

**Federal Law No. (18) of 1993 Concerning
The Commercial Transaction Law**

THE UAE CODE OF COMMERCIAL PRACTICE

We, Zayed Bin Sultan Al Nahyan, President of the United Arab Emirates:

Having examined the Provisional Constitution

Federal Law No: 1/1972 concerning the spheres of competence of the Ministries and the powers of the Ministries and Laws in amendment thereof:

Federal Law No. 5/ 1975 concerning the Commercial Register,

Federal Law No.8/1980 concerning the regulation of labour relations, and laws in amendment thereof,

Federal Law No. 10/1980 concerning the Central Bank, the monetary system and the regulations of the banking profession, and laws in amendment thereof,

Federal Law No. 18/1984 concerning the regulation of commercial agencies, and laws in amendment thereof,

Federal Law No. 26/1981 concerning the Maritime Code, and laws in amendment thereof,

Federal Law No. 8/1984 concerning commercial companies, and laws in amendment thereof:

Federal Law No. 9/1984 concerning insurance companies, and agents, and laws in amendment thereof and

Federal Law No. 5/1985 concerning insurance companies, and agents, and laws in amendment thereof and

Federal Law No. 22/1991 concerning notaries,

Federal Law No. 10/1992 promulgating the Law of Evidence in Civil and Commercial Transactions,

Federal Law No. 11/1992 promulgating the code of Civil Procedure,

Federal Law No. 37/1992 concerning trademarks,

Federal Law No. 44/1992 concerning the regulation and protection of industrial ownership of patents, illustrations and industrial models, and

In accordance with the proposals of the Minister of Economy and Commerce, approved by the Council of Ministers and sanctioned by the Supreme Federal Council.

Promulgate the following Law:

Article 1

The appended Code of Commercial Practice shall enter into force.

Article 2

Anything that conflicts with the provisions of this Code is annulled.

Article 3

Ministers and relevant authorities in the State, each within his area of responsibility, shall implement the provisions of this Code. Having taken the opinion of those authorities, the Minister of Economy and Commerce shall promulgate the regulations required for its implementation.

Article 4

This code shall be published in the Official Gazette and shall enter into force three months after its date of publication.

Zayed bin Sultan Al
Nahyan
President of the United Arab Emirates

Given at the Presidency in Abu Dhabi on

21 Rabia 11414 AH
7 September 1993 AD

THE UAE CODE OF COMMERCIAL PRACTICE

Preliminary Chapter

Article 1

The provisions of this code shall apply to traders and to all commercial business undertaken by any person, whether or not a trader.

Article 2

1. Whatever is agreed between the two contracting parties shall apply to traders and commercial business unless such agreement conflicts with some mandatory commercial provision.
2. If there is no specific private agreement, the rules of commercial custom shall apply in any matter not covered by a provision in this Code or in other laws relating to commercial matters, and particular or local custom shall take precedence over general custom. If there is no relevant commercial custom, such provisions pertaining to civil matters as are not in conflict with the general principles of commercial activity are to be applied.
3. Private agreements or the rules of commercial custom shall not apply if they conflict with public order or morals.

Article 3

Commercial matters governed by particular Federal laws shall be subject to the provisions of those laws and such provisions of this Code as are not in conflict with the same.

VOLUME 1

COMMERCE IN GENERAL

Chapter 1

Section 1

Commercial Business

Article 4

The following are commercial business: -

- 1 Business conducted by a trader in matters relating to his trade. Every act performed by a trader shall be deemed to relate to his trade unless proved otherwise.
- 2 Speculative business conducted by any person, even if not a trader, with the intention of releasing a profit.
- 3 Business which the law deems to be commercial business
- 4 Business associated with or facilitating commercial business

Article 5

The following business shall be deemed commercial business by definition: -

- 1 The purchase of commodities and other tangible and intangible chattels for the purpose of sale at a profit, whether sold in their original condition or after processing or manufacture.
- 2 The purchase of hire of commodities and other tangible and intangible chattels for the purpose of lease.
- 3 The sale or lease of commodities and chattels purchased or hired as aforesaid
- 4 Banking, money changing and stock exchange transactions, and all other intermediary transactions of financial intermediaries.
- 5) All transactions relating to commercial paper whatever the capacities of the persons involved and whatever the nature of the transactions for which established.
- 6) All business relating to marine and air navigation, including:
 - a. The building, sale purchase, leasing, chartering, repair or maintenance of ships and aircraft, and sea and air consignments, including sea and air transport.
 - b. The sale or purchase of ship or aircraft stores, equipment or materials or their provisioning
 - c. Forwarding and discharging business
 - d. Maritime and aviation loans
 - e. Employment contracts for captains and navigators of commercial ships and aircraft.
- 7) The incorporation of companies
- 8) Current account.
- 9) Insurance in its various forms, other than co-operative insurance.
- 10) Public Auction premises
- 11) The business of hotels, restaurants, cinemas, theatres, sports arenas and places of entertainment.
- 12) Water, electricity and gas distribution premises.
- 13) The issue of newspapers and magazines when the purpose of such issue is the realization of profit through the publication of advertisements, news and articles.
- 14) Post, telegraph and telephone business.
- 15) The business of radio and television broadcasting, and recording and photographic studios.
- 16) General stores business, and pledges on property deposited therein.

Article 6

The following business shall be deemed commercial business if practiced as a profession: -

- 1) Brokerage
- 2) Commercial agency
- 3) Commission agency
- 4) Commercial representation
- 5) Supply contracts
- 6) Purchase or sale of land or real estate in order to realise a profit on sale, whether in its original state or after conversion or division.
- 7) Land transport
- 8) Real estate construction contracts, when the contractor undertakes to provide the materials and labour.
- 9) Industries for the extraction of material resources.
- 10) Tourism and travel bureau business, import, export and customs clearance and services and employment bureau.
- 11) The business of printing, publishing, photography, recording and advertising.
- 12) Manufacturing
- 13) Animal and fish resources
- 14) The lease and hire of other people's labour for the purpose of hire
- 15) The lease and rental furnished or unfurnished houses, flats and rooms for the purpose of sub-letting.

Article 7

Business which can be considered as akin to the business stated in the two preceding Articles for reason of similarity of characteristics and objectives are deemed commercial business.

Article 8

The Production by an artist of an artistic work, whether by his own hand or by employing others, and the sale thereof, and the printing and sale of his work by an author, are not deemed commercial business.

Article 9

- 1) The sale by a farmer of the produce and land owned or cultivated by him shall not be deemed commercial business, even after processing by the means which he normally employs.
- 2) If a farmer establishes a retail outlet or workplace of a permanent nature for the sale of his produce, either as it is or after processing, such sale shall be deemed commercial business.

Article 10

If a business is commercial with respect to one contracting party and civil with respect to another, the provisions of this Code shall apply to the obligations of both parties unless the law provides or the parties otherwise agree.

Section 2

The Trader

Article 11

The following are deemed to be traders: -

Any person who engages in commercial business in his own name and on his own account while possessing the necessary capacity having adopted such business as his occupation.

b. Any commercial company and any company adopting one of the forms provided in the commercial Law, even if the business it pursues is civil.

Article 12

Any person who holds himself out to the public in any way concerning a business established by him for trade shall be deemed a trader even if he does not adopt trade as has his customary occupation.

Article 13

The capacity of trader shall apply to any person carrying on business under an assumed name or in the name of some other person as well as to the ostensible person.

Article 14

If a person prohibited from trading under particular laws and regulations engages in trade, he shall be deemed a trader and shall be subject to the provisions of this Code.

Article 15

The capacity of trader shall not apply to ministries and departments of State, State agencies and public institutions, bodies and establishments for common weal, societies and clubs, nor to members of the liberal professions who are not practicing commercial business, but commercial business performed by such parties shall be subject to this Code other than as expected by specific provision.

Article 16

The capacity of trader shall apply to commercial companies established, acquired or participated in by the State or by public bodies and institutions, and they shall be subject to the provisions of this Code other than as expected by specific provision.

Article 17

Individuals engaged in a minor occupation or small trading, where they depend more upon their work to make sufficient profit to ensure a living rather than upon financial capital, shall not be subject to the obligations of traders pertaining to commercial books, entry in the Commercial Register, and the provisions governing bankruptcy and composition. The Ministry of Economy and Commerce in consultation with the authorities concerned in the State, shall determine the maximum number of persons working them and the maximum amount of capital for a small business.

Article 18

- 1) Any person who has reached the age of twenty-one years by the Gregorian reckoning and to whom no legal impediment applies may engage in trade.
- 2) However, a minor- whether under guardian or custodian- may engage in trade when he has reached the age of eighteen years by the Gregorian reckoning and is given absolute or restricted permission to do so by the Court.

Article 19

- 1) If a minor or ward has money in a business, the Court may order that his money be taken out or that he continue with it as his interest's dictate.
- 2) If the Court orders that he may continue with the trade, the Court shall grant the person

acting for him absolute or restricted authority to conduct all necessary affairs.

- 3) The court may withdraw or restrict the power of attorney if there are reasons therefore, but such action shall not prejudice rights acquired bona fide by others.

Article 20

Any order issued by the Court for the trade of the minor or ward to continue or for the withdrawal or restriction of the power of attorney to continue with it shall be duly recorded in the Commercial Register and published in Arabic in two daily newspapers issued within the State.

If the Court orders that the trade of the minor or ward shall continue, he shall be bound only to the extent of his funds invested in that trade. He may be declared insolvent, but the insolvency shall not include funds not invested in the trade. In such case, the declaration of insolvency shall have no consequential effects with respect to the person of the minor or ward.

Article 21

- 1) The competence of a married woman engaged in trade shall be governed by the law of the state to which she belongs by nationality, with the observance of the provisions of Article (11) of the Civil Transactions Law.
- 2) In the case of a foreign wife occupied in trade, it is assumed that she does so with her husband's permission. If the applicable law allows the husband to object to his wife being occupied in trade, or if he withdraws an earlier permission shall be duly recorded in the Commercial Register and published in two daily newspapers issued within the State in Arabic.
- 3) The objection or withdrawal of permission shall be effective only from the date of recording in the Commercial register and publication and the objection or withdrawal of permission shall not affect rights acquired bona fide by others.

Article 22

- 1) It shall be assumed in the case of a foreign wife occupied as a trader that she is married under the system of funds separation unless the financial arrangement between the spouses provides otherwise. Such arrangement shall not bind third parties unless entered in the Commercial Register and a summary thereof is published in two newspapers issued with the State in Arabic
- 2) In the event of the disregard of the entry of the arrangement in the Commercial Register and publication of the summary, a third party may prove that the marriage was concluded in accordance with financial regulations more appropriate to his interests than the system of funds separation.
- 3) A foreign ruling for the division of the property of the two spouses shall bind other parties only from the date of its entry in the Commercial register and the publication of a summary thereof in two daily newspapers issued within the State in Arabic.

Article 23

- 1) A non-national may not engage in trade in the State unless he has a partner or partners who are nationals of the State on the terms and within the limits provided for in the Commercial Companies Law.
- 2) Members of the liberal professions may not engage in import/export business
- 3) Non-national carrying in business within the State when this Code comes into effect, and who have no local nationals as partners, shall regularize their position in accordance with its provisions.

Article 24

- 1) The following persons may not engage in trade: -
 - a. Any trader declared bankrupt with his first year of trading, unless he has been reinstated.
 - b. Any person who is breach of the prohibition provided in the preceding paragraph shall be sentenced to imprisonment for a period not exceeding one hundred thousand dirhams, or to one of these two penalties, and all in cases his business shall be closed down.

Article 25

The dealings of a trader relating to his trade shall not be recognized by any competent authority unless his name is entered Commercial Register.

Section 3

Commercial Books

Article 26

- 1) A trader shall keep those commercial books required by the nature and scale of his trade in a manner which ensures that they accurately reflect his financial position and his assets and liabilities related to trade.
- 2) In all cases, a trader is to keep the following books: -

a. Journal

b. General ledger

Article 27

- 1) In the journal are to be entered all financial transactions carried out by the trader and his personal withdrawals. Entries are to be made day by day.
- 2) A trader employ subsidiary journals to enter the details of his commercial transactions, in which case it should be sufficient to enter the total of these transactions into the journal periodically. if this procedure is not followed, each subsidiary journal shall be regarded as a main journal.

Article 28

In the general ledger shall be entered:

- 1) All according transactions posted from the journal as per their supporting documentation, in particular all accounts relating to cash held, cash at the bank, partners, creditors, debtors, revenue, withdrawals and disbursements.
- 2) The details of the goods held by the trader at the end of his financial year, or an overall statement thereof if their details are kept in separate books or lists, in which case such books or lists shall be regarded as a complementary part of the general ledger.
- 3) A copy of the annual balance sheet and profit and loss account

Article 29

- 1) The commercial books are to be free of any blank spaces, deletions, erasures, marginal notes, obliterations or insertion in the entries.

- 2) Before the journal and general ledger are put to use, their pages must be signed and numbered by the Commercial Registry within the relevant jurisdiction, and the official stamp of the aforesaid authority must be applied to both books and the date of this action entered. If the pages of either book are used up, the trader shall submit it to the same authority for due endorsement after the last entry and prior to using a new book.
- 3) If the business house stops trading, the trader or his heirs are to submit the two aforesaid books to the Commercial Registry for endorsement accordingly.
- 4) No fees shall be charged for application of the official stamp and endorsement in the foregoing cases.

Article 30

A trader shall keep true copies of correspondence, cables and invoices dispatched or issued in connection with the commercial business, and shall also keep everything he receives in the way of correspondence, cables, invoices and other documentation connected with his commercial business. Such documents shall be retained in a regular manner facilitating audit for a period of not less than five years commencing from their date of issue receipt.

Article 31

A trader or his heirs shall keep the commercial books and the documentation supporting the entries therein for a period of not less than five years commencing from the date on which the book was endorsed as completed.

Article 32

Banks and companies or firms with respect to which a resolution is issued by the Minister of Economy and Commerce shall keep adduced copy (on microfilm or other up to date means) instead of the original books, documents, correspondence, cables and similar documentation relating to other financial and commercial business for the period stated in the two preceding Article, and such reduced copies shall have the probative authority of the original. The controls regulating their use for the purposes of this Article shall be laid down by resolution of the Minister of Economy and Commerce, and such banks and companies shall comply therewith.

Article 33

Entries made in the commercial books by a trader's duly authorized employees shall be treated as entries made by the trader himself, and it shall be presumed that they have been made with his knowledge and consent until he produces evidence to the contrary.

Article 34

The Court may, of its own initiative or upon a request by one of the parties to a dispute order a trader to submit his commercial books to the Court in order to come to a conclusion on matters relevant to any dispute. The Court may examine the books itself or may appoint an expert for the purpose.

Article 35

- 1) The Court may not order a trader to submit his commercial books for examination by his opponent unless the dispute in question relates to a state, company or joint trends.
- 2) In the event of the bankruptcy of or a composition of the trader, the commercial books shall be submitted to the Court connected or to the trustee in bankruptcy or the supervisor of the composition.

Article 36

The commercial books kept by a trader shall be acceptable as proof in legal actions instituted by or against traders when such actions relate to their commercial business, in accordance with the following rules:

- 1) The particulars in the commercial books - even if not regularly kept in accordance with the provisions of the law shall be evidence for the owner of those books against his opponent being a trader, unless the opponent overrules them with particulars in his own books kept in an orderly fashion in accordance with the provisions of the law or evidence in any form is produced for their incorrectness.
- 2) The particulars in the commercial books kept in an orderly fashion in accordance with the provisions of the law shall be evidence for the owner of those books against his opponent being a trader, unless the opponent overrules them with particulars in his own books kept in an orderly fashion in accordance with the provisions of the law or evidence in any form is produced for their incorrectness.
- 3) If the books of both parties are kept in an orderly fashion in accordance with the provisions of the law and a comparison between them results in a contradiction between their particulars, the Court shall such other evidence.
- 4) If the particulars in the books for the two parties vary, and the books of one of them are kept in a orderly fashion in accordance with the provisions of the law which the books of the other are irregularly kept, the content of the regularly kept books shall be relied upon unless the opponent produces evidence to the contrary. This provision shall apply of one of the parties produces regularly kept books and the other party produces no books at all.

Article 37

If one of the parties being a trader is relying, in support of his claims, on the commercial books of his opponent, and accepts in advance what they contain, and if the opponent then declines without justification to submit those books to the Court for examination, this shall be deemed to presume the correctness of the facts requiring to be proved from the books, and the Court may require the plaintiff to take the supplementary oath as to the correctness of his case.

Article 38

A trader who uses a computer or other modern technical means to regulate his commercial business shall be exempted from the provisions of Article (26), (27), (28) and (29) of this Code. The data retrieved from such machines or other technical means shall be regarded as commercial books, and general controls for the regulation of the processes of their use shall be laid down by resolution of the Minister of Economy and Commerce.

Chapter II

The Firm, Trade Name, Unlawful Competition, Trade Marks and Commercial Particulars

Section I

The Firm, Trade Name, Unfair Competition

Part I

The Firm

Article 39

The firm shall comprise the total of the material and intellectual tangible and intangible property designated for the practice of commercial business.

Article 40

- 1) The firm include the necessary elements for the activity. These elements, are divided into tangible elements, such as goods, stores, machinery and tools, and intangible elements, such as contacts with clients, goodwill, trade name the right to let, rights of industrial, intellectual and technical property and licenses.
- 2) Tangible elements are not deemed to be fundamental to a firm, unlike intangible element, without one or more of which the firm would not exist.

Article 41

If a trader owns the real property where he conducts his trade, that property shall not be deemed an element of the firm and any provision to the contrary shall be disregarded.

Article 42

Any disposal involving the transfer of ownership of a firm or the establishment of a corporeal right over it must be notarized or certified by a notary and entered in the Commercial register, otherwise it shall be invalid. Such transaction must include the following particulars.

- 1) The names nationalities and places of residence of the contracting parties.
- 2) The date and type of the transactions
- 3) The type and address of the firm, and the elements it is agreed that the transaction shall include.
- 4) The price of the individual tangible and intangible elements if the disposal is a sale, the paid up part of on conclusion of the contract, and how the balance is to be paid.
- 5) Special agreements regarding contracts and undertakings connected with the firm if any.
- 6) Agreements relating to retention by the seller of the right to rescind or terminate or lien if any.

Article 43

From the price initially paid is to be deducted the price of the goods, then the price of the tangible assets and then price of the intangible assets even if otherwise agreed.

Article 44

- 1) The ownership of a firm shall, vis-a-vis third parties, only transfer between the contracting

parties with effect from the date of recording of the disposal in the Commercial Register, the publication of a summary thereof in two daily newspapers issued in the State in Arabic separated by a week, and upon completion of the period laid down for acceptance of any objection to the aforesaid disposal.

- 2) If the firm includes elements which are subject to special advertising regulations and registration, advertisement of the disposal of the premises shall not take the place of the special advertising or registration unless the law provides otherwise.

Article 45

The disposal of a firm shall be registered after completion of the following formalities:

- 1) At the request and expense of the buyer, the Commercial Register official concerned shall publish a summary of the sale contract in two local Arabic language newspapers published in the State, with an interval of one of one week between each.
- 2) The published summary shall include the names, nationalities and places of residence of the two contracting parties, an identification of the firm, the total cost price, and shall entitle creditors to raise objections within ten days of the date of the latest publication.
- 3) Objection shall be raised before the civil court concerned within whose jurisdiction the firm is located, giving the amount and cause of the debt.
- 4) The purchaser shall refrain from paying the price until the court has pronounced upon the objections, and the seller may apply to the Judge if summary cause for authority to receive of the price before the objections are examined if he provides sufficient guarantees to meet the rights of any creditors.
- 5) Any objecting creditor or mortgagee may offer to purchase the premises on his own or some other person's account for a price at least one-fifth higher than the price agreed.
- 6) A person objecting to the price shall lodge with the court treasury a sum equal to not less than one-third of the original price plus the extra offered by him.
- 7) The court concerned shall communicate the bids to the parties to the commercial premises sale contract, and upon the expiration of twenty days from such communications the court shall order that the premises be sold to the highest bidder.

Article 46

- 1) Any person to whom ownership of a firm passes shall in law replace the disposer in all rights and undertakings arising from contracts connected with the firm, unless otherwise agreed or unless the contract is based on personal considerations.
- 2) However, the person who is the second party to the contracts mentioned in the preceding paragraph may within ninety days of the date of the advertisement of the disposal request that it be annulled provided that he has solid reasons to justify the same and notifies the new owner of his wish to cancel within an appropriate time period.

Article 47

- 1) The person to whom ownership of the firm has passed shall appoint a date by which creditors precedent to the advertisement of the disposal are to declare their debts for settlement. This date is to be advertised in two daily newspapers one of which shall be in Arabic issued within the State separated by a week. The time period laid down for creditors is to be not less than ninety days from the date of publication, and the person to whom ownership of the firm has passed shall remain encumbered with the debts of those persons coming forward within the said time period if they are not settled within their period.

- 2) The person to whom ownership of the firm has passed shall be released from the debts of persons who do not come forward to declare them within the appointed time period in the manner indicated in the preceding paragraph.
- 3) The disposer shall remain encumbered with debts connected with the business which arose on a date prior to the advertisement of the disposal unless the creditors release him from those debts.

Article 48

As an exception to the provisions on bankruptcy, the seller of a firm for which the price has not been paid in full may make representations against the group of creditors in the bankruptcy of the purchaser for his right to rescind the contract of sale of the firm and to recover it, or his lien if he retained this in the sale contract and it was expressly stated in the summary of the contract published in the press, and the rescission, termination or lien shall apply to the elements that it included.

Article 49

- 1) A firm may be mortgaged only to banks and finance houses.
- 2) If the details of the mortgage are not prescribed, it shall apply to only to the trade name, the right to let, contact with clients and goodwill.

Article 50

- 1) A mortgage shall only be made by notarized contract or a contract certified by a notary and entered in the Commercial Register.
- 2) The mortgage contract must include a declaration by the debtor as to whether the seller has a lien over the mortgaged firm, and also the name of the insurance company with which the premises are insured, if any.

Article 51

- 1) Entry in the Commercial Register shall ensure that the lien is maintained for five years from that date. The entry shall be cancelled if not renewed during the aforesaid period.
- 2) An entry shall be deleted with the mutual consent of the parties concerned or upon a final judicial ruling.

Article 52

The mortgage shall be responsible for keeping the mortgaged firm in good conditions

Article 53

- 1) If the owner of the firm does not pay the price or the amount outstanding to the seller or the debt to the mortgage by the date due, then the seller or mortgage, having given eight days' notice to his debtor and possessor of the firm, may make an application to the summary magistrate for permission to sell at public auction some or all of the components of the firm covered by the seller's or mortgagee's security.
- 2) The sale shall be conducted at the place, on the day, at the time and by the method determined by the magistrate, and the sale shall be advertised at least ten days prior to it taking place.

Article 54

Any provision in the mortgage contract entitling the creditor to acquire or dispose of the mortgaged property without the procedures stated in the proceeding Article shall be void.

Article 55

The seller and mortgagees shall have the same rights and privileges over the proceeds arising from any

insurance if verified as having previously fallen due as they had over the insured objects.

Article 56

The lessor of all the place where the mortgaged furniture and machinery used in connection with the business are located may not exercise his prerogative for more than two years rent.

Part 2

Trade Name

Article 57

The trade name of a sole trader shall consist of forename and surname. It may contain details pertaining to the persons mentioned that relate to the type of trade for which the name is designated. It may also be an invented name. In all cases the trade names must correspond to the facts, and must not mislead or infringe upon public order or morals.

Article 58

The trade name of commercial companies shall be in accordance with the relevant legal provisions of law.

Article 59

The trade name shall be entered in the Commercial Register in accordance with the relevant provisions. Once this entry has been made, another trader may not use that name for a similar trade in the type of trade he is practicing. If the name and surname of the trader resemble a trade name already entered, he must add a statement to his name to distinguish it from the trade name already registered.

Article 60

- 1) A trader shall inscribe his trade name on the facade of his premises and is to conduct his commercial dealings in his trade name.
- 2) A trader may not use the trade name of another trader once it has lapsed or ceased until one year has passed since such lapse or cessation.

Article 61

- 1) A trade name may not be disposed of separately from the firm to which it is allocated.
- 2) However, if the owner of the firm disposes of it, such disposal shall not include the trade name unless this is expressly or impliedly provided for.
- 3) A person to whom ownership of a firm has been conveyed without its trade name shall not be liable for the obligations of his predecessor unless there is an agreement to the contrary entered in the Commercial Register.

Article 62

- 1) The person to whom ownership of a firm has been conveyed may not use the trade name of his predecessor unless that name has passed to him or his predecessor permits him to use it, on condition that a statement indicating change of ownership is added to the name.
- 2) Anyone contravening the provisions of the foregoing paragraph shall be sentenced to imprisonment or to a fine of not less than ten thousand (10000) dirhams or to one of these two penalties.

Article 63

- 1) Any person to whom ownership of a trade name

passes upon the conveyance of ownership of a firm shall assume the obligations and rights of his predecessor developing under that name, and any agreement to the contrary shall have effect visa vis other parties only from the date of its entry in the Commercial Register and notification to the parties concerned.

- 2) When denied, and when there is no lawful excuse, an action for liability for the obligations of a predecessor shall not be upon the expiration of five years from the date of conveyance of ownership of a firm.

Part 3 **Unlawful Competition**

Article 64

A trader may not entice the labour or employees of another trader in competition with him to help him to acquire the customers of that trader, or to leave the employ of that trader and enter employment with him, or to apprise him of his competitor's secrets. Such matters shall be deemed unlawful competition which call for compensation.

Article 65

A trader may not disseminate untruths relating to the origin or description of his goods, or other such matters relevant to their nature or importance, nor may he untruthfully advertise that he is in possession of a grade, certificate or award or resort to any other methods involving untruthfulness for the purpose of acquiring the customers of another trader in competition with him, and if so he shall be liable for damages.

Article 66

A trader may not resort to deceptive and fraudulent methods in the distribution of his goods, nor disseminate or publish false information damaging to the interests of another trader in competition with him, and if so he shall be liable for damages.

Article 67

A trader may not provide a former employer or worker with a certificate at variance with the truth, and of so he shall be liable to indemnify for the damages sustained by another trader arising from such misleading certificate.

Article 68

- 1) If a trader uses the trade name of another trader without an agreement allowing him to do so, or if the owner of the trade name uses it in a manner that contravenes the law, the parties concerned may apply to the relevant Court for its use to be prevented and for it to be deleted if entered in the Commercial Register, without such action prejudicing their entitlement to damages when applicable.
- 2) Anyone contravening the provisions of the foregoing paragraph shall be sentenced to imprisonment or to a fine of not less than ten thousand (10000) dirhams or to one of these two penalties.

Article 69

A person whose business is to provide trading houses with information on trading conditions and who purposely or by gross default furnishes untruthful information on the conduct or financial position of a trader, shall be liable to compensate for the damage arising therefrom.

Article 70

The foregoing provisions shall not prejudice the penalties provided for in other laws for committing the acts covered by those provisions.

Section 2

Trade Marks and Commercial Statements

Article 71

Trademarks and commercial statements shall be regulated by the particular laws in issue in this regard.

VOLUME II

COMMERCIAL OBLIGATIONS AND CONTRACTS

Chapter 1

Commercial Obligations

Article 72

- 1) If two or more persons commit themselves to a commercial debt, they shall be jointly liable to pay that debts unless the law provides otherwise or it is otherwise agreed.
- 2) The provision in the preceding paragraph shall apply when there is a number of guarantors of a commercial debt.

