC provide for detailed rules concerning the circumstances in which

157 See 51.

158 See 9 and 10.

159 See 22 and 26.

160 See 73.

161 See 80.

162 See 74.

presentment or protest, or giving notice of dishonour are excused or dispensed with. The principal difference between the Geneva system and the Anglo-American system can be described as follows: Under the Geneva uniform law (ULB, article 54), delay in presentment or protest is excused when the delay is caused by an "insurmountable obstacle", i.e., *vis major* (ULB, article 54); under the Anglo-American law, when caused by circumstances beyond the control of the party concerned (BEA, section 46 (1); UCC, 3-511 (1)). However, under the Geneva law, facts which are "purely personal" to the holder (i.e., his death or illness) do not excuse delay, whereas under the Anglo-American rule such facts may constitute an excuse.

134. The ULB, BEA and UCC unite in requiring that, when the cause of delay ceases to operate, the presentment or protest must be made or the notice be given "without delay" (ULB, article 54: presentment and protest) or "with reasonable diligence" (BEA, section 46 (1): presentment; section 50 (1): notice of dishonour; section 51 (9): protest; UCC, section 3-511 (1): presentment, protest or notice of dishonour).

(ii) *Dispensed with*

135. Presentment, protest, or giving notice of dishonour may be waived by the party to be charged. The rules are, however, not identical under the three systems. Under article 46 ULB, protest by the holder is not required where the drawer, endorser or *avaliseur* wrote "*retour sans frais*", "*sans protêt*", or any other equivalent expression on the bill. Under the BEA, presentment for payment (section 46 (2) (*e*)), notice of dishonour (section 50 (2) (*b*)) and protest (section 51 (9) and section 16) are dispensed with by waiver which may be express or implied. A similar rule is found in section 3-511 (2) (*a*) of the UCC ("expressly or by implication"). [163]

(b) *Analysis of replies*

136. The replies indicate the preference of respondents for rules similar to those obtaining under their own system. Indeed, several replies merely cite the relevant provisions of either the Geneva uniform law or the Anglo-American statutes. [164]

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[163] The ULB, BEA and UCC contain further provisions dispensing with the requirements concerning presentment, protest or notice of dishonour (UCC, articles 44 and 45; BEA, sections 46, 50, 87, 93 and 94; UCC, sections 3-511, 3-416 and 3-501).

[164] Under the translation of the question into French, several respondents replied to the following question:

"In what cases should the time-limits laid down for presentment, protest or notice of dishonour be:

(*a*) Made less stringent by the rules?

(*b*) Purely and simply be abolished by the rules?"

The replies to that question show that several respondents deem it desirable that the new rules take account of the fact that they are applicable to an instrument used in international transactions. Hence, these respondents favour time-limits that are more flexible than those presented by the existing rules (e.g., 9, 10, 11, 26, 27 and 50). It is noted that in some countries a bill may only be presented for payment on the date of maturity (see 27). This requirement is considered impracticable, and it is suggested that a uniform time-limit of, for instance, ten or fifteen days should be laid down. A similar time-limit is suggested for protest.

3. *List of relevant documents not reproduced in the present volume*

Title or description	*Document reference*
Suggestions as to future work on negotiable instruments: report of the Secretary-General	A/CN.9/53
Security interests in goods; work in progress: note by the Secretary-General	A/CN.9/R.7