Article 73

A guarantee shall be commercial if the guarantor is guaranteeing a debt deemed to be commercial with respect to the debtor unless the law provides otherwise or it is otherwise agreed or the guarantor is a trader with an interest in guaranteeing the debt.

Article 74

In a commercial guarantee, the guarantors shall be jointly liable to each other and jointly liable with the debtor.

Article 75

If a trader engages on account of another party in business or services relating to his own commercial activity, it shall be considered that he has done so for a consideration unless proved otherwise. The consideration shall be customary practice, and if there is no customary practice it shall be specified by the Court.

Article 76

A creditor shall be entitled to charge interest on a commercial loan according to the rate provided in the contract. If the rate of interest is not specified in the contract, it shall be reckoned according to the market rate prevailing at the time of the transactions, but in this case shall not exceed 12% until payment is made.

Article 77

If the contract includes an agreement on the interest rate, and the debtor delays in payment, the delay interest shall be calculated on the basis of the rate agreed until final settlement

Article 78

Interest shall be paid at the end of the year if the loan period is one year or more, or on the day the debt falls due for payment if the period is less than one year, unless commercial practice or banking custom provides otherwise.

Article 79

If the loan period is specified, the creditor shall not be obliged to accept of the debt before its term unless the debtor pays the interest owing for the remaining period, unless otherwise agreed.

Article 80

Demands and indemnities given by a trader in matters relating to his commercial business shall not lapse upon his death. However, the heirs may cancel them if they decide not to continue trading, in which case they shall not be liable for any compensation if they notify the party in contract with the legato of their wish to cancel within an appropriate time.

Article 81

- 1) If the subject of the obligation is the delivery of a thing during a particular division or season of the year, reference must be made to the agreement between the two parties to determine the time at which delivery should be made. If there is no such agreement, reference shall be made to the prevailing practice in the country of delivery.
- 2) The practice prevailing in the country where the contract was made shall be adopted in matters relating to the measurement by size or quantity, or weight, or counting of goods.

Article 82

If a period is specified for implementation of a contract, and this period elapses without the debtor effecting implementation, the creditor may not thereafter be obliged to accept implementation unless there is an agreement to the contrary.

Article 83

If the debt is deferred and the debtor offers to settle up before its term, he may not deduct a part of the debt upon payment without the consent of the creditor, unless there is an agreement or legal provision that requires otherwise.

Article 84

If a contracting party reserves the right to rescind the contract before commencement of its implementation, implementation by him of the obligation imposed upon him by that contract or acceptance by him of fulfillment by the other contracting party of his own obligations shall deprive him of his reserved right of rescission.

Article 85

In commercial matters a waiver or notification shall be given by way of notary or by recorded delivery registered letter or by telegram.

Article 86

The Courts may not grant a person obligated by a commercial debt a grace period to fulfill it or to meet it by installments without the consent of the obligee or in generally exceptional circumstances.

Article 87

If a commercial debtor settles a commercial debt to the person in possession of the debt instrument, endorsing with the quittance, or to the person holding a quittance from the creditor he shall be released from the debt.

Article 88

If the subject of a commercial obligation is a sum of money in an amount known at the time the obligation arose, and the debtor delays in making settlement, he shall be bound to pay the creditor the interest specified in Articles 76 and 77 as compensation for the delay unless otherwise agreed.

Article 89

For delay interest to be payable, there is no requirement for the creditor to prove that he sustained damage from the delay.

Article 90

Interests for delay in settlement debts shall be payable immediately they fall due unless the law provides otherwise or it is otherwise agreed.

Article 91

- 1) The creditor may claim supplementary compensation in addition to delay interest, without having to prove that the debtor was instrumental in causing the damage exceeding that interest through fraud or gross default
- 2) If, in claiming his right, the obligee is instrumental in prolonging the dispute mala fides the Court may reduce the interest or not award it at all for the period during which the dispute was unjustifiably prolonged.

Article 92

- 1) Any instrument the subject of which is payment of a sum of money or delivery of goods may be negotiated by endorsement if to order of the creditor and by presentation if to bearer.
- 2) The consequence of endorsement of presentation shall be to convey all rights arising from the instrument to the endorsee or the new bearer.
- 3) In the case of endorsement, the endorser shall guarantee to fulfil the right entered in the instrument by the due date, unless it is agreed in the format of the endorsement that the guarantee is confined to the existence of the right at the time of endorsement.
- 4) If the instrument arises on the occasion of a commercial transaction the signatories thereto shall be jointly bound, unless it is otherwise agreed in the format of the endorsement.
- 5) In all cases, the debtor may not advance against the bearer of the instrument pleas based on personal relations linking him to the originator of the instrument or its former bearers, unless the purpose of the bearer at the time he obtained the instrument was to damage the debtor or the plea relates to lack of competence of the debtor.
- 6) The debtor may refrain from paying the value of the instrument if it is not delivered to him endorsed with a quittance.

Article 93

The existence of a debenture in the possession of the debtor shall serve as evidence that he is released from the debt until proved otherwise.

Article 94

Commercial obligations whatever their value may be established by all means of proof unless the law provides otherwise.

Article 95

When denied, and without lawful excuse, actions relating to the obligations of traders to each other and in connection with their commercial business shall not be heard upon the expiration of ten years from the due date for fulfillment of the obligation, unless the law provides for a lesser period.

Chapter II

Commercial Sale

Section I

General Provisions

Article 96

The general provisions in this Section shall apply to sales contracted between traders in matters relating to trade, unless otherwise provided.

Article 97

If the contracting parties do not specify the price, the sale shall be contracted at the price normally obtaining in their transactions, and if there are no such previous transactions then at the market price, unless in the whole thereof it is evident from the circumstances of the case that some other price should be used.

Article 98

If the contracting parties agree that the sale shall be at the market price, the rate shall be determined by the price obtaining at the time and place the contract was made unless the agreement request otherwise. If there is more than one market price, the average price shall be taken.

Article 99

The contracting parties may agree to empower another party to determine the sale price. If he does not so determine by the time prescribed or by an appropriate time if no time has been prescribed for the determination, the rate prevailing in the market at the time and place of the contract shall be used.

Article 100

If the price is estimated on the basis of weight, the net weight shall be taken unless it is otherwise agreed or customary practice dictates otherwise.

Article 101

- 1) If the contracting parties agree that it shall be for the buyer to determine the form or size of the scale or its other features, he must do so within the agreed time period or at an appropriate time if no specific time has been agreed.
- 2) If the time period referred to in the preceding paragraph expires without the purchaser having determined the features of the scale, the seller may either demand rescission of the contract and compensation or himself determine the features of the sale and inform the buyer thereof. Such determination shall be final if the buyer raises no objection thereto within ten days of the date on which he was notified.

Article 102

- 1) If no time is appointed for delivery, this shall be as soon as the contract is concluded unless the nature of the delivery calls for delivery at some other time.
- 2) If it is agreed that it shall be for the buyer to determine the time for the delivery of the sold object, the seller shall be bound to effect delivery at the time specified by the buyer, whilst taking into account the interval required to prepare the sold object for delivery and the nature of the object.

Article 103

- 1) The consequence of loss or destruction of the sold object shall be borne by the seller up to actual or legal delivery of the sold object to the buyer.

- 2) If, at the request of the buyer, the seller dispatches the sold objects to a place other than that specified for its delivery, the consequences of loss or destruction shall, unless otherwise agreed, be borne by the buyer from the time of delivery of the sold object to the party undertaking its transportation.
- 3) If the seller contravenes the buyer's instructions regarding the method of transportation other than in a case of urgent necessity, he shall be liable for any damage sustained by the sold object for reason of such contravention.
- 4) The expenses incurred for delivery of the sold object to other than the place specified for its delivery shall be borne by the buyer unless otherwise agreed.

Article 104

At delivery of the sold object, no account shall be taken of any deficiency tolerated by customary usage.

Article 105

If the seller does not effect delivery of the specific sold object, the buyer may give notice to the seller to do so within an appropriate period. If the seller fails to comply, the buyer may either apply to the Court for the seller to be required to effect material delivery and to deliver the sold object to him when possible, with compensation if relevant, or consider the contract rescinded and claim compensation if relevant, or by a thing similar to the sold object on the seller's account and claim on him for the difference between the agreed price and what paid in good faith in order to obtain that object. If the sold object has a known market price the buyer may, although he has not bought something similar to the sold object, claim on the seller for the difference between the agreed price and the market price on the day specified for delivery.

Article 106

If the contracting parties agree upon delivery of the sold object in lots, the buyer may demand rescission of the contract if the seller does not deliver a lot by the time agreed. Such rescission shall not apply to the loss which have been delivered unless the division of the sold object entails gross damage to the buyer.

Article 107

If the buyer does not pay the price by the time agreed the seller, having given notice to the buyer, may re-sell the goods. If the goods are sold bona fides for a price less than that agreed, the seller may claim on the buyer for the price difference. If the goods have a known market price the seller may, although he has not actually made the sale, claim on the buyer for the difference between the agreed price and the market price on the day prescribed for the price to be paid.

Article 108

- 1) A buyer who has paid the price in full may request the seller to provide him with a list of the goods stating that the price has been paid.
- 2) Any person who expressly or by implication accepts a sale of goods list shall be deemed to have accepted its contents. Non-objection to the contents of the list within eight days from the date of its receipt shall be deemed to imply acceptance of the list by its recipient, unless a longer period is agreed.

Article 109

- 1) If the buyer declines to take receipt of the sold object, the seller may apply to the Court to confirm its condition and to permit him to sell it under the supervision of the Court upon the expiration of such interval as the Court determines and notifies to the buyer. The Court may order the sale of those things which are liable to rapid determination without specifying an interval or giving notice.

- 2) The proceeds of the sale shall be deposited with the Court cashier after deduction of all expenses incurred by the seller until such time as the dispute between him and the buyer has been settled.

Article 110

If, once the sold object has been delivered, it is evident that the goods differ in quantity or in kind from the goods agreed, or are defective, the buyer shall not be allowed to rescind the contract unless the difference or defect results in the sold object being unfit for the purpose intended by the buyer or in it being difficult to dispose of. When refusing an application for a ruling to rescind the contract, the Court may order that the price be reduced or increased according to the deficient or increased quantity or difference in kind or the extent of the defect, the whole thereof being dependent upon whether there is an agreement or customary practice that dictates mandatory rescission.

Article 111

- 1) In the cases referred to in the preceding Article the buyer must notify the seller of the existence of a variation or defect within fifteen days of the date on which the sold object was actually delivered to him, and shall institute the action for rescission or for reduction of the price within sixty days of the aforesaid delivery date. However, if the defect is hidden and thus not discovered at the customary inspection, he is to notify the seller of the defect as soon as it is covered and institute an action for liability for the defect within six months of actual delivery unless otherwise agreed.
- 2) If the buyer does not inform the seller of the existence of a variation or defect or does not institute the action for rescission or for reduction in price or for liability for the defect within the time periods stated in the preceding paragraph a the case may be, his action shall not be heard if it is denied and if he has no lawful excuse, unless the buyer proves that there was fraud on the part of the seller, in which case the action shall not be heard upon the expiration of one year from the date of delivery.
- 3) An action by the seller for the price to be supplemented for reason of a quantitative or quantitative or qualitative increase shall not be heard upon the expiration of sixty days from the date of actual delivery of the sold object.
- 4) It may be agreed to exempt the buyer from the time periods referred to in the preceding paragraph, or to amend them.

Article 112

- 1) If the sold object is a commodity protected by a registered trade mark, it may be agreed that the buyer shall not sell it for a price below a particular figure.
- 2) The Court may rule that this condition need not be adhered to if it considers that the sold objects is an essential commodity.
- 3) The successors of the buyer shall not be bound to observe the aforesaid condition unless they knew of it or could have known about it.

Article 113

In supply contracts in which the supplier affords advantages to the buyer, an agreement may not be made whereby he is prevented from purchasing goods similar to the sold object from other than the supplier for longer than five years from the date of the agreement. Any agreement to a longer period shall be reduced to five years.

Section 2

Certain Types of Commercial Sale

Part I

Sale by Installments

Article 114

A contract of sale by installments must be written as two counterparts showing the specification that identify the nature of the sold commodity, the price, the period and the installment terms. The seller shall provide the buyer with one of the two counterparts of the contract.

Article 115

Payment of the installments is to be at the place of residence of the seller indicated in the contract of sale unless otherwise agreed. If the installments are collected at the place of residence of the buyer, the seller may not demand any additional expenses. A quittance for an installment shall be deemed a quittance for the previous installments unless there is evidence to the contrary.

Article 116

- 1) If the buyer fails to pay one of the agreed price installments, the seller having given notice to the buyer may apply for rescission plus compensation if relevant. However, if it is evident to the Court that the buyer has fulfilled the greater part of his obligation, it may grant him a grace period to make payment and refuse rescission if he makes payment within that period.
- 2) If a ruling is given for rescission, the buyer must return the sold object to the seller and the seller must return the installments he has received to the buyer, having deducted a fee for utilization plus compensation for any damaged caused to the sold object through abnormal use unless it is otherwise agreed in the contract of sale. provided that the total amount demanded by the seller shall not exceed the original price plus interest.

Article 117

An agreement to the effect that the whole price payable if one installment is not paid by the due time shall not be effective unless the buyer fails to pay in spite of having been warned and seven days have elapsed from such warning being given.

Article 118

- 1) If the seller retains ownership of a sold chattel until all the price installments have been paid, the buyer acquires that ownership upon payment of the last installment, and the buyer shall bear the consequences of the loss or destruction of the sold object from the time it is delivered to him.
- 2) Without prejudice to the provisions in the Chapter on bankruptcy, a retention of ownership clause shall not be effective vis-a-vis another party unless such clause is entered in an agreement and precedent in time to the right of the other party.

Article 119

If the right of the other party is subsequent to the contract of sale by installments the retention of ownership clause shall be effective vis-à-vis such other party if that clause is entered in an agreement of firm date precedent in time to the enforcement action taken by the creditors against the sold object.

Article 120

The buyer may not dispose of the sold object before he has paid the installments in full unless the seller has agreed to this in writing. Any disposal made to another party by the buyer in violation of

this provision shall be ineffective vis-à-vis the seller unless the other party proves his goodwill, in which case the remaining installments shall be payable.

The provisions on sale by installments in the preceding Articles shall apply even if the contracting parties call the sale a lease.

Part 2
Optional Sale of Used Chattels at Public Auction

Article 122

- 1) The provisions of this Part shall apply to the optional sale of used chattels at public auction.
- 2) By sale at public auction is meant any sale which any person may attend even if the auction sale is restricted to a particular category of persons.
- 3) By used chattels is meant all movable property the possession of which has passed to the consumer for any reason for which ownership is acquired.

Article 123

- 1) Without prejudice to the provisions of the Law of Civil Procedures and the laws which regulate certain types of sale, chattels referred to in the preceding Article may only be sold at auction by a specialist auctioneer in a place designated for the purpose or in the place where the movables were originally located or a place licensed by the competent authorities in the particular Emirate.
- 2) A bona fide buyer may request that a sale conducted contrary to the provisions in the preceding paragraph be invalidated. An auction for invalidation shall not be heard if denied and without lawful excuse if thirty days have elapsed since the date of sale.
- 3) Exempted from the provisions of the two preceding paragraphs are used objects of which the value of the part offered for sale at public auction does not exceed (10000) ten thousand dirhams.

Article 124

- 1) An auctioneer performing a sale at public auction is to keep a special book in Arabic in which he is to enter the details of the goods provided for sale, the preliminary valuation and the names of the persons requesting the sale. He is to affix numbered labels on the goods offered for sale, which he is to record in the register, and he is to record the result of each sale in the register.
- 2) Any person who violates the provision of the preceding paragraph shall be punished with a fine not exceeding (10000) ten thousand dirhams, and if repeated by a fine not exceeding (20000) twenty thousand dirhams, without prejudice to any other penalty or disciplinary measure provided under the resolutions regulating the practice of the auctioning profession.

Article 125

If the preliminary estimate of the value of used goods offered for sale at public auction exceeds (200000) two hundred thousand dirhams, the auctioneer must advertise the sale at least seven days in advance in one or more daily newspapers published in the State, one of which is to be in Arabic. He shall specify a day prior to the sale for the goods an offer to be viewed.

Article 126

- 1) The buyer to whom the sale is awarded is to pay half the cost at the auction and the remainder when taking receipt of the object awarded to him at auction. Delivery shall take within a week from the date of award at auction.
- 2) If the successful bidder does not pay the remaining cost or does not attend to take receipt of the object awarded to him at auction within the interval provided in the preceding paragraph, the sale must be re-conducted at public auction within fifteen days from the date of expiry of the time period for delivery. At the second sale bid from the person successful at the sale shall not be accepted.
- 3) If the second auction sale is awarded for a lesser price than that awarded at the first sale, the buyer who failed to pay the remaining price or failed to attend to take receipt of the object awarded to him at auction is to pay the difference. If the price at the second auction is greater, the person requesting the sale shall be entitled to that increase.
- 4) The price shall be paid to the auctioneer conducting the sale, who shall be directly responsible for making payment to the persons for whom the sale was conducted.

Article 127

The owner of the premises or the auctioneer, as the case may be, shall have the prerogative of a fee or commission on the proceeds of the sale at public auction.

Article 128

The Minister of Economy and Trade, in consultation with the local authorities concerned, shall issue a resolution regulating the auctioning profession and the use of auction premises.

Without prejudice to any heavier penalty provided in any other law, any person who violates the provisions of such resolution shall be punished with a fine not exceeding (5000) five thousand dirhams. In all cases, the Judge shall order that the office or premises be closed down, that the boards and posters used by the offender be removed, and that the judgement be published in two Arabic daily newspapers published in the State at the expenses of the convicted person.

Part 3

Sale at Public and at Reduced Prices in Commercial Premises

1- Sale at Public Auction

Article 129

Commercial firms are forbidden to sell their goods by public auction except in one of the following cases and provided that the necessary license is obtained from the local authorities:

- 1) Final liquidation of the commercial firm.
- 2) Final cessation of trading in one or more of the items handled by the premises in its trade.
- 3) Liquidation of a branch of the commercial firm, unless that branch is situated in the same town as the main office of the commercial firm.
- 4) Transfer of the main office and its branches from one Emirate to another. In this case, the liquidation must be conducted within a maximum of four months and shall entail the commercial firm being forbidden to practice the business which ended in liquidation with in that Emirate until at least one year has elapsed from the date of completion of the auction.
- 5) Liquidation of defective goods damaged by fire, water ingress, humidity or insect infestation and the like.

2- Sale at Reduced Prices (Reductions)

Article 130

- 1) A commercial firm and its branches in any one town may not conduct the sale of a commodity by way of reductions more than twice a year in the case of seasonal goods and once for other goods.
- 2) Such reductions may not continue for more than thirty days, and seasonal reductions may not commence until at least five months from the end of the previous seasonal reductions.
- 3) Reductions cover any measure involving advertisement of sale at reduced prices.
- 4) Reductions or advertisement of the same by any advertising means may not be made until a permit has been obtained from the competent authority in the particular Emirate, stating the date of commencement and termination of the reduction period and the sale prices before and during this period. Such permit shall be granted only to a person holding a valid trading license and registered with the relevant chamber of commerce.
- 5) Traders are to abide by any controls regulating reduction sales laid down by the competent authority in the Emirate concerned.

Article 131

Officials of the competent authority in the Emirate concerned are entitled to monitor implementation of the provisions of Articles 129 and 130 of this Code. In so doing they may enter a commercial premises license to conduct a liquidation or reductions, demand to see the papers and documentation relating to the process which is the subject of the license, and record any violations of their provisions.

3- Penalties

Article 132

Any person who contravenes the provisions of Articles 129, 130 and 131 shall be punished with a fine not exceeding (20000) twenty thousand dirhams, and if repeated by a fine not exceeding (30000) thirty thousand dirhams. An offender may be prevented from obtaining a reductions sale permit for a period of three years from the date of his commission of the offence.

Part 4

Certain Types of International Sale

1- Sale FOB

Article 133

- 1) A sale FOB is sale where the object sold is delivered at the port of shipment abroad the vessel designated by the buyer for its transportation
- 2) In this type of sale, the buyer is required to conclude the marine transport contract, pay the freightage, and inform the seller at an appropriate time of the name of the vessel he has chosen for the transportation, the place of shipment and the period specified for this to be done.
- 3) The buyer may entrust to the seller the task of concluding the transportation contract and the goods insurance contract on the buyer's account, and in this regard the relation between buyer and seller shall be governed by the provisions of agency contract.

Article 134

- 1) The seller is bound to pack and package the sold goods, transport the same to the port of shipment and load them aboard the vessel designated by the buyer on the stated date and within the period designated for shipment.
- 2) The seller shall require to notify the buyer without delay that the goods have been shipped, and forward the confirmatory documentation to him at the buyer's expense.

Article 135

- 1) If for their export abroad the sold goods require an export license or any other government license, the seller is required to obtain the same and shall bear the relevant costs.
- 2) The buyer is required to obtain the import license and any other necessary documents, and shall bear the relevant costs.
- 3) The seller is required duly to obtain a certificate of origin for the goods and submit it to the buyer, and the buyer shall bear the costs thereof unless otherwise agreed.

Article 136

The seller shall provide the buyer with every possible assistance in obtaining the bill of lading and other documentation for use in the State where the shipment of the sold object takes place in order to facilitate its importation or transit across another State, and the buyer shall bear the costs necessary for the obtaining of such documentation.

Article 137

The seller is required to pay all sums due on the sold object including export charges and freight costs until the sold object passes the ship's rail during shipment. The seller shall also bear liability for damage that the sold object may sustain until that stage. Amount due thereafter and damage that may be sustained thereafter shall be borne by the buyer.

Article 138

If the vessel chosen by the buyer for shipment is delayed in reaching the port of shipment beyond the period designated for shipment, or if the vessel leaves the sail port before the expiry of this period, or if shipment abroad is not possible for a cause not attributable to the seller, the buyer shall bear the resultant extra costs and liability for damage that the sold object may sustain from the date of expiration of the period designated for shipment provided that the sold object has itself been designated by this date.

Article 139

If the buyer does not notify the seller of the name of the vessel by the appropriate time, or reserves the right to designate the delivery date within a particular period and then fails to designate it or to specify the port of shipment and then issues no specific instructions within such period, the buyer shall meet the resultant extra costs and bear liability for damage that the sold object may sustain from the date of expiration of the notice period or the period agreed for designation of the delivery date, provided that the sold object has itself been designated by that time.

Article 140

If it is agreed that the sold object shall be delivered on the quayside at the port of shipment where the vessel designated by the buyer berths, the sale shall be termed FAS, and the FOB provision less shipment of the goods abroad the vessel shall apply to such sale.

2 - Sale CIF

Article 141

- 1) A sale CIF is a sale for a fixed sum including, in addition to the cost of the sold object, the costs of its marine insurance and the freightage abroad the vessel to the port of arrival.
- 2) The goods shall be deemed to have delivered to the buyer once they have been loaded abroad the vessel, and the consequence of damage shall pass to the buyer from the time.
- 3) If the seller is not liable for the insurance, the sale is deemed C & F.

Article 142

The seller shall conclude the transportation contract for the goods with a carrier of good standing on normal terms, and shall choose a vessel suitable to transport goods of the type of the sold object. He is also to pay the freightage and other amounts that the carrier may stipulate at the port of shipment.

- 1) The seller is to effect insurance on the goods against the risks of transportation with an insurer of good standing, and is to pay the requisite expenses and costs.
- 2) The insurance is to be effected by negotiable contract on customary terms, and the sum insured is to be not less than the price stated in the contract of sale.
- 3) The seller is not required to effect insurance other than against the normal risks of transportation. The seller shall not be required to insure against other risks and war risks unless so requested by the buyer.
- 4) The seller shall not be liable to the buyer for a failure by the insurer to pay the sum insured if he has insured the sold object with an insurance company of good standing.

Article 144

- 1) The seller is required to pack and package the sold object and ship it abroad the vessel within the period designated for shipment and as dictated by customary practice. The seller shall bear the costs of packing and packaging and the expenses of inspection, measurement, weighing or enumeration required for shipment of the sold object.
- 2) However, if the bill of lading contains a statement in the hand of the ship's master and signed by him that the goods have in fact been loaded on the date specified, the buyer may not prove otherwise against the seller.

Article 145

- 1) Shipment of the sold object by the seller shall be proved by the bill of lading inclusive of the word "shipped". If the bill of lading bears the words "with shipping charge", the buyer may prove that shipment did not actually take place on the date recorded on the bill.
- 2) However, if the bill of lading contains a statement in the hand of the ship's master and signed by him that the goods have in fact been loaded on the specified date, the buyer may not prove otherwise against the seller.

Article 146

- 1) The seller is required to obtain a certificate of origin for the goods and submit it to the buyer, and the buyer shall bear the costs thereof unless otherwise agreed.
- 2) The seller shall provide the buyer with every possible assistance in obtaining the documentation required

for use in the State where the shipment of the sold object takes place in order to facilitate its importation or transit across another state.

Article 147

- 1) The seller is required to pay sums due on the sold object until loaded aboard the vessel, including export charges.
- 2) Import charges and charges and costs for clearing the sold object from customs at the port of discharge shall be borne by the buyer.

Article 148

The seller shall bear liability for damages that the sold object may sustain until the moment it passes the ship's rail during loading, whereupon that liability shall pass to the buyer.

Article 149

- 1) Having loaded the goods, the seller is without delay to send the clean negotiable bill of lading to the buyer, addressed to the port designated for discharge. The bill of lading is to be accompanied by a list of the sold goods and their value, and the insurance policy or substitute certificate and other documentation required by the buyer. If, in some matters, the bill of lading makes reference to the charter party for the vessel, a copy of that contract must also be included.
- 2) The bill of lading shall be regarded as clean if it contains no express additional clauses confirming the presence of defects in the sold object or in the manner of packing and packaging. Such clauses shall not include a reference in the bill of lading to previous use of the containers or wrappings or non-liability for potential damage for reason of the nature of the sold object or ignorance by the carrier of the contents or weight of the packages.
- 3) A certificate substituting for the original insurance policy must be issued by the insurer and include the basic clauses contained in the original insurance policy, whereby it accords its bearer the rights accorded by that policy.

Article 150

- 1) The buyer shall not be bound to accept the documents sent to him by the seller if they do not conform to the clause provided in the sale contract. The buyer shall be deemed to have accepted such documents if he raises no objection to them via the buyer's bank within seven days of the date of their receipt. Objection shall be notified by informing the seller in writing to send documents that conform to the agreed clauses within an appropriate period. When this period has expired, the buyer may request rescission of the plus compensation if relevant.
- 2) If the buyer rejects the documents for particular reasons or accepts them with reservations, he may not thereafter raise any objection other than for the reasons or reservations stated previously.
- 3) If the buyer rejects the documents without justification, he shall be required to indemnify the seller for resultant damage.

Article 151

If the vessel abroad which the sold objects is loaded arrives before the documents, or if the documents arrive deficient, as soon as the seller is notified thereof he must do everything possible to enable the buyer to obtain a copy of the documents which have not arrived or must make good any deficient documents. The seller shall bear the necessary costs for this, plus compensation if relevant.

Article 152

Whilst observing the provisions of Article 111, the buyer is required to take delivery of the sold object upon its arrival at the port agreed, and the buyer shall bear the sums due on the sold object during its transportation and the unloading upon arrival unless the carrier has paid such sums and costs at the port of shipment or it has been agreed in the sale contract that they shall be borne by the seller (sale CIF to discharge).

Article 153

If the buyer reserves the right to designate the shipment date or port of discharge within a particular period and has not given his instructions in this regard within the said period, he shall bear the resultant extra costs and liability for damage that the sold object may sustain until the date of expiration of the shipment period provided that the sold object has itself been designated by this date.

Article 154

If the goods contravene the documentation but such contravention does not exceed the amount customarily permitted, the buyer shall have to accept them with a price reduction to be assessed by specialists according to the practice prevailing at the port of arrival.

3- Sale on Arrival

Article 155

A contract which makes the seller liable for loss or damage to the goods after shipment of the goods or makes execution of the contract dependent upon the safe arrival of the vessel or gives the buyer the option of accepting the goods as per the agreement or the sample provided to him at the time of contract, is not a sale conditional upon delivery at point of arrival.

2- Sale at Airport Departure

Article 156

A sale at airport departure is a sale where the goods are delivered at the airport of departure, being placed at the disposal of the air carrier designated by the buyer or chosen by the seller.

Article 157

The seller is required to deliver the goods to the air carrier at the airport of departure or to his representative at the place and on the date agreed or at the place designated by the buyer after conclusion of the contract, and delivery shall be effected in accordance with the rules and practices observed at the airport of departure.

The seller is to inform the buyer without delay by any means of telecommunication once the goods have been delivered.

Article 158

- 1) The seller shall conclude the contract for the transportation of the goods at the buyer's expense and liability if the latter so requests, or the seller shall do so if the buyer does not give instructions regarding the transportation of the goods by the appropriate time and it is commercial practice for him to do so. It is permissible for the seller not to conclude the transportation contract, in which case he shall notify the buyer forthwith.
- 2) If the seller proceeds to conclude the transportation contract, he is bound to follow the instructions given him by the buyer and to choose an aircraft suitable for the carriage of goods of a similar nature on a normal flight from the airport of the buyer's place of business.

Article 159

- 1) The seller is required to pay all export charges and taxes due on the goods.
- 2) The seller is also required to provide the buyer with the full documentation necessary to take receipt of the goods, that the seller has at his disposal.

Article 160

If the air carrier or other person designated by the buyer refrains from taking receipt of the goods at the airport of departure, or if the buyer does not give the seller the necessary instructions for the transportation of the goods at the proper time, the seller shall notify the buyer accordingly as soon as possible.

Article 161

In cases where it is not for the seller to conclude the transportation contract for the goods, the buyer is required at his own expenses to organize the process of the transportation of the goods from the airport of departure to the airport of arrival and to designate the air carrier or his representative or any other person to take receipt of the goods, and the buyer is to notify the seller accordingly at an appropriate time.

If the buyer does not duly provide the seller at the proper time with the necessary instructions for the transportation of the goods, the buyer shall bear all the extra costs incurred. The buyer shall also be liable for any damage the goods may sustain from the date on which delivery should be effected, provided that the goods themselves have been classified or designated.

Article 162

If the air carrier or any other person designated by the buyer refrains from taking receipt of the goods, the buyer shall be liable for all extra costs incurred. He shall also be liable for any damage the goods may sustain from the date on which the goods were ready for delivery, provided that the goods themselves have been classified or designated.

Article 163

In forward international sales, the contract of sale shall be separate and shall not affect the relations arising between seller, purchaser and carrier in the transportation contract, or between buyer and bank in the documentary credit contract.

Chapter III
Commercial Pledge

Article 164

- 1) A commercial pledge is concluded over a chattel as a guarantee for a commercial debt.
- 2) With the exception of the restrictions stated in this Code or any other law a commercial pledge may be provided by all means of proof with respect to both the contracting parties and others.

Article 165

- 1) A commercial pledge shall be implemented vis-vis the obligator or other parties only by transfer of the pledged object from the pledgor to the pledgee or to a third party designated by the contracting parties and by its remaining in the possession of the person taking receipt from them until the pledge is extinguished or until it is placed in common possession in a manner which makes the pledgor unable to dispose of it in isolation from the pledgee.
- 2) The pledge or the third person shall be deemed to be the possessor of the pledged object when it is placed at his disposal in a manner leading others to believe that the pledged object has come into his safekeeping, or if he takes receipt of an instrument representing the pledged object and giving its possessor the sole right to take receipt of it.
- 3) Possession of the rights shall pass upon delivery of the instruments thereto. If the instrument is on deposit with another party, delivery of the deposit receipt shall be deemed to represent delivery of the instrument itself, provided that the instrument is designated in the receipt in a manner that leaves no shadow of doubt and the depositary is satisfied with possession of the instrument on the pledgee's account, in which case the depositary shall be deemed to have abandoned any right he had to hold the instrument on his own account for a reason preceding the pledge unless he reserved this right when accepting possession of the instrument on account of the pledgee.

Article 166

- 1) If the pledged consists of nominative instruments, the pledging of them shall be done in writing by assignment of the instruments stating that it is as a guarantee, and the instrument itself shall be endorsed. This assignment shall be entered in the records of the party who issued the instrument, and the category of the pledge shall be determined from the date of that entry.
- 2) The pledging of promissory notes shall be endorsing them to the effect that the amount is as a pledge or guarantee or with any other statement having the same meaning.

Article 167

- 1) A debtor with respect to a commercial debt may make out a written instrument pledging in favor of his creditor a debt owed to the debtor by someone else. In this case he shall deliver the instrument confirming that debt to the creditor.
- 2) The pledge of a debt shall not be effective against the debtor who pledged that debt other than by serving that pledge upon him or by him accepting it, and it shall be effective with regard to persons other than that only by the pledgee being in possession of the pledged debenture.
- 3) The category of the pledge shall be determined from the firm date of the service or acceptance.

Article 168

The pledge is to take the necessary steps to preserve and maintain the pledged object. If the object is a commercial paper, when it matures he is to take the necessary action to safeguard the right established in it and to fulfill that right, and the pledgor shall be bound to meet all expenses paid by the pledgee in this regard.

Article 169

The pledgee is to exercise on the pledgor's account all rights and procedures relating to the pledged object. He is to take receipt of its value, profits, interest and other consequential sums, and deduct what he has received from the expenses paid by him on the pledgor's behalf, and then from the interest, and then from the principal of the debt guaranteed by the pledge, unless otherwise agreed.

Article 170

The pledgee is to provide the pledgor, if so requested, with a receipt stating the identify, type, amount, weight and other distinguishing features of the pledged object.

Article 171

- 1) If a pledge is made of a replaceable object, the pledge shall remain outstanding even if the pledged object is replaced by another object of the same kind.
- 2) If the pledged object is not a replaceable object, the pledgor may substitute something else for it provided that this is agreed in the deed of pledge and the pledgee accepts the replacement, without prejudice to the bona fide rights of others.

Article 172

- 1) If a debtor fails to pay a debt guaranteed by a pledge by the due date, the creditor, seven days after notice to debtor to pay, may apply to the court for leave to sell the pledged object. The application shall be examined as a manner of urgency, and the court shall determine the method of sale.
- 2) The pledgee shall have a prerogative right to receive from the sale price payment of the principal of his debt plus interest and expenses he has incurred to claim it.

Article 173

If the pledge has been established with respect to several items, the pledgee shall be entitled to determine the item to be sold unless otherwise agreed. In all cases. the sale may not include more than is sufficient to meet the pledgee's right unless the object to be sold cannot be divided,

Article 174

If the market value of the pledged object falls, whereby it becomes insufficient to guarantee the debt, the creditor may fix a suitable date for the pledgor to make good the guarantee. If the pledgor refuses or the time period expires without the pledgor making good the guarantee the creditor may apply for the pledged object to be sold by following the procedures provided in Article 172 even if the maturity date has not been reached.

Article 175

If the pledged object is liable to destruction or deterioration or its possession becomes costly and the pledgor is unwilling to provide a replacement object, the obligee and pledgor may apply to the Court for leave to sell it forthwith and for the Court to determine the method of sale, and the pledge shall transfer to the price realized on sale.

Article 176

- 1) Any agreement shall be invalid which is concluded at the time or after a pledge is made

and the which gives the pledgee, should the debtor fail to pay the debt by the due date, the right to acquire or sell the pledged object without observing the provisions and procedures stated in Article 172.

- 2) However, when the debt or an installment thereof has fallen due, it may be agreed that the debtor cede all or part of the pledged object to his creditors in settlement fall or some of the debt.

Article 177

If the pledged object is an instrument whose nominal value has not been paid in full, the pledgor, when a claim is made upon him for the unpaid part, must provide the pledgee with the necessary monies to pay for that part at least two days before it falls due, otherwise the creditor may sell the instrument in accordance with the procedures provided in Article 172.

Chapter IV

Deposit in Public Depositories

Article 178

- 1) Deposit in public depositories is a contract by which the storekeeper - be he an individual, a company or a public body - undertakes to receive and keep goods on account of the depositor or the person owning or possessing them by virtue of the instruments that represent them.
- 2) A public depository entitled to issue negotiable instruments representing the goods deposited may not be established may or operated without a license from the competent authority in the Emirate concerned on the terms and conditions prescribed by a resolution of the Minister of Economy and Trade after consultation with the local authority concerned.
- 3) A store where goods are accepted on deposit and which does not provide a storage receipt and instrument of pledge shall not be subject to the provisions governing public stores.
- 4) A person operating a public depository must insure it against fire, damage and theft risks.

Article 179

- 1) A storekeeper may not, in any capacity either on his own account or the account of others, practice a commercial activity the subject of which is goods of the type he is licensed to keep in his depository and for which he is licensed to issue representative instruments.
- 2) This provision shall apply if the operator of the depository is a company in which a partner owning at least 10% of its capital practices a commercial activity involving the prohibition provided in the foregoing.

Article 180

- 1) A depositor must provide a public depository with correct details on the nature, type, value and quantity of the deposited goods.
- 2) A depositor shall be entitled to inspect and sample goods delivered to a public depository on his account.

Article 181

- 1) The depository shall be liable for goods on deposit with him up to an amount not exceeding their value as assessed by the depositor.
- 2) The depository shall not be liable for damage or deficiency sustained by the goods arising from force majeure or the nature packing or packaging of the goods.

Article 182

Having notified the depositor, the depository may apply to the Court within whose circuit the public depository lies for leave to sell the deposited goods if they are threatened with rapid deterioration, and the Court shall determine the method of sale.

Article 183

- 1) The depositor shall receive a storage receipt from the storekeeper showing the name, profession and domicile of the depositor, the type, nature and quantity of the deposited goods, the name and location of the depository, the name of the insurer if any of the goods, and other necessary details to identify the goods and their value.

- 2) Each storage receipt shall be accompanied by an instrument of pledge containing the details entered in the storage receipt.
- 3) The depository shall keep a true copy of the storage and instrument of pledge.

Article 184

If the goods on deposit for which a storage receipt and an instrument of pledge have been provided are replaceable, they may be replaced by other goods of the same type and quality if so provided in the storage receipt and instrument of pledge, in which case all rights and prerogative of the holder of the storage receipt and instrument of pledge shall pass to the new goods.

Article 185

- 1) The storage receipt and instrument of pledge may be used issued the name of the depositor or to his authorization.
- 2) If the storage receipt and instrument of pledge are to order of the depositor, he may assign them both together or separately by endorsement.
- 3) The person to whom the storage receipt and instrument of pledge or one of the two is endorsed may ask for the endorsement to be entered in the copy held by the depository, together with details of his domicile and profession.

Article 186

- 1) An endorsement of the storage receipt and instrument of pledge must be dated.
- 2) If the instrument of pledge is endorsed separately from the storage receipt, the endorsement must be accompanied by the authorization clause and must include details of the debt covered by the pledge, the date due for payment, the name, profession and domicile of the creditor and the signature of the endorser.
- 3) The endorsee shall request that the endorsement of the instrument of pledge and the details of the endorsement be entered in the books of the depository and that this be noted on the instrument of pledge.

Article 187

- 1) The holder of both storage receipt and instrument of pledge may take receipt of the deposited goods, and he may ask that they be split into several groups and obtain a storage receipt and instrument of pledge for each group.
- 2) The person holding the instrument of pledge alone but not the storage receipt shall have the right to pledge the deposited goods.
- 3) The person holding the storage receipt alone but not the instrument of pledge may recover the deposited goods provided that he pays the debt covered by the instrument of pledge if due for payment. If it is not due for payment, he may recover the goods before the debt becomes payable if a sufficient sum of money is deposited with the depository to pay the debt plus relevant interest and expenses until the term is reached. This provision shall apply if the debt is payable and the holder of the instrument of pledge has not come forward to receive it. Recovery may be restricted to part of the deposited goods after payment of a sum appropriate to the value of that part.

Article 188

If the debt covered by the instrument of pledge is not paid by the due date, the holder of instrument of pledge separate from the storage receipt may apply for the pledged goods to be sold by following the procedures provided for in Article 172.

Article 189

- 1) The pledgee shall receive his prerogative right from the price of the goods over all creditors having deducted the following amounts.
 - a. Taxes and charges due on the goods
 - b. Judicial charges expended in the common interest of the creditors.
 - c. The expenses of keeping, storing and selling the goods.
- 2) The amount in excess of the entitlement of the holder of the instrument of pledge shall be paid to the holder of the storage receipt if he is present at the time the goods are sold. If he is not present, the sum shall be lodged with the cashier of the Court which ordered the sale.

Article 190

- 1) The holder of the instrument of pledge may make recourse upon the debtor or endorsers only after the pledged goods have been enforced against and it has been established that they are insufficient to meet his debt.
- 2) The holder of the instrument of pledge must make recourse upon the endorsers within fifteen days of the date of sale of the goods, and if he fails to do so his action shall not be accepted if deemed.
- 3) In all cases, an action for recourse upon the endorsers shall not be accepted if the holder of the instrument of pledge does not take enforcement procedures against the pledged goods within thirty days of the date the debt fell due.

Article 191

If an accident occurs to the deposited goods, the holder of the storage receipt or the instrument of pledge over the sum insured payable upon the occurrence of that accident shall have all the rights prescribed for him over the goods.

Article 192

- 1) A person who has lost the storage receipt or whose storage receipt has become damaged may apply to the Civil Court within whose circuit the public depository is located for an order to provide him with a copy of the receipt, provided that he establishes his ownership of it and provides a guarantor or sufficient bond.
- 2) A person who has lost the instrument of pledge or whose instrument of pledge has become damaged may apply to the Court for an order for the debtor to pay him the debt covered by the pledge when it becomes due, provided that he provides a guarantor or sufficient bond. If the debtor fails to implement the order, the person in whose favor it was issued may apply for the pledged goods to be sold by following the procedures in Article 172, provided that any endorsement is entered in the copy kept by the depository and that the notice to pay contains the details of such endorsement.

Article 193

- 1) The guarantor provided in the case of loss of the storage receipt shall be released upon recovery of the goods or the expiration of three years without any demands for recovery of the goods being addressed to the depository.
- 2) The guarantor provided in the case of loss of the instrument of pledge shall be released upon the expiration of three years from the date of entry of the endorsement in the books of the public depository.

Article 194

- 1) If the depositor does not recover the goods upon termination of the contract of deposit, the depository may apply for them to be sold by following the procedures in Article 172. The depository shall recover the costs to which he is entitled from the proceeds of the sale, and shall deliver the remainder to the depositor or lodge it with the Court cashier on his account.
- 2) The provision in the preceding paragraph shall apply if the deposit is for an unlimited period and one year elapses without the depositor requesting recovery of the goods or expressing his wish that the contract of deposit continue.

Article 195

- 1) Without prejudice to any more severe penalty, any person who establishes or operates a public depository without obtaining the license prescribed in Article 178
- (2) shall be sentenced to imprisonment and fined not less than (5000) five thousand dirhams and not in excess of (2000) twenty thousand dirhams or be awarded one of these two penalties.
- 2) In the event of conviction, the Court shall order that the depository be closed down until the offender applies for the issue of the necessary license, and the Court may order that the depository be liquidated.

Chapter V

Securities Market

Article 196

A securities market may not be opened within the State without the consent of the Council of Ministers, and a Federal law shall be promulgated regulating the business of the market.

Chapter VI

Commercial Agency

General Provisions

Article 197

An agency shall be commercial when it concerns commercial business

Article 198

- 1) A commercial agency shall be regarded as being based on payment unless otherwise agreed.
- 2) If the agent's fee is not defined in the agreement and not laid down by law, it shall be determined in accordance with current practices, and if there is no current practice it shall be assessed by the Court.

Article 199

The agent shall be entitled to the fee upon conclusion of the transaction with which he is charged. He shall also be entitled to the fee if it is established that failure to conclude the transaction was due to the principal. In other than these two cases, the agent shall be entitled only to a consideration for the efforts made and expense incurred as dictated by current practice, and if there is no current practice it shall be assessed by the Court.

Article 200

Even if a commercial agency includes an absolute authorization as agent, it shall extend only to commercial business unless otherwise agreed.

Article 201

If a given commercial agency is designated for a particular commercial transaction the agent may perform all work necessary to carry out that deal without need for leave from the principal.

Article 202

- 1) The agent is to follow the express and binding instructions of the principal. If he contravenes them without reasonable justification, the principal may refuse the transaction. In the case of directions given by the principal for guidance, the agent may act freely within the scope of the general objectives set by the principal for the agent.
- 2) If there are no express instructions from the principal with regard to a transaction, the agent shall delay concluding it and request instructions from the principal, unless delaying conclusions of the transactions would cause damage to the principal or the agent is authorized to act without instructions from him.

Article 203

If the agent carries out the business with which charged on terms more advantageous than those specified in the agency, he may not take possession of the difference which, in this case, shall belong to the principal unless otherwise agreed.

Article 204

If the goods or objects held by the agent on account of the principal are threatened with rapid deterioration or a fall in value, and he receives no instructions from the principal in their regard by an appropriate time, the agent may make an urgent application to the Court for leave to sell them by such method as the Court may determine.

Article 205

The agent may refrain from performing the work entrusted to him if doing so calls for unusual expense for which the principal has not paid, unless it has agreed or it was previous practice between the two parties that the agent would meet such expenses.

Article 206

If the agent refuses to carry out a transaction entrusted to him, he is to notify the principal forthwith. In this case, the agent must keep the goods or the other things he is doing on account of the principal until he receives relevant instructions. If instructions do not reach him by an appropriate time, the agent may apply to the Court for leave to deposit the goods and other objects with a trustee appointed by the Court.

Article 207

The agent shall be liable for destruction or deterioration of the goods and other objects he is holding on account of the principal unless that arises from an external cause in which the agent had no hand or from intrinsic defects in the goods or object.

Article 208

The agent shall be bound to insure the objects he is holding on account of the principal unless so requested by the principal or insurance is dictated by law or customary practice or the nature of the object demands it.

Article 209

- 1) An agent may not establish himself as a second party in a transaction he is charged with concluding except in the following cases:
 - a. If so permitted by the principal
 - b. if the principal's instructions regarding the transaction are express and specific and the agent fulfils them precisely.
 - c. If the transaction relates to a commodity with a specific market price and the agent buys them for himself or sells them to the principal from his own property at that price.
- 2) In such cases the agent is not entitled to an agency fee.

Article 210

Other parties with whom the agent has dealings may request to examine the agency contract, corresponding and other documentation proving the agent's authority. Restrictions on the agent's powers may not be used to make representations against another party unless it is proved that the other party knew of them at the time the contract was entered into.

Article 211

The agent is to inform the principal transactions he concludes on the principal's account.

Article 212

At the agreed or customary time or such time as was observed in previous mutual dealings, the agent is to submit to the principal an account of the business he has carried out on his account. This account must be truthful. If it deliberately contains false information, the principal may refuse the

transactions to which that information relates and shall be further entitled to claim damages, and the agent shall not be entitled to a fee for such transactions.

Article 213

The agent may withhold the goods and other objects sent to him or deposited with or delivered to him by the principal as a security for the fee and expenses to which he is entitled from the principal.

Article 214

Either party to a commercial agency contract may terminate the contract at any time, and compensation shall not be due unless the termination of the contract without prior notice or at an inappropriate time. If the contract is for a specific period, termination of it must have a sound and acceptable basis, otherwise compensation shall be payable.

Article 215

If the principal does not have a known domicile in the State, the domicile of his agent shall be deemed to be his own domicile. With respect to business performed by the agent on account of the principal, the principal may be sued and served with official documents at that address.

Article 216

Engagement in commercial agency business shall be governed by the relevant laws.

Section 2
Certain Types of Commercial Agency
1 - Contracts Agency

Article 217

A contracts agency is a contract by which a person is bound in a continuing manner and in a particular field of activity to initiate negotiation for the conclusion of transactions in the principal's interest for a fee. His task may include the conclusion and implementation of such contracts in the name and on account of the principal.

Article 218

A contracts agent shall perform the agency work and manage his commercial business separately, and shall bear the expenses necessary for the management of his business.

Article 219

If it is stipulated in the contract that the contracts agent shall erect buildings for display, stores for goods, or maintenance or repair installations, the contract period may not be less than five years unless otherwise agreed.

Article 220

- 1) A contract agent may not receive the rights of the principal unless the principal so entitles him, in which case the agent may not allow a reduction or a grace period without special authorization.
- 2) A contracts agent may take receipt of orders relating to the implementation of contracts concluded through him and complaints for non-implementation of such contracts. he shall be regarded as representing principal in legal actions relating to such contracts as may be instituted by or against him in the agent's field of business

Article 221

- 1) The principal is obliged to pay the agreed fee to the agent.
- 2) This fee may be a percentage of the value of the transaction, such percentage being calculated on the basis of the sale price to customers unless otherwise agreed.

Article 222

A contracts agent shall be entitled to the fee for transactions made or the non-completion of which is attributable to the principal unless the contract states otherwise.

Article 223

The principal is to provide the agent with the full information necessary for executing the agency.

Article 224

- 1) A contracts agent is bound to preserve the rights of the principal, and may take all precautionary action necessary to maintain those rights. He is to keep his principal informed of the state of the market in his field of business.
- 2) He may not divulge secrets of the principal which come to his knowledge through executing the agency, even after the contractual relationship has ended.

Article 225

If the principal replaces a contracts agent with a new one, the new agent shall be jointly liable with the principal for payment of compensation awarded to the previous agent when it is established that the replacement of the previous agent was the result of collusion between the principal and the new agent.

Article 226

As an exception to the rules of jurisdiction provided in the Law of Civil Procedures, the Court within whose circuit the place where the contract is executed lies shall have jurisdiction to examine all disputes arising from a contracts agency contract.

Article 227

Contracts agency shall be deemed to cover, and the provisions of Articles 220, 225 and 226 shall apply to, a distribution contract where the trader is required to promote and distribute the products of an industrial or commercial establishment in a particular area on terms which state that he is the sole distributor involved.

Article 228

When denied, and without lawful excuse, actions arising from a contracts agency contract shall not be heard upon the expiration of three years from the termination of the agency.

3- Commission Agency

Article 229

- 1) A commission agency is a contract by which the agent undertakes to make a legal disposal in his name on the principal's account for a commission that he receives from the principal.
- 2) When a commission agent makes a legal disposal in the name of the principal, the general provisions on commercial agency shall apply.

Article 230

- 1) If a commission agent sells at less than the price specified by the principal or buys at a higher, then if the principal wishes to refuse the transactions he must duly notify the agent within a week of the date on which he learned of the conclusion of the transaction, otherwise he shall be deemed to have accepted the price.
- 2) The principal may not refuse a transaction if the agent agrees to bear the price difference

Article 231

- 1) If a commission agent buys on the principal's account goods which differ from the kind or type requested by the principal is not obliged to accept them.
- 2) If a commission agent buys goods that correspond to the goods required but in greater quantity, the principal is obliged to accept only the quantity which he requested.

Article 232

If a commission agent concludes a contract on terms better than those specified by the principal, the advantage shall accrue to the principal. The agent must submit his account on the basis of the real terms on which the contract was concluded.

Article 233

- 1) If a commission agent instructed to make a sale allows the buyer a grace period to pay the price or allows it to be paid in installments without the principal's permission, the principal may ask the commission agent to pay the whole price forthwith, in which case the commission agent may retain any price difference and interest if any.
- 2) However, a commission agent may allow a grace period a payment of the price in installments without the principal's permission if so determined by the customary practice at the location where the sale was made, unless the principal's instructions require him to sell for a spot price.

Article 234

If the principal instructs that a sale be made at a deferred price and the commission agent effects the sale at a lesser, spot price, the principal may not demand that he pay the price until the deferred date specified by him, in which case the commission agent shall be required to make payment on the basis of the deferred price.

Article 235

- 1) A commission agent may not change the trademarks on goods he receives from or on account of the principal.
- 2) If a commission agent is holding goods in bulk of one nature consigned to him by various principal's, he must place a distinguishing statement on each of the goods.

Article 236

- 1) A commission agent may mention the name of the principal on whose account he has entered into contract unless the principal requests him not to reveal his name. revelation of the principal's name shall not entail a change in the nature of the agency so long as the commission agent concludes he contract in his name.
- 2) A commission agent is to reveal to the principal the name of the party with whom he has entered into contract if so requested by the principal. If the commission agent refrains from revealing the name of the party without reasonable justification. he may be regarded as guaranteeing execution of the transaction.
- 3) In all cases, the commission agent is required to prove the existence of the party with whom he is contracted when so requested by the principal.

Article 237

- 1) A commission agent is obliged to take legal action directly against the party who has entered into contract with him, and that party is obliged to take legal action directly against the commission agent.
- 2) A party who has entered into account with a commission agent may not make recourse upon the principal, nor may the principal make direct recourse upon that party unless otherwise provided by law.

Article 238

- 1) In addition to his right of retention, the agent shall have a prerogative over the goods and other objects forwarded to, deposited with or delivered to the agent by the principal.
- 2) This prerogative shall guarantee the agent's fee and expenses and sums he has paid on the principal's behalf or loaned to him plus the interest thereon and other amounts due to the agent for the agency, whether expended prior to receipt of the goods or objects or while they are in the agent's possession.
- 3) This prerogative is established without consideration of whether the debt arose from work relating to the goods or objects still in the agent's possession or to other goods or objects previously forwarded to, deposited with or delivered to him.

Article 239

- 1) The agent shall not have the prerogative referred to in the preceding Article unless in possession of goods or objects on the principal's account. Such possession materializes in the following cases:
 - a. If the agent actually takes receipt of the goods or objects

- b. if the goods or objects are placed at his disposal in a public depository or customs.
 - c. If he was in legal possession of them prior to their arrival under a bill of lading or any other shipping document.
 - d. If he has dispatched them and remains in possession of them under a bill of lading or other shipping document.
- 2) If the goods or objects which the prerogative applies are sold and delivered to the buyer, the agent's prerogative conveys to the price.

Article 240

The agent's prerogative shall take the precedence over all other prerogatives other than legal costs and sums due to the government.

Article 241

- 1) In enforcing against goods and objects in the possession of an agent, the procedures for enforcement against a commercially pledged object are to be followed.
- 2) However, if the agent is instructed to sell the goods or objects in his possession, he may enforce against them by selling them without a need to follow the procedures referred in the preceding paragraph, unless it is impossible for him to implement the express instructions of the principal with regard to the sale.

Article 242

- 1) If a commission agent instructed to sell becomes bankrupt before taking receipt of the price, the principal may claim directly on her buyer for payment of the price.
- 2) If a commission agent instructed to buy becomes bankrupt before taking receipt of the sold object, the principal may claim directly on the seller for delivery of the sold object.

Article 243

- 1) A commission agent shall not be liable for fulfillment by the party with whom he is contracted of his obligation unless he expressly assumes such obligation or it is provided by law or it is dictated by customary practice at the location where he practices his business.
- 2) A commission agent who is liable for fulfillment by the contracting party of his obligations shall be entitled to a special fee specified by the court when there is no agreement customary practice in this regard.

Article 244

A commission agent may not empower another party in the work entrusted to him without the principal's permission. If he delegates another commission agent to perform the work on his behalf, the delegate shall have the right to withhold the right or prerogative only to the extent of the debt due to the original commission agent.

4- Commercial; Representation

Article 245

Commercial representation is a contract by which a commercial representative undertakes to conclude transactions in the name and on account of his principal in a permanent capacity in a particular area.

Article 246

Commercial representative shall not be liable for the execution of transactions effected through him unless he expressly assumes such obligations or it is dictated by customary practice at the location where he practices his business.

Article 247

- 1) A trader shall be liable for deals and contracts effected by his representative within the limits of the authorization granted to him by the trader.
- 2) If a representative is authorized by a number of traders, the liability shall be done by them jointly.
- 3) If a representative is authorized by a company, the company shall be liable for his work, with the consequence that the partners shall be liable depending upon the type of company.

Article 248

- 1) If the limits of the authorization accorded to a commercial representative are not specified, it shall be deemed to be general and inclusive of all dealings relating to the type of trade in which the representative is authorized to engage.
- 2) A trader may not make representation against another party to the effect that the authorization was limited unless the trader proves that the other party knew of that limitation.

Article 249

A commercial representative shall undertake the commercial business for which he is authorized in the name of the trader who authorized him. When signing, he is to state alongside his own full name of the trader, also stating his capacity as commercial representative. If he does not do so, he shall be personally liable for his actions. However, the other party may make direct recourse upon the trade for dealings engaged in by the representative relating to the type of trade which he was authorized to perform.

Article 250

The commercial representative may represent the trader in actions arising from the commercial dealings performed by him.

Article 251

The commercial representative shall be jointly liable with the trader for observing the legal provisions relating to unlawful competition.

Article 252

A commercial representative may not engage on his own account or on account of any third party in any commercial dealing of the type of dealing he is representing without obtaining the express consent of the trade who is employing him.

Article 253

If it is agreed that the commercial representative shall be the sole general representative of the

trader in the agreed area, the commercial representative shall be entitled to a commission on each transaction concluded on account of the trader in that area, even if concluded by the trader himself or through a person than the commercial representative.

Chapter VII

Brokerage (Jobbing)

Article 254

Brokerage is a contract whereby the broker undertakes to a person for a fee to seek a second party for the conclusion of a particular contract and to act as intermediary in the contract negotiations.

Article 255

- 1) If the broker's fee is not plaid down by law or in the agreement, it shall be determined according to customary practice. if there is no such practice, it shall be assessed by the judge on the basis of the value of the transaction, the efforts made by the broker, and the time he spent on carrying out the work with which charged.
- 2) The judge may reduce the agreed fee if inappropriate to the nature of the transaction and the effort made by the broker. There shall be no scope for a reduction if the fee were agreed or the client paid it of his own choice after conclusion of the contract in which the broker acted as intermediary.

Article 256

- 1) A broker shall not be entitled to a fee for his mediation unless that mediation led to conclusion of a contract between the two parties. A contract shall be deemed to have been concluded when the two parties have agreed on all the essential issues in the contract.
- 2) The dealing factor in whether the broker is entitled to his fee shall be the conclusion of the contract, even if not implemented, unless otherwise agreed or dictated by customary practice.
- 3) if the contract is dependent upon a suspensive condition, the broker shall not be entitled to the fee until the condition is realized.
- 4) If it is impossible to conclude the contract for a cause attributable to the client, the broker shall be entitled to compensation for the effort he has made.

Article 257

If a contract in the conclusion of which the broker has mediated is rescinded, the broker may claim his fee or retain it if he has received it unless fraud or gross fault is proved on his part.

Article 258

If a broker mediates in the conclusion of a transaction which is prohibited by law, he shall not be entitled to a fee.

Article 259

- 1) The broker shall only be entitled to a fee from whichever of the parties to the transaction authorized him to mediate in its conclusion.
- 2) If the authorization were issued by both parties, each shall be liable, but not jointly, to the broker for payment of the entitled fee even if they had agreed that one of them would bear the whole of the broker's fee.

Article 260

Even if authorized by only one of the parties to the transaction, the broker is to present the transaction to them both honestly, and is to acquaint them both with all the relevant circumstances of which he is aware, and he shall be liable to them both for any fraud or fault on his part.

Article 261

A broker may not recover the expenses incurred by him in carrying out the work with which charged unless otherwise agreed, in which case he shall be entitled to the expenses even if the contract is not finalized.

Article 262

A broker may claim a fee or recover expenses if he has acted to the detriment of one contracting party in favor of the other who did not appoint him as intermediary in the conclusion of the contract if he has obtained a promise of advantage from that other party contrary to bona fide conduct.

Article 263

A broker may not establish himself as second party in a contract in the conclusion of which he has acted as intermediary unless so permitted by the contracting party, in which case the broker shall not be entitled to a fee.

Article 264

- 1) A broker is to enter in his books all dealings concluded through his efforts, and is to keep the relevant documents and provide certified true copies thereof to whichever of the contracting parties so requests. The provisions governing commercial books shall apply to these books.
- 2) In sale by sample, the broker is to retain the sample until the buyer has accepted the goods unreservedly or all disputes between the parties in their regard have been settled.

Article 265

A broker shall be liable to compensate for damage arising from the destruction or loss of documents, papers or things he receives in connection with a transaction in the conclusion of which he acted as intermediary, unless it is proved that their destruction or loss was due to force majeure.

Article 266

A broker may not act as intermediary for persons known to be unsuitable or whom he knows to be incompetent.

Article 267

- 1) A broker shall not be liable for the prosperity of the parties to a transaction where he acted as intermediary, nor shall he be liable for its implementation or for the value or type of the relevant goods, unless fraud or fault is proved on his part and he is liable under the agreement or in law.
- 2) However, the broker shall be jointly liable with the contracting party for implementation of the transaction if he has an interest in it over and above his fee.

Article 268

- 1) If a broker delegates another party to carry out the work with which he is charged without being empowered to do so, he shall be liable for the act of such substitute as though he acts were performed by him, and the broker and his substitute shall bear joint liability.
- 2) If a broker is empowered to provide a substitute for himself without that substitute being specifically named the broker shall be liable only for his faulty choice of substitute or for his faulty instructions to that substitute.

- 3) In all cases, the person authorizing the broker may make direct recourse upon the substitute.

Article 269

If several brokers are authorized in one contract, they shall be jointly liable for the work entrusted to them unless they are empowered to act individually.

Article 270

if several persons authorize one broker in a common act, they shall be jointly liable to him for implementing that authorization unless otherwise agreed.

Article 271

The provisions of the relevant laws and regulations shall apply to brokerage in the securities and goods markets.

Chapter VII
Transportation
Section 1

General Provisions

Article 272

A transportation contract is one by which a carrier undertakes for a fee to transport a person or thing from one place to another using his own means.

Article 273

With exception of transport by sea, the provisions in this Chapter shall apply to all types of transport whatever the transaction entered into by the carrier, whilst observing the provisions of the laws pertaining to certain types of transport and the provisions of international transportation agreements in force in the State.

Article 274

The provisions in this Chapter shall apply to transportation even if accompanied by process of another nature, unless such processes are the main purpose of the contract.

Article 275

- 1) A transportation contract and a commission agency transportation contract shall be effective upon offer and acceptance, unless the two parties agree to delay it to the time of delivery. Contract may be proved by all means of proof.
- 2) Receipt by the carrier of the object to be transported shall be deemed to be acceptance by him of the offer made by the consignor.
- 3) The embarkation by a passenger abroad the means of transport shall be deemed to be acceptance of the offer made by the carrier, unless it is established that it was not the intention of the passenger to conclude the transportation contract.

Article 276

- 1) If a carrier has more than one form for the contracts he concludes, and the two parties do not agree to follow one of them in particular, the transportation shall be concluded on the basis of the form containing the general conditions.
- 2) If the parties agree to follow a particular form, the conditions therein may not be split.

Article 277

- 1) If a carrier holds the monopoly of a type of transportation or the monopoly of the operation of particular transport routes, he shall be obliged to accept all demands unless a demand is in breach of the conditions prescribed for transportation, or if it is impossible for the carrier to meet the demand for reasons outside his control.
- 2) If the demands for transportation exceed the capacity of the means for the operation of which the carrier is licensed, when accepting demands, he must take note of their dates of submission and accord to a demand of earlier date priority over demands of later date unless some of them have priority under the conditions of transport.

Article 278

A carrier's liability shall cover his own acts and acts committed by his subordinates while performing their services. A subordinate is deemed to be any person employed by the carrier to fulfil the obligations developing from the transportation contract.

Article 279

- 1) In the execution of a transportation contract, force majeure shall not be deemed to include explosion or combustion of the means of transport (or departure from the rails on which they are travelling), or collision or such other accidents as are attributable to the appliances and machinery used by the carrier to carry out the transportation, even if it is proved that he exercised care in ensuring their serviceability and preventing damage they might cause.
- 2) Force majeure shall also not be deemed to include accidents attributable to the sudden death or bodily or mental weakness of the carrier's subordinates during their work, even if it is proved that the carrier exercised care to ensure their physical and mental fitness.

Article 280

A carrier shall not be liable to compensate for damage arising from suspension of the transportation or deviation from the prescribed route through being obliged to offer assistance to any sick or injured person or person at risk

Article 281

- 1) The implementation of a transportation contract, by fraud is meant any act or abstention from an act on the part of the carrier or his subordinates intended to cause damage.
- 2) By gross fault is meant any heedless act or heedless abstention from an act on the part of the carrier or his subordinates while at the same time appreciating the damage that could result.

Section 2
Contract for Transportation of Things

Article 282

- 1) The consignor must provide the carrier with details of the name and address of the consignee, the place to which transportation is required, the type, value, weight, volume and quantity of the things in question, how they are packed and packaged, the number of packages involved, the delivery period and route to be followed and such other sufficient details to identify the thing requiring to be transported.
- 2) The consignor shall be liable for damage arising from the incorrectness or inadequacy of the details provided.

Article 283

- 1) If a waybill is completed, it must contain the following particular information:
 - a. The date and place of completion of the bill
 - b. The name of the consignor, consignee, carrier and transportation commission agent if any and their places of residence.
 - c. The place of departure and place of arrival
 - d. Details identifying the things in question and their value
 - e. The date prescribed for execution of the transportation
 - f. Freightage and other expenses, and whether payable by consignee or consignor.
 - g. Condition relating to shipment and unloading, the type of vehicle to be used, the route to be followed, determination of liability and other special conditions that the transportation agreement may include.
- 2) The waybill may be completed in the name of a particular person, or to his order or to bearer.
- 3) The bill shall be negotiated according to the rules for subrogation if nominative, by endorsement if to order, and by presentation if to bearer, without this implying conveyance or possession of the goods.

Article 284

- 1) The consignor may request the carrier to provide him with a copy of the waybill.
- 2) If no waybill is made out, the consignor may request the carrier to provide him with a receipt signed by him for the receipt of the object in question. The receipt must be dated and include sufficient details to identify the object and the freightage.

Article 285

The waybill and the completed receipt signed by the carrier for the receipt of the object in question shall be deemed authoritative in proving the details contained therein. Any person claiming to the contrary shall have to prove it.

Article 286

- 1) The rights arising from the transportation contract shall not be established vis a vis the consignee, nor shall he incur the obligations arising therefrom, unless he accepts such rights and obligations expressly or by implication.

- 2) Receipt by the consignee of the waybill or the object in question, or of a claim that it has been delivered or instructions from him in its regard, shall be deemed to be implied acceptance by him of the rights and obligations arising from the transportation contract.

Article 287

- 1) The consignee is to deliver the object requiring to be transported and the documents necessary to carry out the transportation to the carrier. The consignor shall be liable for any inadequacy of such documents or their non-correspondence to the truth. The carrier shall be liable for their loss, negligent handling or mishandling.
- 2) If the transportation calls for special preparation, the consignor must give sufficient due notice to the carrier before delivering the object requiring to be transported.
- 3) Delivery shall be to the carrier's premises unless otherwise agreed.

Article 288

- 1) If the nature of the object to be transported requires it to be prepared for transportation by wrapping, packing or packaging, the consignor must do so in a manner that does not expose it to destruction or damage and does not expose persons or the other things being transported with it to damage. If the terms of transport require a particular method of packing, wrapping or packaging or to be followed, the consignor must observe them.
- 2) The consignor shall be liable for damage arising from defective wrapping, packing or packaging. The carrier shall be liable for such damage if he accepts transportation knowing of the defect. The carrier shall be deemed to be aware of the defect if visible or such as would not remain unseen by an ordinary carrier.
- 3) The carrier may not deny his liability for the loss or damage of an object transported by proving that the damage arose through the defective wrapping, packing or packaging of another object, and any agreement to the contrary shall be invalid.

Article 289

- 1) The carrier shall be entitled to inspect objects requiring to be transported in order to verify their condition and the correctness of the relevant details provided by the consignor.
- 2) In such inspection requires the packing or containers to be opened up, the consignor must be notified to attend the inspection. If he does not attend at the appointed time, the carrier may carry out the inspection in his absence and make recourse upon the consignor for the costs of the inspection unless otherwise agreed.
- 3) If it is evident from the inspection that the condition of the object does not allow it to be transported without damage, the carrier may refuse to transport it or carry out the transportation having taken a declaration from the consignor that he is aware of the condition of the object to be transported and is satisfied with its transportation. The condition of the object and the consignor's declaration are to be included on the waybill.

Article 290

The taking in receipt by the carrier of objects for transportation without reservation indicates that he has received them in good condition and in conformity with the details entered in the waybill. If he claims to the contrary, he shall have to prove it.

Article 291

- 1) The carrier shall be bound to transport the object requiring to be transported and to stow it in normal means of transport unless otherwise agreed.

- 2) If the consignor requests that shipment be by a particular type of transport, the carrier shall not be liable for damage resulting that kind of transport.

Article 292

- 1) The carrier must follow the agreed route. If no particular route is agreed, he must follow the shortest route.
- 2) However, the carrier may alter the agreed route or follow a longer route if obliged to do so out of necessity, in which case the carrier shall not be liable for delay or other harm resulting from the change of route unless it is proved that there was fraud or gross default on his part or his subordinates.

Article 293

- 1) The carrier guarantees the safety of the object during execution of the transportation contract.
- 2) If the safeguarding of the objection route calls for it to be re-wrapped or the packaging to be repaired, increased or reduced, or such other necessary measures, the carrier must do so and pay the requisite cost unless otherwise agreed. However, the carrier shall not be obliged to take non-customary measures such as the feeding or watering of animals, the provision of medical services or the like, or the watering of plants, unless otherwise agreed.

Article 294

- 1) The carrier is required to unload the object on arrival unless this is done by the consignee or some other person under an agreement, law, regulation or instruction, in which case the carrier shall not be liable for damage occurring during unloading.
- 2) In all cases, the carrier shall bear the costs of unloading unless otherwise agreed.

Article 295

- 1) If delivery at the consignee's location is not mandatory, the carrier must notify him of the date or arrival of the transported object and the time at which he can collect it.
- 2) The consignee is to collect the object on the date and at the time specified by the carrier, otherwise he shall have to pay storage charges. Once this time has passed, the carrier may transport the object to the consignee's location for an extra fee.
- 3) The consignee may request that he inspect the object before collection. if the carrier does not enable him to do this, he may refuse to take receipt of the object.

Article 296

- 1) While the object to be transported is in the carrier's possession, the consignor may order him not to transport it, to stop it, to return it to him, or to transport it to someone other than the original consignee or elsewhere, or give other instructions, provided that the consignor shall pay for the transportation which he has already been effected plus expenses, and compensation to the carrier for damage sustained through the fresh instructions. If the consignor receives a copy of the waybill, he must return it to the carrier for entry of the new instructions, which the consignor should sign, otherwise the carrier need not carry out those instructions.
- 2) The right to give instructions relating to the object in question shall convey to the consignee as soon as he receives the waybill or expressly or by implication accepts the transportation contract, in which case also the waybill must be returned to the carrier for him to enter the new instructions, which the consignee should sign otherwise the carrier need not carry out those instructions.

- 3) Fresh instructions regarding the object in question may not be given once it has arrived and the consignee has been requested to receive it or notified to attend to collect it.

Article 297

The carrier must carry out instructions issued to him by a person entitled to do so under the provisions of the preceding Article unless the terms of transportation prevent this, or if it is impossible for the carrier to carry them out, or if carrying them out would cause disturbance to the transportation traffic, or if the value of the object in question is insufficient to cover the expense incurred by the carrier through carrying them out. In such cases, the carrier must notify the person who gave the fresh instructions that he will not be carrying them out and the reason for this. The carrier shall not be liable for failing to carry out such instructions unless such abstention is unjustified.

Article 298

- 1) If an impediment prevents the transportation from starting, or if the transportation stops during execution, or if the consignee does not attend to take receipt of the transported object, or if he attends but refrains from taking receipt of it or from paying the transportation fee or the entitled expenses, the carrier must proceed duly to notify the consignor and request further instructions. As an exception to the provisions of Article 296, the carrier must implement instructions reaching him from the consignor even if it is impossible for him to return the copy of the waybill that he received from the carrier.
- 2) If instructions from the consignor do not arrive within appropriate period, the carrier may request the Court to confirm the condition of the object and apply for leave to deposit it with a custodian on the consignor's account and responsibility.
- 3) If the object is subject to the loss, deterioration or fall in value, or its maintenance calls for considerable expense, the Court may order that it be sold by such method as it may determine and the proceeds be lodged with the Court cashier on account of the parties concerned.

Article 299

The consignor is bound to pay the freightage and other entitled costs to the carrier unless it is agreed that these shall be borne by the consignee, in which case both consignee and consignor shall be jointly liable to the carrier for their payment.

Article 300

The carrier shall not be entitled to freightage for objects transported by him which are destroyed by force majeure.

Article 301

- 1) If the transportation is prevented by force majeure, the carrier shall not be entitled to a fee. If force majeure prevents transportation being continued, the carrier shall be entitled to a fee for the transportation already carried out.
- 2) In all cases, the carrier may claim shipment and unloading costs and other necessary expenses.

Article 302

The right to claim recovery of payments made over and above the freightage agreed or prescribed in the terms of transport shall rest with the person who paid the freightage.

Article 303

- 1) The carrier may retain the transported object against payment of the freightage, expenses and other such sums due to him for the transportation.

- 2) A carrier shall have a prerogative right over the proceeds from an enforcement against the objects he has transported, for payment of the freightage and other such sums due carrier for the transportation, and in this regard the procedures for enforcement against commercially pledged objects shall be followed.

Article 304

- 1) A carrier shall be answerable from the time he takes receipt of an object to be transported for its total or partial loss or damage or delay in delivery.
- 2) An object shall be deemed to be a total loss if the carrier does not deliver it or does not notify the consignee to attend to take receipt of it within thirty days from the expiration of the time period taken by a normal carrier - should there be such - to transport in similar circumstances if no time is appointed for delivery.

Article 305

A carrier shall not be liable for the loss of or damage to the object after delivery to the consignee, the agreed customs house, or the custodian appointed by the Court for the deposit of the object, unless it is proved that there was fraud or gross fault on the part of the carrier or his subordinates.

Article 306

- 1) A carrier shall not be liable for anything normally sustained by a transported object in the way of deficiency in weight or volume during transportation unless it is established that the deficiency was due to some other cause.
- 2) If a waybill covers several objects divided into sets or packages, the deficiency tolerance shall be determined on the basis of the weight of each set or package if the weight is separately specified in the waybill or can be determined.

Article 307

If an object is transported in the custody of the consignor or consignee, the carrier shall not be liable for its damage unless it is proved that there was fraud or gross fault on the part of the carrier or his subordinates.

Article 308

The carrier can only deny liability for the loss or damage unless it is proved that there was fraud or gross fault on the part of the carrier or his subordinates.

Article 309

- 1) Any clause purporting to exempt the carrier from his liability for the total or partial loss of or damage to the object shall be invalid, and any clause purporting to exempt the carrier from this liability arising from acts of his subordinates shall also be invalid. Any clause requiring, the consignor or consignee in any capacity whatsoever to pay all or some of the insurance costs for the carrier's liability shall be deemed to come within the meaning of to exempt from liability.
- 2) However, the carrier may stipulate that he shall be exempted wholly or in part for liability for delay.

Article 310

- 1) The carrier may stipulate in limitation on his liability for the partial loss of or damage to the object. For such a clause to be valid, the agreed indemnity must not be superficial, and shall be subject to assessment by the Court in the event of dispute.
- 2) The agreed indemnity shall not be payable if the carrier proves that the consignee did not sustain any damage.

- 3) If the value of the damage is less than the amount of the agreed indemnity, the judge may reduce this amount to be consistent with the amount of the damage. If the damage exceeds the amount of the agreed indemnity, more than this amount may not be claimed unless it is proved that the carrier or his subordinates committed fraud or gross fault, whereupon the carrier shall be bound to compensate for the damage in full.

Article 311

A liability limitation clause or delay liability exemption clause must be in writing, otherwise it shall be deemed void. If the transportation contract is made out on printed forms, the clause must be prominent and written in a manner that attracts notice, otherwise the Court may deem the clause void.

Article 312

The carrier may not be plead a liability limitation or delay liability exemption clause if it is proved that the carrier or his subordinates committed fraud or gross fault.

Article 313

- 1) If an object being transported is destroyed or damaged without its value being stated in the waybill, the compensation shall be assessed on its actual value at the time and place of arrival unless otherwise provided in the agreement or by law. Except for the case of total loss, when assessing the compensation account shall be taken of the amount of deficiency tolerance provided in Article 298.
- 2) If the value of the object is question is stated in the waybill, the carrier may dispute this value and may prove the actual value of the object by all means of proof.
- 3) With the exception of the two cases of fraud or gross fault on the part of the carrier or his subordinates, the carrier shall only be liable for coin, paper money, jewelry, or other valuables entrusted to him to the extent of the express written details provided to him by the consignor at the time of handing over.

Article 314

- 1) Compensation for total loss and compensation for delay may not be combined
- 2) Compensation for delay in the case of partial loss shall be reckoned only with respect to the part which was not a loss.
- 3) In all cases, the compensation stipulated may not exceed the amount payable in the event of total loss of the object.

Article 315

If an object is damaged or a partial loss or its arrival delayed such that it is deemed unfit for the purpose intended, and the liability of the carrier for the damage, destruction or delay is established, the applicant for compensation may relinquish the object to the carrier for compensation assessed on the basis of total loss.

Article 316

- 1) If compensation is paid for the loss of an object it is ten found within one year from the date on which compensation was paid, the carrier must notify the person who received the compensation forthwith, informing him of the condition of the object and inviting him to attend to check it at the place where it was found or at the place of departure or arrival at his discretion.
- 2) If the person who received the compensation do not forward his instructions within fifteen days of receipt of the notice, or sends instructions but does not attend for the check

at the time specified by the carrier, or attends but refuses to retrieve the object, the carrier may dispose of the object.

- 3) If the person who received the compensation requests to take the object back, he must return the compensation he received less the costs of claim and a consideration for the damage occurring for delay in delivery of the object.

Article 317

- 1) Receipt of transport objects and payment of the freightage shall invalidate any claim on the carrier if a defect occurring in them is visible. If not visible it may be proved, but an action for such defect shall not be accepted unless it was notified within 72 hours from the time of receipt and the demand was submitted to the Court within thirty days, to both time periods being added a time period for the distance involved.
- 2) The condition of the goods shall be established by the competent authorities or an expert appointed by the Court as a matter of urgency.
- 3) The provisions of this article shall not apply if the defect or partial loss arose through fraud or gross fault on the part of the carrier or his subordinates or if it is proved that the carrier and his subordinates or if it is proved that the carrier and his subordinates deliberately concealed the defects.

Article 318

- 1) If several carriers successively execute one transportation contract, the first carrier shall be liable to the consignor and consignee for the whole of the transportation, and any clause to the contrary shall be invalid.
- 2) Any of the carriers following the first shall be answerable to him and to the consignor or consignee only for damage occurring in his part of the journey. If it is not possible to determine in what part the damages occurred, the compensation must be distributed among all the carriers in proportion to the percentage entitlement of each to the freightage, and if one of them is insolvent his share shall be distributed among the others in the same proportion.
- 3) A carrier who proves that the damage did not occur in his part of the journey shall be exempted from sharing in the liability.

Article 319

Any of the succession of carriers may apply for the object to be inspected for its condition on delivery to him by the preceding carrier to be established. If he receives it without reservation, it shall be assumed that he received it in good condition and in conformity with the details entered on the waybill until he provides evidence to the contrary.

Article 320

The last carrier shall be responsible to the preceding carriers for demanding from the consignee that he pay sums due on the transportation. He shall be entitled to collect them on their behalf and to take legal action for their payment including the right to withhold and the right of prerogative over the object in question.

Article 321

The following shall not be heard if denied and without lawful excuse:

- 1) Actions instituted against the carrier for delay, destruction or damage arising from a contract for the transportation of objects upon the expiration of six months with respect to transportation within the State and one year with respect to transport abroad from the date

of delivery of the object to the consignee, to customs, or to the custodian appointed by the Court for deposit of the object. In the event of total loss of the object in question, the period shall commence from expiration of the time period provided in Article 304 (2).

- 2) An action by a carrier against successive carriers under Article 318(2) upon the expiration of 60 days from the date of payment of compensation or from the date of it being formally claimed.

Article 322

Non-hearing as provided in the preceding Article may not be pleaded by a carrier who or whose subordinates have committed fraud or gross fault.

Section 3

Contract Transportation of Persons

Article 323

- 1) A passenger is required to pay the fare at the time agreed or stated in the transport regulations, or at the time dictated by customary practice. He is to follow the instructions of the carrier relating to the transportation.
- 2) A carrier required to transport the belongings that a passenger is carrying with him during the journey, and the passenger is not required to pay for their transportation provided that such belongings do not exceed the limit stated in the transportation tariff, or the customary limit.

Article 324

- 1) If force majeure prevents the journey from commencing, or if circumstances arise prior to its execution that make it risky to life and limb, the carrier shall not be bound to compensate for failure to carry out the journey and he shall not be entitled to the fare.
- 2) If the force majeure or risk to life and limb arises after commencement of execution of the journey, the carrier shall only be entitled to the fare for the part of the journey which has been completed.

Article 325

If the journey becomes impossible due to the death or illness of the passenger or other such forced impediment the transportation contract shall be rescind and the fare shall not be payable.

Article 326

- 1) If a passenger abandons the journey before commencement, he must inform the carrier of that abandonment before the day for execution of the journey. In an exigency, such notice may be given on the day itself.
- 2) If notice is given in accordance with the preceding paragraph, the carrier shall not be entitled to the fare. However, he may demand compensation for damage sustained through abandonment of the journey by the passenger.

Article 327

If a passenger decides not to continue the journey after it has commenced, he shall have to pay the full fare unless his abandonment of the journey was due to some exigency, in which case he shall have to pay the fare only for that part of the journey which has been completed.

Article 328

Without prejudice to the provisions of the two preceding Articles, if the passenger does not appear

at the time prescribed for the journey he shall have to pay the fare in full, and whether the passenger has paid the fare before or after prescribed time he may request to complete the journey at a later time, the whole thereof unless otherwise agreed.

Article 329

- 1) If the journey is cancelled before commencement or before it is completed for a cause attributable to the carrier or his subordinates or the transportation intermediaries employed by him, the passenger shall not be liable for the fare, without prejudice to the passenger's entitlement to compensation if applicable.
- 2) If the transportation is aborted after commencement for a cause attributable to the carrier or his subordinates or the means of transportation employed by him, the passenger may decide not to continue the journey, in which case the carrier shall bear the costs of conveying the passenger to the agreed location. The passenger may choose to wait for the transportation to recommence, in which case he may not be asked to pay an additional fare.

Article 330

A travel ticket may be given up before commencement of the travel, unless the ticket is in the passenger's name or was given to him for special considerations.

Article 331

- 1) The carrier shall provide the passenger with a seat of the agreed class. The passenger may claim the difference from the carrier if he is obliged to travel in a class lower than shown on the travel ticket.
- 2) If a passenger pays an extra charge for special privileges, he may claim on the carrier for refund of this extra charge if the carrier does not provide him with the privileges equating to that charge.

Article 332

- 1) The carrier may retain the passenger's belongings as guarantee of the fare and payment for food or the like during execution of the transportation contract.
- 2) The carrier shall have a right of prerogative over the passenger's belongings to meet the fare and other amounts due to him for the transportation. In this regard the procedures for enforcement against commercially pledged objects shall be followed.

Article 333

- 1) The carrier is obliged to transport the passenger and his belongings to the destination by the appointed time, and if no time is appointed then within the time period taken by an ordinary carrier - if there be such - in similar circumstances.
- 2) Before commencement of the journey or reroute, the carrier may inspect a passenger's belongings in his presence to verify that they conform to the conditions of transport.

Article 334

- 1) The carrier shall guarantee the safety of the passenger during execution of the transportation contract. Any agreement purporting to exempt the carrier from such guarantee shall be invalid.
- 2) Execution of the transportation contract shall include the interval between when the passenger proceeds to the board the means of transport at the place of departure and his descent from it at the destination. If there are platforms/aprons allocated for the means of transport to park, execution of the contract shall include the interval between the entry of the passenger to the platform/apron at the place of departure and his leaving it at the destination.

- 3) If circumstances require the means of transport to be changed reroute, the guarantee shall not cover the interval during which the passenger transfers from one means of transport to another unsupervised by the carrier or his subordinates.

Article 335

- 1) The carrier shall be liable for a delay in arrival and for any physical or non-physical harm sustained by the passenger during execution of the transportation contract.
- 2) The liability provided in the preceding paragraph shall not be lifted unless the carrier proves that the delay or damage was due to force majeure or fault of passengers or other party.

Article 336

- 1) Any clause purporting to exempt the carrier wholly or in part from physical injury sustained by a passenger shall be invalid.
- 2) Any clause purporting to require the passenger in any way to pay all or some of the carrier's liability insurance costs shall be deemed invalid.

Article 337

- 1) The carrier may stipulate that he be exempted wholly or in part from liability arising from delay in the passenger's arrival and non-physical damage sustained by him during the journey.
- 2) A liability exemption clause must be in writing, otherwise it shall be deemed void. If the transportation contract is made out on printed forms, the clause must be prominent and written in a manner that attracts notice, otherwise the Court may deem the clause void.
- 3) The carrier may not plead a clause exempting from liability or part thereof if it is proved that the carrier or his subordinates committed fraud or gross fault.

Article 338

- 1) The passenger is obliged to safeguard the belongings and animals he is permitted to carry with him. The carrier shall not be liable for their loss damage unless the passenger proves that the loss or damage was attributable to fault on the part of the carrier or his subordinates.
- 2) The passenger shall be liable for damage sustained by the carrier or other parties through the belongings or animals he is transporting with him.
- 3) In the case of belongings delivered to the carrier, their transportation shall be subject to the provisions pertaining to the transportation of things.

Article 339

- 1) If a passenger dies or becomes ill during execution of the transportation contract, the carrier shall be obliged to take the necessary action to safeguard his belongings until handed over to the persons concerned.
- 2) If a person concerned is present when the death or illness occurs, he may intervene to monitor the arrangements made by the carrier to safeguard the belongings and may ask him for a declaration that the passenger's belongings are in his possession.

Article 340

The heirs of a passenger and the dependents he was supporting under an obligation to expend may institute an action for damages arising from the transportation contract if that passenger dies, whether the death occurred immediately after the accident or after the lapse of a period of time since its occurrence.

Section 4

Transportation Commission Agency

Article 341

- 1) A transportation commission agency is a contract by which the agent for a fee payable by the principal is bound to conclude a transportation contract in his name on his principal's account and by which, when required, he is to carry out operations associated with that transportation. With respect to the consignor, a transportation commission agent is in the same position as the carrier.
- 2) If a transportation commission agent performs the transportation by his own means, the provisions of the transportation contract shall apply to him unless otherwise agreed.

Article 342

Apart from the provisions in this Section, transportation commission agency shall be subject to the provisions governing commission agency.

Article 343

The principal may at any time cancel the request for transportation before the agent concludes the transportation before the agent concludes the transportation contract, in which case the principal shall be bound to reimburse the commission agent for the expenses he has incurred and compensate him for the work he has done.

Article 344

- 1) A transportation commission agent is obliged to fulfill the instructions of his principal, in particular those relating to the time of travel, choice of carrier, means of transport and route to be followed.
- 2) A commission agent may not change his principal a transportation charge greater than that which he has agreed with the carrier. Any privileges that the commission agent may obtain from the carrier shall be passed on to the principal unless the transportation contract states or customary practice dictates otherwise.

Article 345

The transportation commission agent shall guarantee the safety of the passenger or the object in question, and any agreement to the contrary shall be invalid.

Article 346

- 1) The transportation commission agent shall be liable from the time of receipt for the total or partial loss of or damage sustained by the object being transported or for delay in its delivery. he may only disclaim this liability by proving force majeure, intrinsic defect in the object, or faulty by the principal or the consignee.
- 2) In the carriage of persons, the commission agent shall be liable for delay in arrival and for physical or non-physical damage sustained by the passenger during execution of the transportation contract, and the commission agent may only disclaim this liability by proving force majeure or fault of passenger.
- 3) In all cases, the commission agent may make recourse upon the carrier if there is justification therefore.

Article 347

- 1) Any clause purporting to exempt the commission agent from total or partial liability for physical injury sustained by the passenger shall be invalid.

- 2) Any clause requiring the passenger in any form to pay all or some of the insurance costs for the commission agent's liability shall be deemed to come within the meaning of exemption from liability.

Article 348

- 1) A transportation commission agent may stipulate that he shall wholly or partly be exempted from liability arising from the destruction of, or damage to or delay in delivery of the object in question and for delay in passenger's arrival and non-physical damage sustained by him during the journey.
- 2) A liability exemption clause must be in writing, otherwise it shall be void. If the commission agency contract is made out on printed forms, the clause must be prominent and written in a manner that attracts notice, otherwise the Court may deem the clause void.
- 3) The commission agent may not plead a clause totally or partially exempting from liability if it is proved that the commission agent or his subordinates or the carrier or his subordinates committed fraud or gross fault.

Article 349

- 1) The principal and the passenger shall be entitled to make direct recourse upon the carrier to claim rights arising from the transportation contract, and the carrier shall be entitled to make direct recourse upon both the principal and the passenger to claim such rights. In all cases the transportation commission agent must be introduced into the case.
- 2) The passenger in contracts for the transportation of persons, and the consignor in the case of contracts for the transportation of things, shall be entitled to make direct recourse upon the principal, the carrier and the transportation commission agent for the rights arising from the transportation contract.

Article 350

If the transportation commission agent pays the carrier the transportation charge, he shall replace him in respect of his rights.

Article 351

The original transportation commission agent shall be answerable for a transportation commission agent whom he may appoint as intermediary, unless the consignor appointed the intermediary agent in his agreement with the original agent.

Article 352

The provisions in Articles 321 and 322 shall apply to the non-hearing of an action arising from a transportation commission agency contract.

Section 5
Provisions Pertaining to Transportation by Air

Article 353

- 1) In the provisions of this Code, air transportation shall mean the carriage of persons, baggage and goods by aircraft for a fee.
- 2) By baggage referred to in the preceding paragraph is meant things which a passenger may carry with him abroad the aircraft and which are delivered to the carrier for safekeeping by him during the flight.

Article 354

Without prejudice to international agreements to which the State is a party, the provisions of this Chapter shall apply to transportation by air with due observance the special provision in the following Articles.

Article 355

The air carrier shall be liable for the damage occurring as a result of the death or injury of any passenger or any physical harm to which any passenger may be subjected during the air transport or during the process associated with his embarkation or disembarkation.

Article 356

- 1) The air carrier shall be liable for damage occurring as a result of the destruction, loss or damage of baggage and goods if the incident giving rise to the damage occurred during the transportation by air.
- 2) Transportation by air shall include the period during which the baggage and goods are in the safekeeping of the carrier during flight or while the aircraft is at an airport or at any other location at which it has landed.
- 3) Transportation by air shall not include the period during which the baggage or goods are the subject of land, sea or river transportation outside the confines of the airport. However, if such transportation is necessary for the freighting of the baggage or goods or to deliver them or to transfer them from one aircraft to another pursuant to an air transportation contract, it must be assumed that the damage resulted from an accident occurring during the period of transportation by air until there is evidence to the contrary.

Article 357

The air carrier shall be liable for damage occurring as a result of delay in arrival of passengers, registered baggage or goods.

Article 358

The air carrier shall be exempted from liability with respect to small personal objects which remain in the safekeeping of a passenger during the flight. The air carrier shall not be liable therefore unless the passenger proves that the carrier or his subordinates failed to take the necessary measures to prevent the damage occurring.

Article 359

- 1) In the case of the carriage of persons, compensation awarded against the carrier in the event of the death or injury of a passenger shall not exceed the amount of blood-money prescribed under Sharia law unless it is agreed that this amount shall be exceeded.
- 2) In the case of the carriage of baggage and good, it is not permissible that compensation may not exceed 150 (one hundred and fifty) dirhams per kilogram unless it is agreed that this amount shall be exceeded. However, if the consignor presents a special statement

when delivering the baggage or goods to the effect that he accords particular importance to their safe delivery at particular destination in view of their value, and if he pays such extra charge for this that the carrier may require, then the carrier shall be obliged to pay compensation to the value indicated by the consignor unless the carrier proves that the value exceeds the true value of the baggage or goods.

- 3) If a package is lost, damaged or its arrival delayed and this affects the value of the other packages covered by the same transportation form, the whole of such packages shall be taken into account when determining the limit of liability.
- 4) With respect to personal or small objects which remain in the safekeeping of the passenger during the flight, the compensation awarded per passenger for the loss or damage of such objects may not exceed 3000 (three thousand) dirhams.
- 5) The air carrier may not plead the limitation of liability provided in this Article if it is proved that the damage arose from an act or a failure to act on the part of the carrier or his subordinates either with the intention of causing damage or heedlessly while aware that damage could ensue. If the act of failure to act was due to subordinates, it must also be proved that this occurred while they were performing their duties.

Article 360

The air carrier shall be liable within the limits provided in the preceding Article whatever the capacities of the parties in the action for liability.

Article 361

- 1) If an action for damages is instituted against a subordinate of the carrier, he may plead the limitation of liability provided in Article 359 if it is established that the act which caused the damage was committed by him during performance of his services.
- 2) However, a subordinate of the carrier may not plead limitation of liability if it is provided that damage arose from a failure to act on his part, either with the intention of causing damage or heedlessly while aware that damage could ensue.

Article 362

- 1) The airway bill must include a statement that the transportation is being made in accordance with the provisions on limited liability in Article 359, otherwise neither the carrier nor his subordinates may plead these provisions.
- 2) Any clause purporting to exempt that air carrier from liability or to limit liability at less than as provided in Article 359 shall be invalid except in the case where the object in question is destroyed or damaged for reason of its nature or for an intrinsic defect.

Article 363

Receipt of the baggage or goods by the consignee at the destination without reservation shall give rise to the presumption that he took receipt of them in good condition and in accordance with the terms of the waybill, and he shall have to prove to the contrary.

Article 364

- 1) If the baggage or goods arrive damaged, the consignee must advise the carrier as soon as he discovers the damage, and do so within seven days from receipt with respect to baggage and fourteen days with respect to goods. If the baggage or goods arrived late, the notice must be made within a maximum of twenty days from the day on which the baggage or goods were placed at the disposal of the consignee.
- 2) The advice may be given in the form of an objection written on the waybill upon receipt of the baggage or goods.

- 3) An action for damages against the carrier shall not be accepted if the protest is not forwarded within the time periods provided in this Article, unless the plaintiff proves fraud or deception on the part of the carrier or his subordinates in order falsely to benefit from the lapse of such periods or to conceal damage sustained by the baggage or goods.

Article 365

- 1) If the transportation is gratis, the air carrier shall not be liable unless it is proved that he or his subordinates were at fault, in which case the carrier shall be liable within the limits provided in Article 359.
- 2) Transportation shall be deemed to be gratis if made without charge and the carrier is not a transportation professional. If the carrier is a professional, the transportation shall not be deemed gratis.

Article 366

The captain of the aircraft shall have authority over all persons abroad. In this capacity he may remove from it any person or object whose presence aboard the aircraft constitutes a risk to its safety or a breach of order abroad.

Article 367

The air carrier shall be exempted from liability if he proves that the whole of the damage arose from the fault of the damaged party. The Court may lessen the carrier's liability if he proves that the fault of the damaged party contributed to the occurrence of the damage.

Article 368

A plaintiff may elect to institute his action before one of the following courts: -

- 1) The court within whose circuit the domicile of the carrier is located.
- 2) The court within whose circuit the head office of the carrier's business is located.
- 3) The court within whose circuit the carrier has an establishment of installation which concluded the contract on his behalf.
- 4) The court at the destination

Any clause which includes an amendment to the aforesaid rules of jurisdiction shall be deemed invalid if stipulated prior to the occurrence of the damage.

Article 369

In the case of successive transportation undertaken by several successive carriers, each carrier shall not be deemed a party to the transportation contract for the stage performed by him. However, the carrier which concluded the transportation contract shall be liable for the whole stage to which he agreed in the contract even if he himself did not perform it wholly or in part.

Article 370

a action for damages against an air carrier shall not be heard upon the expiration of two years from the day on which the aircraft arrived or from the day on which it should have arrived or from the day on which the transportation ceased.

VOLUME III

BANKING OPERATIONS

Chapter I

Bank Deposits and Accounts

Section I

Bank Deposits

Article 371

- 1) A cash deposit is contract by which a person delivers a sum of money by any means of payment to a bank which is obliged to return the sum on demand or in accordance with the agreed terms.
- 2) The bank shall acquire ownership of the deposited monies and be entitled to administer them to serve the needs of its own business, while being obliged to return their equivalent to the depositor in the same currency as deposited.

Article 372

- 1) A cash deposit shall be returned on demand unless otherwise agreed. The depositor may dispose of the balance or nay part thereof at any time.
- 2) This entitlement may be dependent upon prior notice or the expiry of a particular period.

Article 373

With the exception of deposit designated for investment, a cash deposit is deemed to be a debt, whereby a offset may be made between it and any debt due to the bank from the depositor, and any agreement to the contrary shall be invalid.

Article 374

If the bank issues a savings book, it must be in the name of the person in whose favor the book has been issued and deposits and withdrawals made must be entered in it. The details in the book, when signed by a bank official, shall be authoritative in proving the details stated in the relationship between the bank and the person in whose favor the book was issued. Any agreement to the contrary shall be invalid.

Article 375

Deposits and withdrawals shall be made at the bank branch where the account was opened unless otherwise agreed.

Article 376

If depositor has several accounts with one bank or one branch of a bank, each account shall be deemed independent of the others unless otherwise agreed.

Article 377

Whilst observing the provisions of Article 391 of this Code, a contract of deposit shall not entitle the depositor to withdraw sums from the bank exceeding the amount of the deposit. If the bank conducts transactions which entail the depositor having a balance debtor, the bank must inform the depositor forthwith for him rectify his position.

Article 378

The bank must forward account statements to the customer once a month unless otherwise agreed.

Article 379

A bank may open a joint deposit account between two or more persons on an equal basis between

them unless otherwise agreed. The following provisions shall be observed with respect to such an account.

- 1) The joint account shall be opened by all its holders or by a person holding an authorization from the joint account holders certified by an official authority concerned. Withdrawal from the account shall be with agreement of its holders.
- 2) If a distraint is imposed on the balance of a joint account holder, the distraint shall apply to the share of the distraintee in the account balance on the day on which the bank was notified of the distraint, in which case the bank shall suspend withdrawals from the joint account to the equivalent of the distrainted share and shall notify the joint holders or their representative of the imposition of the distraint within a period not exceeding five days from the day of its imposition.
- 3) When making a clearance between the various accounts of a joint account holder the bank may not enter this account into clearance without the written consent of the other account holders.
- 4) If a joint account holder dies or loses legal competence, the others must duly notify the bank of such within a maximum of ten days from the date of the death or loss of competence. The bank must suspend withdrawals from the joint account from the date of its being advised until a successor is appointed.

Section 2

Bank Transfers

Article 380

- 1) A bank transfer is a transaction whereby the bank enters a particular sum on the debit side of the account of the person ordering the transfer and enters the same sum on the credit side of another account upon the written request of the customer ordering the transfer.
- 2) The following may be done by such a transaction:
 - a. The transfer of a particular sum from a person's account to another person's account, each having an account at the same bank or two different banks.
 - b. The transfer of a particular sum from one account to another, both being opened in the name of the transferor with the same bank or two different banks.
- 3) The agreement between the bank and the customer ordering the transfer is regulated by the conditions governing the issue of the order. However, an order to transfer may not be bearer.

Article 381

If a bank transfer is made between two branches of a bank or two different banks, any objection by another party regarding that transfer must be passed to the branch or bank where the account of the beneficiary is held.

Article 382

A transfer order may apply to sums actually entered in the transferor's account or to sums which it is agreed with the bank shall be entered in his account within a particular period.

Article 383

it may be agreed that the beneficiary shall himself present the transfer order to the bank holding the

transferor's account instead of it being communicated to the bank by the transferor.

Article 384

- 1) The beneficiary shall acquire the value of the amount of the bank transfer from the time it is entered on the debit side of the transferor's account, and the transferor may rescind the transfer order until this entry is made.
- 2) If it is agreed that the beneficiary himself may present the transfer order to the bank, the transferor may not rescind the order, whilst observing the provisions of Article 389.

Article 385

A debt in settlement of which a transfer order is made shall remain outstanding together with its bonds and ancillaries until the amount is actually entered on the credit side of the beneficiary's account.

Article 386

It may be agreed to defer the execution of particular transfer orders, whether forwarded directly by the transferor or presented by the beneficiary, until the end of the day, for execution together with other orders of their kind submitted to the bank on the same day.

Article 387

- 1) If the transferor's balance less than the amount stated in the transfer order and the order was forwarded directly by the transferor, the bank may refuse to execute it but must duly notify the transferor without delay.
- 2) If the transfer order is presented by the beneficiary, the bank shall credit his account with the partial consideration unless the beneficiary refuses this. The bank must endorse the transfer order to the effect that the partial consideration has been credited or that the beneficiary has refused to accept the transfer.
- 3) If several beneficiaries approach the bank as a whole and the value of the transfer orders they hold exceeds the transferor's balance, they shall be entitled to demand that the deficient balance distributed among them in proportion to their rights.
- 4) If the bank refuses to implement the transfer order or the beneficiary refuses to accept the transfer of the partial consideration under paragraph (1) and (2), the transferor shall retain the right to dispose of this consideration.
- 5) If the bank does not execute the transfer order on the first working day following the day of its submission. within the limits of the amount not executed the order shall be deemed void and it must be returned to the person who submitted it against a receipt. If a longer period than that is agreed, the unexecuted transfer order must be added to orders submitted on the following days.

Article 388

If the transferor dies the bank shall cease implementing orders to transfer given by him from the date it becomes aware of his death. If the beneficiary dies, the bank shall continue to implement the transfer orders.

Article 389

- 1) If the beneficiary files for bankruptcy, the transferor may halt execution of the transfer order even if the beneficiary himself has received it.
- 2) Bankruptcy of the transferor shall not prevent execution of transfer orders issued by him if submitted to the bank before the issue of the adjudication in bankruptcy, unless the decision of the Court is issued to the contrary.

Chapter II
Current Account

Article 390

A current account is a contract between two persons whereby the rights and obligations arising from their mutual relationship are converted to account entries which are offset against each other, whereby the final balance on closing the account itself is a debt due for payment.

Article 391

- 1) A bank may open a current for a commercial customer if the transactions conducted by the bank on the customers' account are accompanied by the opening of a credit or a credit facility in his in his favor.
- 2) It may be agreed that the account may be overdrawn by the customer, whereby there is always a credit balance. It may also be agreed that the account be overdrawn on both sides, in the sense that there may be a credit or debit balance with respect to both parties.

Article 392

The following conditions must obtain regarding payments on order that they may be entered in a current account:

- 1) They must be in cash or replaceable of common kind so that there can be an offset between them.
- 2) They must arise from verified obligations of specific amount.
- 3) They must have been made to the recipient as an investment with ownership

Article 393

There may be more than one current account between the two parties if each account is restricted to a particular type of transaction or currency.

Article 394

A current account contract shall entail the following:

- 1) Ownership of the monies and property delivered and entered in the current account shall transfer to the party receiving them.
- 2) The entry of a commercial paper in the account shall be considered proper but its value shall not be reckoned if not paid when due, in which case it may be returned to its owner and a counter-entry made in the manner shown in Article 407 (2).
- 3) Individual entries in a current account as totals may not be split until the account is closed and the final balance derived.
- 4) An individual entry in a current account may not be offset against another individual entry in the same account.
- 5) Individual entries in a current account shall not forfeit the rights of the two parties in respect of contracts and transactions from which those individual entries in a current account shall not forfeit the rights of the two parties in respect of contracts and transactions from which individual entries arose.
- 6) Either party in a current account may dispose of his credit balance at any time unless otherwise agreed.

Article 395

- 1) There is a legal requirement that all obligations arising from the business connections between the two parties to a current account shall be entered in that account, unless such obligations are guaranteed by legal or consensual bonds.
- 2) However, obligations accompanied by consensual bonds may be entered in a current account whether such bonds are established by the debtor or another party if all parties concerned expressly agree to enter them.

Article 396

- 1) If it is agreed that an obligation accompanied by a consensual bond shall be entered in the current account, that bond shall be entered in the current account, that bond shall convey to guarantee the account balance in the amount of the debt upon closure of the account, no account being taken of changes occurring in the current account while being operated, unless otherwise agreed.
- 2) If it is stipulated by law that particular measures be taken to establish a bond or to make it authoritative vis-a-vis other parties, the bond shall not be assigned to guarantee the current account balance and representations may only be made with respect to it from the date such measures are taken.

Article 397

If obligation incumbent upon one of the parties are entered in the current account they shall lose their particular characteristics and own entity and shall not thereafter be used individually for the purpose of settlement, clearance, judicial proceeding or non-hearing of an action.

Article 398

- 1) If the individual components of a current account include monetary obligations made up of various currencies or dissimilar things, the parties may agree to enter them in the current account provided that they are entered in separate sections where the similarity of the payments they contain is observed and provided that the parties allow the current account to maintain its several separate sections.
- 2) The balances of such separate sections must be transferable, whereby at the time specified by the parties or at the latest upon closing the account they can be cleared in order to arrive at one balance.

Article 399

- 1) Current account payments from the customer shall not produce interest unless otherwise agreed. The interest shall be reckoned at the agreed rate, and if the rate is not specified by agreement it shall be reckoned at the market rate prevailing at the time of the transaction, but is not to exceed 12%.
- 2) Interest shall apply to the debtor balance from the date of closure of the account unless otherwise agreed.

Article 400

- 1) If a period is specified for a current account to be closed, it shall be closed upon termination of that period. It may be closed before the termination of this period by agreement between the parties.
- 2) If no period is specified for a current account, it may be closed at any time at the discretion of one of the parties, whilst taking account of the agreed or customary notice periods.
- 3) In all cases, the account shall be closed if the customer dies or loses competence, if one of

the parties files for bankruptcy, upon the lapse of a legal person, or if the bank is deleted from the list of functioning banks or ceases its banking business.

Article 401

A current account between a bank and its customer shall be considered closed at the end of the bank's financial year. The closure shall not be deemed a closing down of the account, which shall remain open and whose balance shall be carried forward to the same current account, movement on which shall resume on the first succeeding working day.

Article 402

If a current account is closed down, the balance on it shall be deemed a debt payable forthwith unless the parties agree otherwise or the entry of certain transactions that have to be entered in the account is still in progress and the entry would amend the amount of balance, in which case the balance debtor shall be deemed payable forthwith from the day following the last entry required by such transactions.

Article 403

The general rules laid down for an action not to be heard for reason of prescription shall apply to the debtor balance and the interest thereon.

Article 404

if the debt entered in a current account is eliminated or reduced in amount for a cause subsequent to its entry in the account, its entry must be cancelled or reduced as the case may be, and the account amended accordingly.

Article 405

The creditor of one of the parties to a current account may impose a garnishment upon the credit balance of the distrainee at the time the distraint is imposed.

Article 406

- 1) If one of the parties to a current account files for bankruptcy, representations may not be made to the group of creditors regarding any pledge established with respect to his funds after the date specified by the Court for cessation of payment to guarantee the likely balance debtor, by the amount of the debit balance at the time the pledge was established.
- 2) However, representations regarding the pledge may be made to the group of creditors with respect to the difference if any between the amount of the debit balance existing at the time of establishment of the pledge and the amount of the balance at the time the account was closed down, unless it is proved that the pledgor at the time of establishment of the pledge knew that the debtor had ceased making payments.

Article 407

- 1) If the proceeds of the discounting of commercial papers are entered in a current account and the value of the paper is not paid by the date due, the person who discounted the paper, even after the person who presented it for discount has filed for bankruptcy, any cancel entry of its value in the current account by making a counter-entry.
- 2) By a counter-entry is meant the entry into the debit side of the current account of a sum equal to the value of the commercial paper plus expenses.
- 3) A counter-entry may only be made in connection with commercial papers whose value has not been paid by the due dates and any agreement to the contrary shall be invalid.

Article 408

- 1) When denied and without lawful excuse, an action for the correction of a current account

shall not be heard even if the demand is based on error, omission or duplication of entries, in connection with entries made over year from the date of receipt of the account statement unless, during this period, one of the parties notifies the other that he is pleading correction of the account or unless the customer, in the case of a current account opened with a bank, proves that during that period he received no statement of his account from the bank. In both cases, no action relating to a current account shall be heard upon the expiration of five years from the date on which the account was closed down.

Chapter III

Bank Credits

Bank Loan

Article 409

- 1) A bank loan is a contract by which the bank provides the borrower with a sum of money as a loan or by entering it to the credit side of his account at the bank on the agreed terms and conditions.
- 2) A loan may be secured.
- 3) The borrower is bound to repay the loan plus interests to the bank on time and on the agreed terms.

Article 410

A bank loan is deemed a commercial act whatever the capacity of the borrower or the purpose to which the loan is allocated.

Section 2
Bank Guarantee

Article 411

- 1) A bank guarantee is an undertaking by a bank to meet the customer's debt to another party on the agreed terms contained in the guarantee. The guarantee may be for a specific or unspecified period.
- 2) A bank guarantee is a joint and several obligations.

Article 412

A bank guarantee can take numerous forms, among which are:

- 1) The bank's signature to a commercial paper as reserve guarantor, or the provision of such a reserve guarantee by way of a separate instrument which allows several commercial papers to be guaranteed at one time.
- 2) The conclusion of a separate contract of suretyship.
- 3) The forwarding of a letter of guarantee by the bank to the customer's creditor in which the bank guarantees that the customer will meet his obligations.

Article 413

A bank guarantee is deemed a commercial act whatever the capacity of the party guaranteed or the purpose to which it is allocated.

Article 414

A letter of guarantee is an undertaking given by the guarantor bank at the request of a customer (the ordered) unconditionally to pay a specified or specifiable sum to another person (the beneficiary), unless the letter of guarantee is made conditional if so requested within the period specified in the letter. The letter of guarantee is to state the purpose for which it is being provided.

Article 415

- 1) A bank may request the provision of a security against the issue of a letter of guarantee.
- 2) Such bond may be in cash, or as commercial papers, securities or goods, or as an assignment to the bank by the ordered of his right visa vis the beneficiary.

Article 416

The beneficiary may not assign his right arising from the letter of guarantee to another party without the consent of the bank.

Article 417

- 1) The bank may not refuse to make payment to the beneficiary for a reason attributable to the relationship of the bank to the orderer or of the orderer to the beneficiary.
- 2) In exceptional cases the court may, at the request of the orderer, impose an attachment on the amount of the guarantee held by the bank provided that the orderer bases his case on good and firm grounds.

Article 418

The bank shall be released of liability to the beneficiary if during the period of validity of the letter of guarantee it receives no demand to pay from the beneficiary, unless prior to the termination of this period it is expressly agreed to renew it.

Article 419

If the bank pays the beneficiary the sum agreed in the letter of guarantee, it shall replace him the recourse upon the orderer for the amount of the sum it has paid.

Section 3
Opening of Credit

Article 420

- 1) The opening of credit is a contract by which a bank commits itself to replace at the disposal of a customer a particular sum of money which the customer shall be entitled to disburse as one or as several payments.
- 2) A credit may be opened for a specified or unspecified period.

Article 421

A contract for the opening of a credit is not deemed to be a loan, and the customer is not bound to use the credit which has been opened for him.

Article 422

- 1) If a credit is opened for an unspecified period, the bank may cancel it at any time provided that it notifies the beneficiary customer at least thirty days prior to the date specified for the cancellation. Any agreement which entitles the bank to cancel a credit of unspecified period without prior notice or at lesser notice shall be invalid.
- 2) In all cases, a credit which has been opened for an unspecified period shall be deemed cancelled upon the expiration of six months from the date on which the beneficiary was notified of the opening of the credit if he has not used it, unless otherwise agreed.

Article 423

- 1) A bank may only cancel a credit before the termination of its specified period if the beneficiary dies, loses competence, or ceases to pay even if there has been no adjudication in bankruptcy with respect to him, or if he is grossly at fault in using the credit which has been opened in his favor.
- 2) If the customer in whose favor the credit has been opened is a company, the credit shall also lapse upon the invalidation or expiration of the company.

Article 424

If there is a significant deficiency in the guarantees in kind of personal guarantees provided by the customer, the bank shall be entitled to demand a further guarantee or may reduce the amount of the credit in proportion to that deficiency.

Article 425

A credit may not be transferred without the consent of the bank which opened it.

Article 426

A contract for the opening of credit is deemed a commercial act whatever the capacity of the customer or the purpose to which the credit is allocated.

Article 427

A contract for the opening of credit shall specify the maximum amount of credit and how the credit is to be employed.

Section 4

Documentary Credit

Article 428

- 1) A documentary credit is a contract by which a bank opens a credit at the request of its customer (the party ordering the opening of the credit) up to a certain sum and for a certain period in favor of another person (the beneficiary) with the guarantee of documents that represent shipped goods or goods ready for shipment.
- 2) The documentary credit contract is separate from the contract for which it is opened, and the bank remains outside that contract.

Article 429

Every documentary credit must include a date of expiry of its validity and presentation of the documents for the purpose of settlement, acceptance or discounting.

If the date prescribed for termination of the validity of the credit falls on a bank holiday, the validity period shall be extended to the first working day after the holiday. Apart from holidays, the validity of a credit shall not be extended even if its date of termination coincides with an interruption of banking business due to force majeure unless specifically authorized by the orderer.

Article 430

- 1) The documents against which the settlement, acceptance or discount processes are to be carried out must be accurately stated in the documentation pertaining to the request for the opening of, or endorsement or notification of the documentary credit.
- 2) The bank which opens the credit is bound to implement the agreed settlement, acceptance or discount terms in the credit contract if the documents representing the goods correspond to the details and terms in that contract.

Article 431

- 1) A documentary credit may be revocable or absolutely irrevocable.
- 2) a documentary credit shall be absolutely and irrevocable unless it is expressly agreed to be revocable.
- 3) A documentary credit may be divisible or transferable or indivisible or nontransferable.

Article 432

- 1) A revocable documentary credit shall not entail any obligation of the bank to the beneficiary, and the bank may at any time amend or cancel it of its own initiative at the request of the party who ordered the opening of the credit.
- 2) if the shipping documents are submitted in conformity with the details and terms the documentary credit contract during its period and before it is cancelled, the bank and the party who ordered the opening of the credit shall be jointly liable to the beneficiary.

Article 433

- 1) In the case of irrevocable documentary credit, the obligation of the bank shall be absolute and direct to the beneficiary and to any bona fide bearer of the instrument drawn pursuant to the contract for which the documentary credit was opened.
- 2) A definitive documentary credit may not be cancelled or amended without the consent of all the parties concerned.

Article 434

- 1) A bank other than the one which opened the documentary credit may endorse an irrevocable credit by committing itself in turn absolutely and directly to the beneficiary and to any bona fide bearer of the instrument drawn pursuant to the contract for which the documentary credit was opened.
- 2) The mere forwarding of notice of the opening of a definitive documentary credit to the beneficiary via a bank other than the bank which opened the documentary credit shall not be deemed an endorsement of the credit by that other bank.

Article 435

- 1) The documents must be submitted to the bank before termination of the credit period. If submitted afterwards, the bank shall refuse them unless the party ordering the opening of the credit requests that they be accepted and the bank consents to do so.
- 2) The bank must verify the existence of the required documents that their contents conform exactly to the terms of the letter of credit, and that they are internally consistent.

Article 436

The bank is only to make a visual examination of the documents to ascertain that they correspond to the documents required in the letter of credit. verification of whether the goods themselves correspond to the documents which represent them lies outside the scope of the bank's obligation.

Article 437

If the bank accepts the documents, it must pass them without delay to the party who ordered the opening of the credit. If it refuses them, it must forthwith notify the beneficiary of the documentary credit accordingly, stating the reasons for its refusal.

Article 438

- 1) The beneficiary may not transfer the credit in whole or in part to another person or other persons unless authorized to do so by the bank and unless there is express provision therefore in the letter of credit.
- 2) The bank may not sub-divide implementation of the credit unless there is specific authorization to do so by the party ordering the opening of the documentary credit.
- 3) Transfer may not be more than once unless otherwise provided for in the contract for the opening of the credit.
- 4) Transfer shall be by endorsement of the letter of credit if to order or by taking receipt if to bearer. If nominative, subrogation procedures must be followed.

Article 439

- 1) The party ordering the opening of the documentary credit is obliged to pay back to the bank the sum it has paid to the beneficiary up to the amount of the credit which has been opened. He is also obliged to pay the expenses incurred by the bank in this regard.
- 2) As security for its entitlement, the bank may withhold the documents it has received from the seller and may also take a pledge over the goods represented by their documents.
- 3) If the party ordering the opening of the credit does not pay the bank the value of the shipping documents conforming to the terms for the opening of the credit within one month from the date of him being advised of the arrival of the documents, the bank may sell the goods by following the method for enforcement against commercially pledged objects.

- 4) If the goods are destroyed or damaged, entitlement to pledge shall transfer to the amount of the bond.
- 5) However, once the documents for the credit financed by the bank have arrived, the bank and its customer may agree that the debtor customer shall renounce the goods which are the subject of the documentary credit, or part thereof, to the bank in settlement of the bank's debt or some aspect of it, and that the bank shall then authorize the customer to receive the goods on trust and sell them on behalf of and on account of the bank on such terms and conditions as the two parties may agree. In this case the liability of the customer is that of a commission agent, and the bank shall have the full rights of the principal over those goods and their proceeds.

Chapter IV

Transactions over Commercial Paper

Section 1

Discount

Article 440

- 1) Discounting is an agreement whereby a bank undertakes to pay the value of commercial paper in advance to its beneficiary against transfer of its ownership to the bank.
- 2) The bank deducts interest on the sum of the paper which it has paid to the beneficiary from the discount, plus a bank charge. It may be agreed that the discount is made for an overall sum.

Article 441

- 1) The interest shall be calculated on the basis of the time elapsing from the date of submission of the commercial paper for discount to the date on which it matures, unless otherwise agreed.
- 2) The bank charge shall be calculated on the value of the commercial paper.

Article 442

- 1) The bank acquires ownership of the discounted commercial paper, and may exercise all rights of the bearer and may make recourse upon the signatories to the paper.
- 2) Furthermore, the bank shall have a separate right vis-a-vis beneficiary from the discount to recover the sums it has placed at his disposal and exact that has obtained in the way of interest and commission. Without prejudice to the provisions relating to current account, the bank shall exercise this right to the limit of unpaid papers, whatever the reason for failure to pay for the discounted papers.

Article 443

- 1) The bank reserves the right to make a counter-entry of the value of the commercial paper and expenses on the debit side of the account of its customer who presents the paper to the bank, if the value is not paid or the customer becomes bankrupt.
- 2) If the customer does not have a current account with the bank, the customer is obliged to return the value of commercial paper plus expenses to the bank.

Section 2

Credit by Acceptance

Article 444

Credit by acceptance is a contract where the bank fulfils the role of drawee, and in this capacity accepts a commercial paper drawn on it by its customer or the other party with whom that customer is dealing, and the bank is obliged to pay its value when due.

Article 445

If the bank pays the value of a commercial paper accepted by it, it shall debit its value plus expense to the customer's account. The bank shall be entitled to make recourse upon the customer for the sums paid pursuant to the credit opened for the customer and used as consideration for payment of the commercial paper it undertook to accept.

Section 3

Collection of Commercial Papers

Article 446

The bearer of a commercial paper may endorse it to the bank as agent, and by virtue of this endorsement the bank becomes an agent for collection of the value of the paper on the endorser's account.

Article 447

When the maturity date of the commercial paper falls due, the bank must demand payment from the drawee or the writer. If payment is made, the bank shall credit the value of the commercial paper to the customer's account. If payment is not made, the bank shall make representations or enter non-payment, and in both cases the expenses shall be charged to the customer's account.

Article 448

- 1) The bank shall be liable for error or negligence in executing its agency.
- 2) The bank may stipulate that it shall be exempted from liability for delay in making representations, and this stipulation shall be effective between bank and customer unless the bank is accused of fraud or gross default. such a stipulation shall not be applicable to the other endorsers.

Article 449

The agency arising from an endorsement as agent shall not lapse upon the death or loss of competence of the endorser.

Chapter V
Transactions over Securities
Section 1
Lending Secured by Securities

Article 450

- 1) Lending secured by securities is a loan guaranteed by a pledge
- 2) If the securities are nominative instruments, the pledging of them shall be done in writing by an assignment stating that it is by way of a guarantee, by entering the same on the instrument itself, and by making an entry in the records of the party which issued it. If the securities are instruments to bearer, they are governed as for physical chattels and the pledging of them shall be proved by all available means.

Article 451

- 1) Possession of pledged securities shall pass from the pledgor to the pledgee bank.
- 2) The bank shall be entitled to retain such instruments.

Article 452

The bank shall attend to the pledged instruments by collecting their earnings, receiving their value upon expiry, and deducting these sums from the debt principal.

Article 453

If the bank does not receive its right in full when due, it may apply to the court concerned to authorize it to sell the pledged instruments at public auction or at the securities market price, and receive its rights from the sale proceeds with priority over other creditors.

Article 454

If the instruments are submitted by other than the debtor their owner is not obliged to meet the debt secured by the pledge other than in the capacity of guarantor in kind.

Article 455

The other party appointed by the contracting parties to hold the pledged instrument shall be regarded as having relinquished any right to retain them for a reason prior to the pledge unless he reserved this right when accepting to hold the pledged instrument on the pledgee's account.

Article 456

If the full value of an instrument was not paid at the time it was pledged, when the date falls due for the unpaid part the obligor must proceed to pay it at least two days before the due date, otherwise the pledgee may apply to the Court for leave to sell the instrument in accordance with the provisions of Article 453 of this Code, and shall pay the unpaid part out of the sale proceeds, keeping the remainder as a guarantee of the amount of the pledge.

Article 457

The prerogative of the pledgee over the earnings and interest of the pledged instrument and papers replaced by the instrument and its value if paid before its due date shall remain extant in relation to his precedence over the contracting parties and with respect to others.

Section 2
Deposit of Securities

Article 458

A deposit of securities with a bank is a contract by which the customer hands over to the bank the securities which it is agreed shall be deposited. On receiving the securities, the bank shall provide the customer with a receipt showing the terms of the contract and the numbers of the securities. This receipt does not represent or substitute for the deposited securities, but is merely regarded as an instrument to prove the contract.

Article 459

- 1) In its safekeeping of the securities deposited with it the bank must exercise the care of a paid depository and in so doing must take all the precautions dictated by banking practice. Any agreement that exempts the bank from these obligations shall be invalid.
- 2) The bank shall be liable for the destruction or theft of such securities unless due to force majeure.

Article 460

The bank may not use securities deposited with it by disposing of or pledging them or exercising the rights arising from them unless it obtains special permission to do so from the customer.

Article 461

- 1) The bank is obliged to manage securities deposited with it and collect their earnings and the value of matured or expired notes. It is to inform the depositor customer of transactions carried out with respect to these securities, such as replacing and renewing them, and is to place the sums it obtains at the disposal of the customer and credit them to his account.
- 2) The bank is to inform the depositor of every matter or right relating to the security and must obtain his consent or defer to his choice. If the bank does not receive instructions from the depositor at the proper time, the bank must deal with the matter in a manner advantageous to the customer, and the customer shall bear the costs.
- 3) The bank shall be liable if it is negligent fulfilling its obligations and damage to the customer results.

Article 462

- 1) The bank shall be entitled to a fee for the obligations it assumes. If no agreement has been made on this, the fee shall be determined on the basis of customary practice, taking account of the number and value of the deposited securities.
- 2) To ensure that it receives the fee to which it is entitled, the bank shall be entitled to retain the deposited securities and refrain from returning them until its entitlement has been met, in addition to its legal entitlement to the expenses of keeping a chattel.

Article 463

- 1) The bank is to return the deposited securities to the customer as soon as requested, taking into account the time required to prepare a security for return.
- 2) Return is to be effected at the place the deposit was made. The return must be based on the same securities deposited, and the bank shall not be entitled to return instrument of the same type bearing different numbers, unless it is agreed that securities of their type or other securities may be returned, or the law provides for this.

Article 464

Deposited securities shall be returned to the depositor in person or to the depositor's legal representative, heirs or own agent as the case may be, even if the security indicates that it is owned by someone else.

Article 465

- 1) If the bank loses possession of the securities for a reason outside its control, it may institute an action against the person holding them for their recovery.
- 2) If the bank loses bearer securities or they are stolen, it must notify the party which issued the securities and instruct it not to pay the person presenting them the earnings of the security or its value in the event of expiry or maturity.

Article 465

If an action is instituted claiming that securities on deposit with the bank have matured, the bank must inform the depositor forthwith and refrain from returning the securities to him until a legal decision has been rendered in the case.

Chapter VI

Renting of Deposit Boxes

Article 467

- 1) The renting of deposit boxes is a contract by which the bank is obliged to place a particular deposit box at the disposal of the customer returning it and to enable him to make use of it for a specific period for a stated fee.
- 2) The bank is to safeguard the rented box and maintain its security and fitness for use by making all the arrangements that banking practice demands.

Article 468

- 1) The rented box shall require two keys to open it, one of which it shall give to the customer renting the box and the other it shall retain. The bank may not hand a duplicate of its key to any other person, nor may it allow entry to or use of the box to any person other than the customer or his authorized agent.
- 2) The key handed to the customer renting the box shall remain the property of the bank, and it must be returned to the bank on termination of the rental.
- 3) The bank may employ other means such as an automatic control system or plastic cards.

Article 469

- 1) The bank shall be liable for the security, safeguarding and fitness for the use of the deposit box, and it may only deny this liability by proving force majeure or act of other party amounting to the same thing.
- 2) The bank may not plead a liability exemption clause if it is proved that it or its subordinates were guilty of fraud or gross default.

Article 470

- 1) The person renting the box is obliged to use it for customary purposes and to pay the agreed fee on the dates due.
- 2) The person renting the box may not place in it objects that are a threat to its safety or the safety of the location of the box.
- 3) The person renting the box may not hire out the box or part of it, or assign the hire of the box to another party unless agreed with the bank.

Article 471

- 1) If the box is rented to a number of persons, any one of such persons may use it individually unless otherwise agreed.
- 2) If one of a number of persons renting a box dies, upon learning of the death the bank may not authorize the opening of the box without the consent of all the persons concerned or upon a Court decision.

Article 472

The bank is to keep a register in which the dates and times at which the box is opened by the person renting the box are to be entered.

Article 473

If it appears to the bank that the box is at risk or if it appears that the box contains objects which are

a danger to the bank, the bank must require the person renting the box to attend forthwith to empty the contents or to remove the dangerous objects. If the person renting the box does not attend at the appointed time, the bank may apply to the Court within whose jurisdiction the bank lies for leave to open and empty the box or to remove the dangerous objects from it in the presence of the Court appointee. A record shall be made of the incident, covering the contents of the box. If the risk to the box is immediate, the bank may on its own responsibility open and empty the box or remove the dangerous objects from it without notice or leave from the Court. This shall be done by a board of not less than three officials of the bank, and a record shall be made and a copy of it sent to the customer.

Article 474

- 1) If the person renting the box does not pay the fee at the due times, upon the expiration of fifteen days - unless another period is agreed - from notice to him to pay the bank may regard the contract as automatically rescinded and recover the box having notified the person renting it to attend to open it, remove its contents and hand over the key. Such notification shall be valid if made to the latest address notified by the person to the bank.
- 2) If the person renting the box does not attend at the appointed time, or if the term of the contract expires and after notice to him, the bank may apply to the Court within whose circuit the bank lies for leave to open and empty the box or to remove the contents from it in the presence of the Court appointee. A record shall be made of the incident, covering the contents of the box, which shall be signed by the Court appointed and the bank. The Court may order that the contents be placed on deposit with the bank or with a trustee appointed by the Court until they are received by their owner or the Court orders their disposal.

Article 475

The bank may retain the contents of the box and shall have a prerogative right over the proceeds of the sale of its contents to meet its entitled fee and expenses.

Article 476

- 1) A distress may be imposed or an enforcement made against the contents of a deposit box.
- 2) The distress shall be imposed by notice to the bank of the contents of the distress warrant, instructing the bank to report whether it is renting a deposit box to the distrainee. As soon as it receives this notice, the bank is to prevent the distrainee from using the box and is to notify him forthwith that a distress has been imposed on the box.
- 3) If the distress is by way of an attachment, the person renting the box may apply to the Court for the attachment to be lifted from all or some of its contents.
- 4) If the distress is by way of an enforcement, the bank shall be bound to open the box and remove its contents in the presence of the distrainor and the enforcement officer, notifying the person renting the box of the time fixed for the box to be opened. At the specified time an inventory shall be made of the contents of the box and they shall be handed over to the bank or the trustee appointed by the Court until they are sold in accordance with the procedures prescribed by the Court.
- 5) If there are papers or documents in the box which are not covered by the compulsory sale, they must be handed over to the person renting the box. If he is not present when the box is opened, they must be handed to the bank for safekeeping after placing in a container sealed with the seal of the enforcement officer and the seal of the official of the bank until they are requested by the person renting the box.
- 6) The distrainor is to pay the bank a sufficient sum to cover the fee for the box during the distress period.

Article 477

Except in those cases provided by law, the bank may not open a rented deposit box or empty its contents without permission from and in the presence of the person renting the box or pursuant to a Court judgment, order or decision

VOLUME IV

COMMERCIAL PAPERS

GENERAL PROVISIONS

Definitions and types of commercial papers

Article 478

Commercial papers are instruments, written in forms defined by law, representing the right to a sum certain in money payable on sight or after a fixed or determinable period. They are negotiable trading instruments acceptable in commercial practice as an alternative to payment in cash.

Article 479

Commercial papers include bills of exchange, promissory notes, bearer bonds, cheques and other instruments drawn for the purpose of carrying on commercial activity and recognized in commercial practice as acceptable forms of payment for transactions.

Article 480

A bill exchange (draft bill) is a commercial paper which contains an order issued by the drawer requesting the drawee to pay a sum certain in money, on demand or at a fixed or determinable future date, to the order of the payee.

Article 481

A promissory note is commercial papers in accordance with which the maker of the note undertakes to pay a sum certain in money, on demand or at a fixed or determinable future date, to another person, i.e. the payee.

Article 482

A bearer bond is commercial papers in accordance with which the drawee undertakes to pay a sum certain in money, on demand or at a fixed determinable future date, to the bearer of the bond.

Article 483

A cheque is a commercial paper containing an order issued by the drawer to the drawee bank to pay, on the date specified on the cheque as the date of issue, a sum certain in money to a third person, i.e. the payee or to the bearer of the cheque.

Chapter I
Bills of Exchange

Section 1

Creation of bills of exchange

Article 484

A Bill of Exchange must contain the following particulars:

- 1) The expression "Bill of Exchange", to be written in the body of the instrument, in the same language as the instrument itself.
- 2) An unconditional order to pay a sum certain in money.
- 3) The place and date of creation of the bill
- 4) The signature of the drawer
- 5) The name and surname of the drawee
- 6) The name of the person to whom or to whose order the bill is drawn payable (the payee)
- 7) The due date and place of payment of the bill

Article 485

Instruments lacking any of the particulars specified in the preceding article shall not qualify as bills of exchange, save in the following cases:

- 1) If the due date is not specified, the Bill of Exchange shall be deemed payable at sight.
- 2) If the place of payment is not specified, the place shown next to the name of the drawee shall be deemed to be the place of payment as well as the address of the drawee. The Bill of Exchange shall be deemed payable at the address of the drawee, unless a different place of payment is stipulated.
- 3) If the place of issue is not specified, the bill is deemed to have been issued at the place shown next to the name of the drawer. If the said place is not expressly stated, the place where the bill has been signed by the drawer shall be deemed to be the place of issue.

Article 486

- 1) The signature on a Bill of Exchange must be either a written signature or a thumb print.
- 2) Two witnesses must testify that a person signing with a thumb print did so before then and was aware of what he had signed.

Article 487

- 1) Where the sum payable is expressed in words and also in figures, and there is a discrepancy between the two, the sum denoted by the words shall be the amount payable.
- 2) If the sum payable is specified more than once, whether in words or figures, the lowest amount shall be payable in case of any discrepancy.

Article 488

- 1) A bill of exchange may not contain more than one sum

- 2) If a bill of exchange is drawn in a currency bearing the same name in both the country of issue and the country of payment, without specifying which currency intended, it shall be deemed payable in the currency of the country of payment.

Article 489

- 1) A bill of exchange may be signed by more than one drawer
- 2) The drawer may appoint a third party to sign the bill of exchange on his behalf. In this case, the third party concerned must indicate the capacity in which he is acting when signing the bill of exchange

Article 490

- 1) Interest on the sum specified in the bill of exchange may not be charged unless the bill is payable at sight or at a fixed period after sight.
- 2) The rate of interest must be shown on the Bill of Exchange itself. Otherwise, the interest provision shall be deemed null and void.
- 3) If no other date is specified, interest shall run from the date of issue of the bill.

Article 491

- 1) Any person who signs a bill of exchange on behalf of another, without the authorization of the bearer, shall be deemed personally liable on the bill. If the said person pays the Bill of Exchange, any rights due to the person he claims to have signed on behalf of shall be transferred to him.
- 2) This provision shall apply to authorized persons acting beyond the limits of their actual authority.

Article 492

If a bill of exchange bears signatures which are forged, or if the bill is signed by fictitious persons or persons lacking due capacity to contract or if, for any other reason, the signatures are not binding on the signatories of if they are not binding on the persons on whose behalf the signatures have been made, the duties of the remaining signatories on the bill shall remain in force.

Article 493

Liabilities incurred by persons wanting in capacity and unauthorized to trade or by persons lacking due capacity arising from their signature on the bill of exchange, in whatever capacity, shall be deemed null and void only as far as the said persons are concerned. They may invoke such nullity against any holder of the bill.

Article 494

- 1) A Bill of Exchange may be drawn to the order of the drawer himself.
- 2) It may be drawn on the drawer
- 3) It may be drawn for the account of a third party

Article 495

- 1) The form of a Bill of Exchange shall be subject to the relevant law of the country of issue.
- 2) Competence as to the obligations arising from the Bill of Exchange shall be determined in accordance with the law of the nationality of the party liable. If the said law refers to the law of another country, the law of that other country shall apply.

- 3) If the applicable law deems the party liable to be wanting in capacity, his liability on the bill of exchange shall remain valid if the party has signed the bill in a country where he is deemed, under the law of the said country, to have due competence.

Article 496

A bill of exchange may be payable in the place of residence of a third party, regardless of whether this is in the same place as the place of residence of the drawee or in another place.

Article 497

- 1) The drawer of a bill shall warrant acceptance and payment thereof.
- 2) The drawer may stipulate that he should be exempt from guaranteeing acceptance. Any stipulation exempting the drawer from guaranteeing payment shall be deemed without effect.

Section 2

Negotiation of bills of exchange

Article 498

- 1) All bills of exchange are negotiated by endorsement, even if it is not expressly stated that they are drawn to order.
- 2) A bill of exchange on which the drawer has written any expression which can be constructed as meaning that the bill is not to order may not be negotiated, save in accordance with the provisions relating to demand drafts.
- 3) A Bill of Exchange may be endorsed to the drawee, whether the bill is accepted by him or not. It may also be endorsed to the drawer or to any other party liable on the bill. All of the said parties may renew the endorsement of the bill.

Article 499

- 1) Without prejudice to the provisions of Article 503, the endorsement must be unconditional. Any condition attached to the endorsement shall be deemed to be without effect.
- 2) Partial endorsement shall be deemed null and void
- 3) Any endorsement to bearer shall be deemed to constitute a blank endorsement.

Article 500

- 1) The endorsement shall be written on the bill of exchange itself or on an attached sheet and signed by the endorser.
- 2) Endorsement may be by signature of the endorser only (endorsement in blank). In this case, for the endorsement to be valid, it must be written on the back of the bill or on the attached sheet.

Article 501

Endorsement transfers all the rights arising from the Bill of Exchange to the endorsee.

Article 502

If the endorsement is in blank, the holder may:

- 1) Write his name or the name of another person in the blank
- 2) re-endorse the bill in blank or to another person
- 3) give the bill of exchange to another person without filling in the blank and without endorsing it.

Article 503

- 1) The endorser warrants acceptance and payment of the bill of exchange. In this case, the endorser will not be liable for guarantee to a party to whom the bill is transferred by virtue of a subsequent endorsement.

Article 504

The person in possession of a Bill of Exchange shall be deemed to be the legal holder of the bill so long as he can establish true title thereto by successive endorsement, even if the last endorsement is an endorsement in blank. In this regard, any endorsement which has been crossed out shall be deemed without effect. If an endorsement in blank is followed by another endorsement, title to the bill endorsed in blank shall be deemed to have transferred to the signatory of this latter endorsement

Article 505

If a person has lost possession of a bill of exchange, he may not oblige the holder to relinquish the bill so long as the latter can establish his right to the said bill, in accordance with the preceding article, unless he has obtained the bill in bad faith or through gross error.

Article 506

Without prejudice to the provisions of Article 493, a debtor against whom an action has been brought in respect of a bill of exchange may not plead against the holder on the basis of his personal relationship with the drawer or a previous holder of the bill, unless it was the intention of the holder to cause prejudice to the debtor at the time of obtaining the bill.

Article 507

- 1) If the endorsement includes the expression 'value for collection' or 'value for payment' or any other expression referring to delegation, the holder may exercise all the rights arising from the bill of exchange, including the right of recourse in his own name. He may not endorse the said bill except by way of delegation.
- 2) In the case, the only pleas which the parties liable may invoke against the holder are those which they may invoke against the endorser.

Article 508

- 1) If the endorsement includes the expression 'amount for guarantee' or any other expression which means that the right established in the bill is mortgaged to the endorsee, the holder may exercise all the rights from the bill. However, if the holder endorses the bill, the endorsement shall be deemed to have been made by way of delegation.
- 2) In this case, the parties liable on the bill of exchange may not invoke their personal relationship with the endorser in any pleadings against the holder, unless the intention of the holder at the time of obtaining the said bill of exchange was to cause prejudice to the debtor.

Article 509

- 1) Endorsement of a Bill of Exchange after the due date shall have the same effect as endorsement on a date prior to the due date. The effects of an endorsement made following a protest for non-payment or after expiry of the legal period for making such a protest are the same as those applying to demand drafts.
- 2) An undated endorsement shall be deemed to have been made within the legal period for noting protests, unless the contrary be proved.

Article 510

An endorsement may not be post-dated. Any such occurrence shall be deemed to constitute forgery.

Section 3
Consideration for a Bill of Exchange

Article 511

The drawer of a bill of exchange or the person in whose name the bill drawn must make available to the drawee the consideration in respect of the said bill. However, a drawer on behalf of a third party shall be personally liable to the endorsers or holder of the bill for making the consideration available and no others.

Article 512

Consideration for a bill of exchange shall be deemed to be available if, at the due date of the bill, a sum of money at least equal to the amount of the bill is owed and payable by the drawee to the drawer or to the party ordering the issue of the said bill.

Article 513

- 1) Acceptance of a Bill of Exchange shall be deemed to constitute presumption that the related consideration is in the possession of the acceptor. This presumption may not be set aside with regard to the relation between the drawee and the holder.
- 2) In the event of denial, it is for the drawer alone to establish that, at the date, the drawee was in possession of the consideration, regardless of whether the bill had been accepted or not. If this cannot be established, the drawer shall guarantee payment even if the protest is made after the legally prescribed period. If the drawer can establish the existence of the consideration up to expiry of the period for protesting the bill, he shall be discharged of liability for the amount of the said consideration, unless it has been used in his own interest.

Article 514

- 1) By law, ownership of the consideration in respect of a Bill of Exchange shall pass to the successive holders of the said bill.
- 2) If the consideration is less than the amount of the bill, the bearer shall be entitled to exercise, with regard to the lesser amount all the rights stipulated in respect of the full consideration.
- 3) The provision laid down in Paragraph 2 above shall apply in cases where the consideration is in the form of a debt which is disputed, uncertain or not yet due for payment at the date on which the bill of exchange matures.

Article 515

Even if the bill is protested after the legally permitted period, the drawer must deliver to the holder the documents necessary to obtain consideration in respect of the bill. In the event of the bankruptcy of the drawee, the said obligation shall fall to the trustee in bankruptcy. In any event, any related costs shall be borne by the holder of the bill.

Article 516

The bankruptcy of the drawee shall result in the bill of exchange becoming due and payable. The holder of the bill, to the exclusion of any other creditors of the drawer, shall have the right to obtain his due right in the consideration held by the drawee.

Article 517

- 1) In the event of the bankruptcy of the drawee and if the consideration is a debt owed by the drawee, the said debt shall be included among the assets of the bankrupt's estate.
- 2) If goods, trade bills, financial paper or other assets belonging to the drawer and recover

able under bankruptcy law are held by a bankrupt drawee and the said assets are expressly or implicitly reserved for the payment of the bill of exchange, the holder shall have priority in obtaining the amount due to him from the value of the said assets.

Article 518

- 1) If several bills of exchange fall due and compete for payment from a single consideration and the said consideration is sufficient for the payment of all the competing bills, priority for payment shall be allocated in accordance with the drawing date of each bill.
- 2) If the bills were drawn on the same date, the bill bearing the acceptance of the drawee shall be presented for payment. If none of the bills bear the acceptance of the drawee, the bill in respect of which a consideration has been specified shall be presented for payment. The last bill to be presented shall be any bill which includes a non-acceptance provision.

Section 4 **Acceptance of a Bill of Exchange**

Article 519

The holder or any other person in possession of a bill of exchange may present the said bill for acceptance by the drawee, at the latter's place of residence, at any time between the date of issue and the date of maturity of the bill.

Article 520

- 1) The drawer of a Bill of Exchange may stipulate that the bill must be presented for acceptance at a certain or not specified date.
- 2) The drawer may also stipulate that the bill must not be presented for acceptance, unless it is due for payment from parties other than the drawee or in a place other than his country of residence or unless it is due for payment at a fixed period after sight.
- 3) The drawer may stipulate that the bill should not be presented for acceptance until after a specified period.
- 4) Any endorser may stipulate presentment of the bill of exchange for acceptance on a specific date or without specifying any date, unless the drawer has stipulated that the bill must not be presented for acceptance.

Article 521

A bill of exchange payable at a fixed period after sight must be presented for acceptance within the one year of the date of issue. The drawer may extend or reduce the said period. Endorsers of the bill may only reduce the period.

Article 522

- 1) The drawee may ask for the bill of exchange to be presented for acceptance a second time, on the day following the first presentment, Interested parties may not claim that the said request was refused unless the request is noted in the protest.
- 2) The bearer of a bill of exchange which is presented for acceptance may not be forced to relinquish the said bill in favor of the drawee.

Article 523

- 1) Acceptance shall be indicated by writing on the bill the word 'accepted' or, any expression to that effect, and signed by the drawee.
- 2) Mere signature of the bill by the drawee shall be deemed to constitute acceptance.

- 3) The date of acceptance must be shown as the date on which acceptance was given if the date of maturity of the bill of exchange falls at a fixed period after sight or if, in accordance with a specific provision of the bill, it must be presented for acceptance within a specific period, unless the bearer demands that the date of acceptance be shown as the date of presentation of the bill.
- 4) If the acceptance is not dated, the bearer may, in order to reserve his right of recourse against the drawer and endorsers, establish the absence of the said date by protesting the bill in good time.

Article 524

- 1) Acceptance must be unconditional. However, the drawee may restrict acceptance to part only of the amount for which the bill is drawn.
- 2) Any alteration to the particulars of the bill of exchange affecting the wording of the acceptance shall be taken to indicate that acceptance is refused. However, the acceptor shall remain liable on the contents of the acceptance wording.

Article 525

- 1) If the drawer specifies a place of acceptance other than the place of residence of the drawee, without indicating the name of the person from whom payment is to be obtained, the drawee may name the said person upon acceptance. If he does not do so, the drawee who accepts the bill shall be deemed liable for payment at the place of payment.
- 2) If the Bill of Exchange is due for payment at the place of residence of the drawee, the latter may indicate in the wording of the acceptance the address of the place in which payment is to be effected.

Article 526

- 1) If the drawee accepts a Bill of Exchange, he is liable for payment of the amount for which the bill is drawn on maturity.
- 2) In the event of non-payment, the holder, who may be the drawer himself, shall have the right of recourse directly against a drawer who has accepted the bill of exchange, in respect of any legally acceptable claims in relation to the said bill.

Article 527

- 1) If after having indicated his acceptance on a Bill of Exchange, the drawee then crosses the acceptance out before returning the bill, acceptance shall be deemed to have been refused. The crossing out of the acceptance shall be deemed to have taken place prior to the bill being returned, unless the contrary be proved.
- 2) However, if the drawee gives written notice to the holder or to any other signatory of the bill that he has accepted the bill, he shall be held liable to them for the said acceptance.

Section 5

Precautionary guarantee in respect of Bill of Exchange

Article 528

- 1) Payment of part or all of the amount for which a bill of exchange is drawn may be guaranteed by way of precaution.
- 2) The said guarantee may be given by any person, including signatories of the bill of exchange.

Article 529

- 1) Words to the effect that a precautionary guarantee is given may be written on the bill of exchange itself or on a separate sheet of paper, to be attached to the bill, and signed by the guarantor.
- 2) The guarantee shall be taken to have been given by simple signature of the Bill of Exchange by the guarantor, unless it is given by the drawer or the drawee.
- 3) The name of the guaranteed party must be indicated in the wording of the guarantee. Otherwise, it shall be deemed to have been given in favor of the drawer.

Article 530

- 1) The duties of the guarantor shall be the same as those of the person in whose favor the precautionary guarantee is given.
- 2) The commitment of the guarantor shall be deemed binding even if, for whatever reason, the obligation guaranteed by him proves null and void, save when the nullity is due to a defect in form.
- 3) If the guarantor honors the bill of exchange, the rights arising from the said bill shall pass to the guarantor in relation to the party guaranteed and any other party liable to the party guaranteed by virtue of the said bill.

Article 531

- 1) The precautionary guarantee may be given on a separate sheet of paper, indicating the place where the guarantee was given.
- 2) A party who has given a precautionary guarantee on a separate sheet of paper shall be liable only to the person to whom the guarantee has been given.

Section 6

Maturity of a Bill of Exchange

Article 532

- 1) A Bill of Exchange must contain one maturity date only.
- 2) The maturity date of a bill of exchange may be specified by the drawer as being:
 - a. at sight
 - b. at a fixed period after sight
 - c. on a specified date
 - d. after a specific period following the date of issue of the bill
- 3) Bills of exchange drawn for maturity dates other than those stipulated in the two preceding paragraphs shall not qualify as trade bills.

Article 533

- 1) Bill of exchange payable at sight must be paid on presentment. They must be presented for payment within one year of the date of issue. While the drawer may reduce or extend the period of maturity, endorsers may only reduce the said period.
- 2) The drawer may stipulate that a bill of exchange payable at sight should not be presented until after a specific period. In this case, the presentment date shall be calculated as from the end of the said period.

Article 534

- 1) The payment date in respect of bills of exchange falling due at a fixed period after sight shall be calculated from the date of acceptance or the date of protest.
- 2) If a bill is not protested, undated acceptance shall be deemed binding on the acceptor on the last day of the period stipulated for presentment for acceptance, in accordance with Article 521.

Article 535

- 1) Bills of exchange drawn payable for one or more months from the date of issue or from the date of sighting shall fall due on the same date during the month in which they become payable. If the month in which a bill falls due does not have the equivalent date, it shall be payable on the last day of the said month.
- 2) If a Bill of Exchange is drawn for one and a half months or for several months and a half from the date of issue or from the date of sighting, calculation of the period must be made on the basis of the full months. The expression "half a month" shall be taken to mean fifteen days.

Article 536

- 1) If a bill of exchange is payable on a fixed date in a specific country, the calendar of which differs from that of the country of issue of the bill, the maturity date shall be deemed to have been determined in accordance with the calendar of the country of payment.
- 2) If a bill of exchange is drawn payable on a fixed date after the date of issue in a country other than the country of issue and if different calendars apply in the two countries, the date of issue must be calculated on the basis of the equivalent date in the calendar of the country of payment, with the maturity date and the presentment date for the bill calculated accordingly.
- 3) The above mentioned provision shall not apply if the Bill of Exchange stipulates otherwise or if this can be constructed from the particulars therein.

Section 7

Payment of a Bill of Exchange

Article 537

- 1) The holder of a Bill of Exchange must present it for payment on the date it falls due.
- 2) Presentment of the bill to a legally recognized clearing house shall be deemed to constitute presentment for payment.

Article 538

- 1) A drawee who pays a Bill of Exchange may recover the same from the holder, signed by the latter to indicate that payment has been effected.
- 2) The holder of a Bill of Exchange may not refuse part payment.
- 3) If only part payment is effected, the drawee may ask for the part payment to be confirmed on the bill and for a receipt in respect of the said payment. The drawer, the endorsers and other parties liable for the Bill of Exchange shall be discharged of liability to the extent of the portion paid from the principal amount for which the bill was drawn. It is up to the holder to protest the bill in respect of the portion remaining unpaid.

Article 539

- 1) The holder of a Bill of Exchange may not be forced to accept payment prior to the maturity date of the bill.
- 2) If a Bill of Exchange is paid by the drawee prior to maturity of the bill, he shall be liable for the consequence thereof.

Article 540

A person who effects payment of a bill of exchange shall be discharged of liability on the maturity date if no valid objection is made, unless he has committed an act of fraud or gross error. The said person must ensure the regularity of successive endorsements, but he is under no obligation to check the authenticity of the signature of the endorsers.

Article 541

- 1) If a Bill of Exchange is drawn payable in the United Arab Emirates, in a currency other than the official currency of the State, payment must be made in the local currency at the exchange rate prevailing on the maturity date. If payment is not effected on the maturity date, the holder has the option of requesting payment in the local currency at the rate of exchange prevailing either on the date maturity or on date of payment. The practices applicable in the country of payment for fixing the rate of exchange of the foreign currency shall be observed, unless the drawee specifies on the bill of exchange the rate on the basis of which the amount payable is to be calculated.
- 2) The provisions of the preceding paragraph shall not apply if the drawee expressly stipulates that payment of the bill of exchange must be made in the foreign currency specified in the bill, having regard to currency and exchange control laws.
- 3) If the amount for which the bill of exchange is drawn is determined in a currency having the same name in more than one country and if the value of the said currency in the country of issue is different from the value of the same currency in the country of payment, it shall be assumed that the intended currency is that of the latter.

Article 542

- 1) If a bill of exchange is not presented for payment on the due date, any debtor on the bill may deposit the amount for which it has been drawn with the treasury of the competent court within whose jurisdiction payment is to be made. The deposit shall be made at the expense of the holder and at his responsibility, by virtue of a document to be delivered to the depositor, specifying the amount of the deposit, the date the bill was drawn, the date of maturity and the name of the person in whose favor the bill was drawn originally.
- 2) If the holder claims payment from the debtor, the latter must deliver the deposit document to the former against receipt of the bill of exchange on which payment is shown to have been effected by virtue of the said deposit document. It is then up to the holder to obtain the amount deposited with the court, on presentation of the said document. If the debtor fails to hand over the deposit document to the holder, he must pay the amount for which the bill was drawn.

Article 543

objections in respect of payment of a Bill of Exchange or refusal to pay the said bill shall be admissible only in the event of loss of the bill or bankruptcy of the holder.

Article 544

- 1) In the event of loss of a non-accepted bill of exchange drawn in multiple copies, the party with the right to the amount of the bill may request payment by virtue of one of the other copies.
- 2) If the bill is drawn in multiple copies and the copy bearing acceptance is lost, payment by virtue of one of the other copies is permitted only by order of the presiding judge of the competent, on condition that a surety is provided.

Article 545

Any party who loses a bill of exchange, whether the bill is accepted or not, and who is unable to produce another copy of the bill may apply to the presiding judge of the competent court requesting him to order payment of the amount for which the bill is drawn, on condition that he can establish his title to the bill and that a surety is provided.

Article 546

- 1) If payment of a bill of exchange which has been lost is refused after payment of the said bill has been requested in accordance with the provisions laid down in the two preceding articles, the owner of the said bill must note the refusal in a protest to the drawer and the endorsers within the periods stipulated in Article 560.
- 2) The protest must be made within the period stipulated in the preceding paragraph, even if a timely decision cannot be obtained from the competent court.

Article 547

The debtor's liability for payment of the amount for which the bill is drawn on the maturity date shall be discharged by order of the competent court in the cases referred to in Articles 544 and 545.

Article 548

The liability of the surety referred to in Article 544 and 545 shall be extinguished after three years if, during the said period, no claim or action is brought.

Article 549

- 1) The owner of a bill of exchange which has been lost may obtain a copy of the said bill by reference to the person who has endorsed the bill for him. The said endorser shall undertake to assist him and to authorize him to use his name in asking the previous

endorser for a copy of the bill. The owner of the bill shall thus give notice to each antecedent endorser until the request reaches the drawer.

- 2) Each endorser shall undertake to endorse the copy of the bill delivered by the drawee, including that the copy is a replacement for the lost original.
- 3) Payment on the basis of the said copy can be claimed only by order of the chairman of the competent court, on condition that surety is provided.
- 4) All expenses (incurred in this regard) shall be borne by the owner of the bill.

Section 8
Claims and recourse against the parties liable
on a Bill of Exchange

Article 550

In the event of failure to honour a bill of exchange on maturity, the holder of the bill shall have the right of recourse against the endorsers, the drawee and any other parties liable on the bill

Article 551

- 1) The holder of a Bill of Exchange may bring an action against the parties liable on the bill prior to the maturity date in the following cases.
 - a. in the event of partial or total acceptance being refused
 - b. If the drawee is bankrupt or insolvent, whether he has accepted the bill or not, even if no order has been issued declaring him bankrupt or if a garnishing order proves ineffective.
 - c. in the event of bankruptcy of the drawer of a bill which is subject to non-presentment for acceptance provision.
- 2) A guarantor against whom an action is brought in accordance with one of the cases stipulated in points (b) and (c) of the preceding paragraph may, within three days of the date of the action being brought, ask the court of first instance with jurisdiction over his place of residence to grant him a grace period of payment of the bill. If the court finds the request justified, it shall issue a decision determining the period within which the payment is to be effected, provided that the said period does not extend beyond the date of maturity of the bill. The decision of the court in this regard shall not be open to appeal.

Article 552

- 1) If the maturity date of a trade bill coincides with an official or bank holiday, payment may be sought only on the working day following the said holiday.
- 2) Similarly, any measure affecting a trade bill, such as presentment for acceptance, protest, etc. may only be taken on a working day.
- 3) If it is stipulated that a particular measure affecting a trade bill is to be carried out within a specific period and the last day of the said period coincides with an official or bank holiday, the period shall be extended until the working day following the holiday.
- 4) The specified period shall include any intervening non-working days.
- 5) In calculating legal or agreed periods concerning trade bills, the first day of the said periods must be excluded.

Article 553

Refusal to accept or honour a Bill of Exchange shall be established by way of a protest for non-acceptance or a protest for non-payment. The protest shall be drawn up by the competent notary public who shall be responsible for delivering a copy of the said protest to the party concerned.

Article 554

- 1) The protest must include a verbatim copy of the bill of exchange together with all the particulars specified therein regarding acceptance, endorsement, guarantee, payment in case of need, etc. The protest must also include a warning of non-payment of the bill, confirmation of the presence or absence of the party liable for acceptance prepayment, the

reason for acceptance or payment being refused, the inability or refusal to sign and, in case of partial payment, the portion of the amount which was already been paid.

- 2) The party liable for payment of the bill of exchange shall be notified of the protest for non-acceptance or non-payment at his domicile or at his last known domicile.

Article 555

The competent notary public shall make a full entry of each protest in a special, duly signed register with numbered pages. Care must be taken that each protest is entered as and when it is made.

Article 556

A list of the protest for non-payment drawn up each month must be sent to the competent Commercial Register by the notary public concerned, within the first ten days of the following month. The Commercial Register shall keep a special register for this purpose. Any person may inspect the said register or obtain copies thereof upon payment of the statutory fees. A list of all the said protest shall be published by the office of the Commercial Register.

Article 557

- 1) A protest for non-acceptance must be made within the period stipulated for presentment for acceptance of bills of exchange. If, in accordance with Article 522, the first presentment for acceptance is carried out on the last day of the period stipulated for presentment, the protest may be made on the following day.
- 2) If the bill of exchange is payable at sight, the protest for non-payment must be made in accordance with the provision laid down in the preceding paragraph, concerning protests for non-acceptance.
- 3) If a bill of exchange is due for payment on a specific date, at a specific period after the date of issue or at a specific period after, the protest for non-payment must be made on one of the two days following the due date.
- 4) A protest for non-acceptance shall obviate the need to present the bill for payment or protest the bill for nonpayment.

Article 558

No other document may be used in lieu of a protest except in cases provided for by law.

Article 559

- 1) Where the drawee is insolvent, whether the bill has been accepted by him or not, or if the attachment imposed on his assets proves ineffective, the holder of the bill may have recourse against the guarantors only after presentment of the bill for payment to the drawee and after a protest for non-payment has been made.
- 2) In the event of the drawee of a bill of exchange being declared bankrupt, whether he has accepted the bill or not, or in the event of the drawer being declared bankrupt, in the case of a bill of exchange in respect of which it is stipulated that it must not be presented for acceptance, submission of the bankruptcy order shall be order shall be sufficient for the holder of the bill of exchange to exercise his right of recourse against the guarantors.

Article 560

- 1) The holder of a bill of exchange must notify the drawee and the person who endorsed the bill to him of the non-acceptance or non-payment, within four working days of the date on which the protest was made or within four working days of the date of presentment for acceptance or for payment in respect of bill containing a recourse with no expense provision.

Each endorsement must notify the endorser before him of receipt of the said notice, indicating the names and addresses of each previous Notifier. Each endorser must notify the endorsee before him within two working days of receiving the notice, the stipulated notice period shall apply in respect of notices given by each previous endorser until the notice reaches the drawer.

- 2) Whenever a signatory of the bill of exchange has been notified in accordance with the preceding paragraph, his precautionary guarantor must also be notified within the same period.
- 3) If an endorser does not specify his address or if the specified address is illegible, it is sufficient to notify the endorser before him.
- 4) Any party responsible for notification may do so by any available means, including by return of the bill of exchange itself.
- 5) Notification must be confirmed within the specified period. This shall be deemed to have been observed if the letter containing the notification is registered and delivered to the relevant postal authorities within the said period.
- 6) The rights of the party responsible for notification will remain valid even if the said party fails to issue the notice within the stipulated period. However, if necessary, he shall be liable for compensation for the consequences of his delay, provided the compensation does not exceed the amount for which the bill is drawn.

Article 561

- 1) The drawer, endorsers and any precautionary guarantors may exempt the holder from lodging a protest for non-acceptance or non-payment when having recourse to law, if it is stipulated and signed on the bill of exchange that “recourse is without expense” or that it is “without protest” or any other expression to that effect.
- 2) The said provision shall not exempt the holder from presenting the bill of exchange within the stipulated periods or from issuing the necessary notices. The burden of proof of any failure of the holder to observe the said periods shall rest with the parties pleading such a failure.
- 3) if a “without expense” condition is stipulated by the drawer, the effects of such a condition shall apply to all the signatories. However, if the condition is stipulated by one of the endorsers or precautionary guarantors, the effects of the condition shall apply to the endorser or precautionary guarantor who has set the condition.
- 4) If the condition is set by the drawer and, despite this, the holder proceeds to protest the bill, the related expenses shall be the sole responsibility of the holder. However, if the condition is set by one of the endorsers or guarantors of the bill, the right of recourse may be exercised against all the signatories as regards any expenses incurred in making the protest.

Article 562

- 1) The parties to a Bill of Exchange shall be jointly liable to the holder.
- 2) The holder may exercise his right of recourse against each or all of the parties liable. He shall be under no obligation to observe the precedence of each of them.
- 3) The right of recourse of each signatory of the bill shall be established when the signatory concerned has effected payment of the amount of the bill to the parties to whom he is

liable. An action brought against one of the liable parties shall not prevent recourse against the other remaining liable parties, even if, in the order of priority in respect of liability, they are ranked lower than the party against whom the action has been brought.

Article 563

- 1) The holder of a bill of exchange shall have the right to claim from parties against whom he has right of recourse the following:
 - a. the principal of the amounts of an unaccepted or unpaid bill of exchange, together with the agreed interest, if such interest is stipulated.
 - b. interest calculated at the prevailing bank rate, accrued from the due date.
 - c. expenses incurred in relation to protests, notices, etc.
- 2) In cases where the right of recourse is exercised prior to the due date of the bill of exchange, a sum shall be deducted from the amount of the bill equivalent to the official discount rate prevailing in the place of residence of the holder on the date the right of recourse is exercised.

Article 564

If a bill of exchange has been paid by one party, the said party may claim from the parties liable to him the sums paid by him, together with any expenses e may have incurred.

Article 565

The courts are not permitted to grant a grace period for payment of a bill of exchange or for taking any other measures relating to it except in cases provided for in law.

Article 566

- 1) If a liable party on a bill of exchange is the subject or target of legal action for restitution of a bill of exchange and the said party has already paid the bill, he may ask for the bill to be delivered subject to protest and for a receipt for the amount paid by him.
- 2) Any endorser who effects payment of a Bill of Exchange may cross out his endorsement and the endorsements given after his own.

Article 567

If legal action is instituted after partial acceptance, the party who has paid the non-accepted portion of the amount of the bill may ask the holder for confirmation of the payment on the bill of exchange and for a receipt to that effect. In addition, the holder must provide him with a certified true copy of the bill, together with the protest in order to enable him to exercise his right of recourse against third parties in respect of the amount paid by him.

Article 568

- 1) In accordance with banking regulations, a holder's right of recourse against the drawee, the endorsers and other parties liable on a bill of exchange, excluding the acceptor, shall be extinguished after expiry of the stipulated periods for carrying out the following:
 - a. presentment of a bill of exchange payable at sight or at a fixed period after sight.
 - b. protesting the bill for non-acceptance or non-payment
 - c. presentment of a bill for payment where the bill is subject to a recourse without expense clause.

- 2) However, the drawer shall be precluded from such discharge unless he can establish that he provided the consideration for the payment on the due date of the bill. In this case, the only remaining right of recourse for the holder is against the drawee.
- 3) If a bill of exchange is presented for acceptance on the date stipulated by the drawer, the holder's right of recourse shall be extinguished, whether this is for non-acceptance or non-payment, unless it can be shown from the wording of the clause that the drawer intended only to exempt himself from guaranteeing acceptance.
- 4) If it is the endorser who has stipulated a period for presentment of the bill for acceptance, he, alone, shall benefit from the provision laid down in the endorsement.

Article 569

- 1) If, due to force majeure, a bill cannot be presented for acceptance or a protest cannot be made within the stipulated periods, the said periods shall be extended accordingly.
- 2) The holder must give notice of such force majeure without delay to the party who has endorsed the bill for him. The holder must date and sign confirmation of the notification on the bill of exchange or on the attached sheet of paper. Each notice must be confirmed (in turn) until notification reaches the drawer, in accordance with Article 560.
- 3) When force majeure no longer obtains, the holder must present the Bill of Exchange for acceptance or payment and, if necessary, protest the bill without delay.
- 4) If the force majeure lasts for more than thirty days after the due date, recourse may be had against the parties liable, without need for presentment of the bill or for a protest.
- 5) If the bill is payable at sight or after sight, the thirty-day period shall apply from the date the holder gives notice of such force majeure to the party who has endorsed the bill for him, even if the notification was made prior to expiry of the periods for presentment of the bill. If the Bill of Exchange is payable after sight, the thirty days shall be added to the period stipulated after sight.
- 6) Personal matters concerning the holder of a Bill of Exchange, the person delegated by him to carry out presentment of the bill or to make a protest shall not be deemed to constitute force majeure.

Article 570

The holder of a bill of exchange which is protested for non-payment may, without need for a surety, impose an attachment on the assets of the drawer, the acceptor, the endorsee, the precautionary guarantor or any party liable for the bill, having regard to the provisions governing such an attachment, as laid down in the Law on Civil Proceedings, save as regards provisions of surety.

Article 571

- 1) Any party with a right of recourse against the parties liable on a bill of exchange may exercise his right by drawing a new bill of exchange on one of his guarantors, payable at sight and at the place of residence of the guarantor concerned, unless another place for payment is stipulated.
- 2) The recourse bill shall include the sums stipulated in Articles 563 and 564, plus any commission paid and any statutory fees.
- 3) If the drawer of a recourse bill is also the holder, the amount of the bill shall be determined on the basis used for determining the value of a bill payable at sight, drawn in the place of payment of the original bill on the place of residence of the guarantor.

- 4) If a recourse bill is drawn by one of the endorsers, the amount of the bill shall be determined on the basis used for calculating the value of a bill payable at sight, drawn in the place of residence of the drawer of the recourse bill on the place of residence of the guarantor.
- 5) Where several recourse bills are concerned, claims may be brought against the drawer or any endorser of the original bill only in respect of the value of a single recourse bill.

Section 9
Intervention in bills of exchange
Part 1
General provisions

Article 572

- 1) The drawee, endorser or precautionary guarantor of a Bill of Exchange shall have the right to appoint an acceptor or a payer, in case of need.
- 2) Acceptance or payment of a bill of exchange may be effected by a person accepting for the honour of any party liable thereon who may be subject to recourse, having regard to the provisions laid down in the remaining articles under this part.
- 3) The acceptor in honour may be a third party, a non-accepting drawee or any other party liable on the bill. However, a drawee who has accepted the bill may not act as an acceptor for honour.
- 4) The acceptor for honour must notify the party in whose honour the intervention has been carried out within two working days of the date on which acceptance for honour took place. Otherwise, the intervening party shall be liable for any compensation due as a consequence of his failure to give such notice, on condition that the compensation does not exceed the amount of the bill.

Part 2

Acceptance for honor

Article 573

- 1) Acceptance for honor occurs in all cases where the holder of a Bill of Exchange which is open to acceptance has right of recourse prior to the maturity date of the bill.
- 2) With regard to bill of exchange in respect of which an acceptor or, if necessary, a payer at the place of payment has been appointed, the holder may not have recourse against the party who has made the appointment or against any subsequent signatories before the bill falls due, unless the acceptor for honor refuses acceptance or payment of the bill on presentment and the holder confirms the intervening party's refusal by way of protest.
- 3) With regard to the other cases, the holder may refuse the acceptance for honor. However, if the holder accepts the acceptance for honor, this shall result in his rights of recourse against the party in whose favor intervention has been carried out and against any subsequent signatories being extinguished prior to maturity of the bill.

Article 574

Acceptance of honor is effected by entering it on the Bill of Exchange itself, which is then signed by the acceptor for honor, specifying the name of the party in whose honor the intervention is carried out. If the acceptor for honor does not specify any particular party, it shall be deemed to have been given in honor of the drawer.

Article 575

- 1) The liability of the acceptor for honor to the holder of the bill and to any endorsers subsequent to the party in whose honor acceptance has been given shall be the same as the liability of the latter.
- 2) Despite the fact that acceptance for honor has taken place, the party in whose honor acceptance has been given and his guarantors may, in exchange for payment as provided for in Article 563, regard the holder as liable for delivery of the bill, for the protest and for any receipts.

Part 3
Payment for honour

Article 576

- 1) Payment for honour may be effected in all cases where the holder has a right of recourse, against the parties liable on the bill, on or before the maturity date of the bill.
- 2) The payment may be settlement of the whole amount which should have been paid by the party in whose honour the bill has been accepted.
- 3) The settlement shall be carried out no later than the day following the last date on which it is permitted to protest the bill for non-payment.

Article 577

- 1) If the parties appointed as acceptors for honour or the parties appointed to pay the bill in case of need have an address in the place of payment, the holder must present the bill to all the said parties for payment. Should this be necessary, he must also protest to them for non-payment, no later than the day following the latest date on which it is permitted to make such a protest.
- 2) If the protest is not made within the specified period, the liability of the parties appointed to pay the bill in case of need or the parties who have accepted for honour shall be discharged. The liability of any subsequent endorsers shall also be extinguished.

Article 578

A holder of a bill of exchange who refuses payment for honour shall lose his right of recourse against the party whose liability would have been extinguished by such payment.

- 1) Payment for honour must be noted on the bill itself, indicating the party in whose honour the payment has been made. If confirmation of payment does not have the said information, payment for honour shall be deemed to have been effected in honour of the drawer.
- 2) The Bill of Exchange and any protest which may have been made must be delivered to the party who has effected payment or honour.

Article 580

- 1) All the right arising from the Bill of Exchange shall accrue to the payer for honour in relation to the party in whose honour payment for honour was carried out and in relation to any other party liable to him by virtue of the bill of exchange. However, the payer for honour may not re-endorse the bill.
- 2) Endorsers subsequent to the party in whose honour payment has been made shall be discharged of liability on the bill.
- 3) Where two or more persons offer to pay a bill for honour, the person whose payment will discharge the greatest number of the parties to the bill shall have the preference. Any party who knowingly pays for honour in contravention of this rule shall lose his right of recourse against any party whose liability would have been discharged if the rule had been observed.

Section 10

Multiple copies of a Bill of Exchange

Article 581

- 1) A Bill of Exchange may be drawn in several identical copies. If such is the case, the number of copies and their reference numbers must be indicated on each of the copies. Otherwise, each copy shall be deemed to constitute a separate Bill of Exchange.
- 2) Any holder of a bill of exchange which does not specify that it is drawn in one copy only may ask for copies of the said bill, at his own expense. To do so, the holder must refer to the party who has endorsed the bill for him. The latter shall undertake to assist him vis-a-vis previous endorsers until the drawer is reached.
- 3) Each endorser of the original Bill of Exchange must endorse any new copies thereof.

Article 582

- 1) Payment by means of one of the copies of a Bill of Exchange shall result in liability being discharged even if it is stipulated on the said copy that payment would render the remaining copies null and void. However, the drawee shall remain liable for any copy he may have accepted and signed but which he has failed to reclaim.
- 2) An endorser who has endorsed copies of a bill of exchange to several persons, together with any subsequent endorsers shall be held liable for all the copies bearing their signatures which have not been reclaimed

Article 583

if a copy of a bill of exchange is sent for acceptance, the sender must indicate on any other copies the person with custody of the said copy. It is up to the latter to deliver the said copy to the legal holder of the other copies of the bill. If he refuses to deliver the said copy, the holder shall not be entitled to any right of recourse unless he lodges a protest, stating that:

- a. despite claiming the copy sent for acceptance, this was not delivered to him
- b. acceptance or payment did not take place by virtue of another copy of the bill.

Section II
Copies and alterations of bill of exchange

Part I
Copies

Article 584

- 1) The holder of a Bill of Exchange may make copies of the said bill.
- 2) The copies must be absolutely identical to the original bill, including all the endorsement or any other particulars entered in the original. The extent to which the copy reflects original must be indicated on the said copy.
- 3) The copy may be endorsed and guaranteed by way of precaution in the same way as for the original bill and with the same effects.

Article 585

- 1) The name of the person in possession of the original must be indicated on the copy. The person in possession of the original must deliver the same to the legal holder of the copy.
- 2) If the person in possession of the original refuses to hand over the said original, the holder shall have right of recourse only if he lodges a protest indicating that, despite claiming the return of the original, this was not delivered to him.
- 3) If, after the last endorsement before a copy is made, it is indicated on the original that any subsequent endorsement can be made only on the copy of the bill, any endorsement on the original bill shall be deemed null and void.

Part 2
Alteration
Article 586

If the body of a Bill of Exchange has been altered, the parties who signed the bill after the alteration shall be liable for the altered particulars. Parties who have signed the bill prior to the alteration shall be liable on the original bill only.

Section 12

Expiry of the period for instituting legal proceedings

Article 587

In the event of denial and in the absence of any legal justification, the following actions shall not be heard:

- 1) Actions in respect of a bill of exchange against the acceptor of the said bill brought three years after the maturity date.
- 2) Actions against the endorsers or the drawer of a bill of exchange which are brought by the holder one year after the date of a protest lodged within the legally permitted period or one year after the maturity date if the bill contains a recourse without expense clause.
- 3) Actions against the drawer or endorsers of a bill by other endorsers brought six months after the date in which the endorser has effected payment of the bill or six months after the date of bringing the action against him.

Article 588

If an action is brought, the periods stipulated in the preceding article barring the action from being heard apply from the date of the last measure taken in relation to the bill.

Article 589

The periods stipulated in Article 587 shall not apply if a debt judgement is pronounced or if the debtor acknowledge the debt in a separate deed and the debt is renewing by virtue of the said acknowledge.

Article 590

Expiry of the period stipulated for instituting legal proceedings shall be without effect except in relation to the party against whom the time-barred procedure is instituted.

Chapter II
Promissory notes

Article 591

A promissory note contains the following particulars:

- 1) a promissory clause or the expression “promissory note or to the order of” written on the face of the note in the same language as the note itself.
- 2) an unconditional undertaking to pay a sum certain in money, to be written in figure as well as words,
- 3) the maturity date.
- 4) the place of payment
- 5) the name of the person to whom or to whose order payment must be made
- 6) the place and the date the note was created
- 7) the signature of the maker of the note.

Article 592

A bill in which any of the particulars specified in the preceding article are missing shall not qualify as a promissory note excepting the following cases:

- 1) If the maturity date is not specified, the note shall be deemed payable at sight
- 2) If the place of payment or the place of residence of the maker is not specified, the place of issue of the note shall be deemed to be the place of payment and the place of residence of the maker of the said note.
- 3) If the place of issue is not specified, the note shall be deemed to have been issued in the place shown next to the name of the maker. Otherwise, the place where effective signature took place shall be deemed to be the place of issue of the note.

Article 593

- 1) The duties of the maker of a promissory note shall be the same as the duties of the acceptance of a Bill of Exchange.
- 2) A promissory note which is due for payment on a specific date after sight must be presented to the maker within the period stipulated in Article 509 in order for him to ratify the note to signify sighting thereof. The maker must then sign and date the said endorsement.
- 3) The sighting period shall commence from the date of the maker’s endorsement.
- 4) If the maker refuses to endorse the note, this refusal must be noted by a protest for non-acceptance. The sighting period shall be deemed to commence from the date of the protest.

Article 594

- 1) Promissory notes shall be subject to the provisions relating to bills of exchange regarding capacity, multiple duplicates or copies endorsement, due date, payment, recourse for non-payment, prohibition of granting a grace period for payment, attachment, protest,

computation of time and working days, recourse by way of drawing a recourse bill, payment for honour and time-barred legal action. in so far as these do not conflict with the tenor of the notes.

- 2) Promissory notes shall also be subject to the rules relating to bills of exchange payable in the country of residence of a third party or at a place other than the place of residence of the drawer, stipulation of interest, discrepancy in the particulars relating to the amount payable, effects of signatures by persons lacking capacity to contract, forged signatures, fictitious persons and non-binding signatures or signatures by unauthorized persons exceeding their authority in doing so.
- 3) Promissory notes shall further be subject to the provisions concerning the precautionary guarantee, having regard to the fact that, if in the wording of the guarantee, the name of the party guaranteed is omitted, the guarantee shall be deemed to have been given in favor of the maker of the note.

Chapter III

Cheques

Article 595

Except as otherwise provided in this chapter, the provisions concerning bills of exchange shall apply to cheques in so far as they do not conflict with the tenor of the said cheques.

Section 1

Creating a cheque

Article 596

Cheques shall contain the following particulars:

- 1) the word "cheque" written in the body of the cheque in the same language in which the cheque is written
- 2) an unconditional order to pay a sum certain in money
- 3) the name of the person liable for payment (the drawee)
- 4) the name of the person to whom or to whose payment must be made.
- 5) the place of payment
- 6) the date and place of drawing the cheque
- 7) the signature of the drawer of the cheque

Article 597

Documents lacking any of the particulars specified in the preceding article shall not constitute cheques, except in the following cases:

- 1) If the place of payment is not indicated on a cheque, the address shown next to the name of the drawee shall be deemed to be the place of payment. If more than the address is shown next to the name of the drawee, the cheque shall be deemed payable at the address indicated first. If the cheque does not bear the said particulars, it shall be deemed payable at the main address of the drawee.
- 2) If the place of issue is not indicated on the cheque, the address shown next to the signature of the drawer shall be deemed to be the place of issue. If no address is given next to the said signature, the cheque shall be deemed to have issued at the place where the signature effectively took place.

Article 598

- 1) Cheques issued and payable within the state must be drawn on a bank
- 2) Each bank supplying its customers from its own stores with the books of blank cheques for use to make payments must write on each cheque the name of the holder of the account and the number of the account.
- 3) Drawing may be made by means of special demand drafts in the manner in which these are prepared by the banks and acceptable to it in form.
- 4) Signature of cheques and special demand drafts must correspond to the specimen or approved signature held in the records of the bank. The account holder shall be liable to the bank whether the account is in credit or in debit.

Article 599

- 1) The issue of cheques is not permitted unless, at the time of issuing the cheque, funds belonging to the drawer are held by the drawee which can be disposed of by the former through the use of cheques in accordance with an express or implied agreement.
- 2) It is up to the drawee of a cheque or to the person on whose authority and for whose account a cheque is drawn to provide value for the payment. However, a person drawing a cheque for the account of a third party shall be personally liable to the endorsers and bearer of the cheque, to the exclusion of any others, for providing for the payment.
- 3) In the event of denial, it is up to the drawer alone to establish that the person on whom the cheque is drawn was in possession of value for payment at the time the cheque was issued. If the drawer does not establish this, he shall be held as guarantor for payment of the cheque, even if he protests for non-payment after the legally stipulated periods.

Article 600

- 1) Acceptance does not apply to the cheques. Any wording written on the cheque to signify acceptance shall be deemed null and void.
- 2) The drawee of a cheque may endorse a cheque to signify the availability to him of the consideration for value at the time of the endorsement. Signature of the drawee on the face of the cheque shall be deemed to constitute endorsement.
- 3) Where sufficient consideration is available to cover payment of a cheque, the drawee may not refuse endorsement of the said cheque if so requested by the drawer or the holder.
- 4) The consideration for the endorsed cheque shall remain frozen in the custody of the drawee and under his responsibility, in favor of the holder, until expiry of the periods for presentment of the cheque for payment.

Article 601

Cheques may be qualified as being payable:

- 1) to a named person, expressly stating whether it is to order or not
- 2) to a named person, inserting the expression “not to order” or any other expression to that effect
- 3) to bearer

Article 602

Cheques drawn payable to a specified person bearing the words (or to bearer) or any other expression to that effect shall be deemed cheques to bearer. If the name of the payee is not specified, the cheque shall be deemed payable to the holder.

Article 603

A cheque due for payment within the state which is qualified as non-negotiable shall be paid only to the party to whom it is delivered under the said qualification.

Article 604

- 1) A cheque may be drawn to the order of the drawer himself:
- 2) A cheque may be drawn to the account of another person
- 3) A cheque may be drawn on the drawer only when it is drawn between branches of the

same bank or between a branch and the parent bank. Such cheques must not be drawn payable to bearer.

Article 605

Any stipulation of interest on a cheque shall be deemed null and void.

Article 606

Payment of a cheque shall be guaranteed by the drawer of the said cheque. Any clause under which the drawer is personally exempt from the said guarantee shall be deemed null and void.

Article 607

A debt due to a creditor shall not be renewed by virtue of the fact that the said creditor has accepted delivery of a cheque in payment of the said debt. The original debt shall remain outstanding, together with any guarantees, until such time as the value of the cheque is paid.

Section 2
Negotiation of cheques

Article 608

- 1) Cheques made payable to named persons, whether the said are expressly qualified as payable to order or not, shall be negotiable by endorsement. The endorsement may be effected to the drawer or to another liable party. A party to whom a cheque is endorsed may re-endorse the said cheque.
- 2) Cheques made payable to named persons, on which it is written that they are “not to order” or words to that effect, are not negotiable, save in accordance with the provisions applying to demand drafts.
- 3) Cheques made payable to bearer shall be negotiated by delivery.

Article 609

- 1) An endorser of a cheque shall guarantee payment thereof, unless stipulated otherwise.
- 2) Endorser of a cheque may prohibit any further endorsements. In this case, the said endorser shall be discharged from liability for the guarantee of the cheque to parties gaining title to the cheque by virtue of a subsequent endorsement.

Article 610

Endorsement to the drawee shall be deemed to constitute discharge unless the bank on which the cheque is drawn has several branches and the endorsement is made to a branch other than the branch on which the cheque is drawn.

Article 611

Endorsement of a cheque to bearer shall render, the endorser liable in accordance with the provisions laid down for recourse. However, such an endorsement will not render the instrument a cheque to order the instrument.

Article 612

The holder of a cheque which is negotiable by endorsement shall be deemed to have legal title to the cheque so long as he can establish that he has true title to it by virtue of successive endorsements, even if the last of such endorsement is in blank.

In this regard, crossed out endorsements shall be deemed without effect. If an endorsement in blank is followed by a further endorsement, the signatory of the latter endorsement shall be deemed to be the person with the due title to the cheque endorsed in blank.

Article 613

Where a person loses possession of a cheque, whether the cheque is to bearer or endorsable, he may not force the person who gains possession of the cheque to relinquish it so long as the latter can prove due title to the said cheque in accordance with the preceding article, unless he has obtained the cheque in bad faith or if he has committed an act of gross error in order to obtain the said cheque.

Article 614

- 1) The effects of an endorsement made subsequently to a protest or after expiry of the period stipulated for presentment of a cheque shall be the same as those applying to demand drafts.
- 2) An undated endorsement shall be deemed to have been made prior to the date of the protest or prior to expiry of the period stipulated for presentment of the cheque, unless it is proved otherwise.

- 3) Endorsement may not be ante-dated. Any ante-dated endorsement shall be deemed to constitute forgery.

Article 615

- 1) Payment of all or part of the amount of the cheque may be guaranteed by a precautionary guarantor
- 2) The said guarantor may be a third party or one of the signatories of the cheque but not the drawee.

Article 616

- 1) Partial endorsement and endorsement given by the drawee shall be deemed null and void.
- 2) Endorsement to bearer shall be deemed to constitute endorsement in blank.

Section 3
Payment of cheques

Article 617

- 1) A cheque shall be deemed payable on the date shown as the date of issue.
- 2) It is not permitted to present the cheque for payment prior to that date.
- 3) If the consideration for the cheque is insufficient to cover the whole amount of which the cheque is drawn, it is up to the bearer to ask the drawee to effect part payment to the extent of the funds available to him, to confirm receipt of the said amount on the back of the cheque and to provide him with a certificate to that effect. The right of the course in respect of the remainder shall be established by virtue of the said certificate or by a protest.

Article 618

- 1) Any cheque payable within the state, whether drawn within the state or elsewhere, must be presented for payment within six months.
- 2) The period stipulated in the previous paragraph shall be calculated from the date shown on the cheque as the date of issue.
- 3) Presentation of a cheque to a bank, reservation by the bank to which the cheque is presented of the amount thereof by telephone or cable to the bank on which it is drawn and presentment of a cheque to a legally recognized clearing house shall all be deemed to constitute presentment for payment.

Article 619

If a cheque is drawn in one country and payable in another and the calendars of the two countries are different, the date of issue shall be adjusted to the equivalent date in the calendar of the country of payment.

Article 620

- 1) A drawee may effect payment of the cheque even after expiry of the period stipulated for presentment.
- 2) Objections to payment of cheques shall be deemed valid only when a cheque is lost or in the event of bankruptcy of the bearer.
- 3) Except in the two cases provided for in the preceding paragraph, it is the duty of a bank to pay a cheque even when it is countermanded by the drawer. The courts may not order payment to be stopped even when an action is brought in respect of the principal sum.

Article 621

Death, loss of capacity or bankruptcy of the drawer after issuing the cheque shall have no effect on the rights and obligations arising from the issue of the said cheque.

Article 622

- 1) If several cheques are presented for payment at the same time and the available consideration is insufficient to effect payment of all of them, account must be taken of the order of the dates in which the said cheques were issued.
- 2) If the cheques presented for payment have been drawn on the same date and from the same cheque book, the cheque bearing the earliest serial number shall be deemed to have been issued first, unless proved otherwise.

Article 623

- 1) If a cheque is made payable in a currency which is not negotiated in the state, payment must be made in the currency of the United Arab Emirates at the time the cheque presented at the exchange rate prevailing on the date of payment. If payment is not effected on the date the cheque is presented, the bearer has the option of asking for the cheque to be paid in the currency circulating in the state at the rate of exchange prevailing either on the date of presentment or on the date of payment.
- 2) If the first time a cheque is presented for payment occurs after expiry of the period stipulated for presentment, the exchange rate prevailing on the last day of the said period shall apply.
- 3) Foreign currencies shall be calculated in accordance with the market rate. However, a drawer may indicate on the cheque the rate on the basis of which the amount payable is to be calculated.
- 4) If a cheque is made payable in a currency with a name shared by several countries and the value of the said currency in the country of issue differs from its value in the country of payment, the cheque shall be presumed payable in the currency of the country of payment.

Article 624

In the event of loss of a cheque made to order, the liability of the guarantor of the said cheque shall be extinguished after a period of six months, unless a claim or an action is brought during the said period.

Article 625

- 1) If a bearer cheque is lost or destroyed, the owner of the said cheque may countermand the drawee from payment. The countermand must specify the number of the cheque, the amount for which it is drawn, the name of the drawer and any other particulars which would assist in identifying the cheque, together with the circumstances surrounding the loss or destruction of the said cheque. If certain of these particulars cannot be provided, the reasons for the inability to do so must be indicated. If the person countermanding payment does not have an address within the state, he must specify his elected place of residence.
- 2) Upon receipt of the countermand, the drawee must refuse payment to the person in possession of the said cheque concerned and to set aside the related consideration until such time as the matter is settled.
- 3) The drawee shall, at the expense of the person countermanding payment, publish in one of the Arabic language daily newspapers published in the state the number of the lost or destroyed cheque, the name of the drawer, the name of the person countermanding payment and his address. Any transaction carried out after the date of such publication and involving the cheque of the countermand shall be deemed null and void.

Article 626

- 1) The holder of the cheque referred to in the preceding article may challenge the drawer in respect of the countermand. The drawer must accept delivery of the cheque from him in exchange for a receipt and notify the person who has issued the countermand, giving the name and address of the said holder.
- 2) It is up to the person countermanding the cheque to sue for due title to the cheque within thirty days from the date of receiving notice from the said holder.
- 3) If the person countermanding payment does bring an action for due title within the period stipulated in the preceding paragraph, it is up to the holder of the cheque to seek a

ruling from the judge for summary matters that the countermand be ignored. In this case, as far as the drawee is concerned, the holder of the cheque shall be deemed its true owner.

Article 627

- 1) If the holder of a countermand cheque does not submit a claim for payment within six months of the date of the countermand stipulated in Article 625, the person who has issued the countermand may, within one month after the said period, bring before the competent court against the drawee and seek a ruling giving him title to the cheque and authorizing him to receive payment thereof.
- 2) If the person issuing the countermand fails to bring the action referred to in the preceding paragraph or if his action has been rejected, the drawee must re-enter the consideration for the cheque to the credit side of the drawer's account.

Section 4

Crossed and account-payee cheques

Article 628

- 1) A cheque may be crossed by the drawer or holder. The said crossing shall have the effects stipulated in the article following the present article.
- 2) Crossing of a cheque shall effected by means of two parallel lines drawn in the middle of the cheque.
- 3) The crossing shall be either general or special
- 4) A cheque shall be crossed generally if the space between the parallel lines is left blank or if the word "bank" or any expression to that effect is written in the said space. A cheque shall be crossed specially if the name of a specific bank is written in the space between the two parallel lines.
- 5) A cheque which is crossed generally may be converted to a specially crossed cheque. However, a cheque crossed specially may not be changed into a generally crossed one.
- 6) Obliteration of the crossing of the name of the bank written between the parallel lines shall be deemed without effect.

Article 629

- 1) The drawee of a generally crossed may effect payment of the said cheque only to a customer to a bank.
- 2) The drawee of a specially crossed cheque may pay the said cheque to the bank indicated between the parallel lines to a customer of the said bank if the latter is the drawee. However, the bank to whom the cheque is crossed may entrust collection of the amount of the cheque to another bank.
- 3) Banks may collect crossed cheques only from their customers or from banks and may obtain payment for their account only.
- 4) Failure to observe the provisions laid down in the preceding paragraph shall render the bank concerned liable for damages not exceeding the amount of the cheque.
- 5) Under the present article, the term "customer" is taken to mean any person who holds an account with the drawee and who has or is entitled to receive a cheque book from the said drawee.

Article 630

- 1) The drawer of a cheque or its bearer may stipulate that the cheque is not payable in cash by writing on the cheque the expression "account payee" or any other words to that effect. In this case, the only option open to the drawee is to effect payment of the cheque by means of an account entry.
- 2) Obliteration of the "account payee" crossing shall be deemed without effect.
- 3) Failure to observe the provisions laid down in the preceding paragraphs shall render the bank concerned liable for damages not exceeding the amount of the cheque.

Article 631

Subject to the provisions laid down in Article 628, 629 and 630, the cheque shall remain negotiable and shall have the attributes of all other types of cheque.

Section 5

Refusal to pay

Article 632

- 1) The bearer of the cheque may take legal action against the drawer, endorser or any other party liable on the cheque if the said bearer presents the cheque within the statutory period and payment is refused. The refusal to pay must be established by way of a protest or, alternatively, the bearer may note the said refusal by way of a statement from the issuing bank indicating the date of presentment of the cheque. The statement must be dated and written on the cheque itself.
- 2) The issue of the statement referred to in the preceding paragraph may not be refused if requested by the bearer, even if the cheque contains a “recourse without expense” clause. However, the party responsible for issuing the statement may ask for a grace period not exceeding three working days following the date of presentment of the cheque, even if the said presentment was effected on the last day of the presentment period.

Article 633

The refusal to pay must be noted in the manner stipulated in paragraph 1 of the preceding article within the period stipulated for presentment. If presentment is effected on the last day of the said period, the refusal to pay may be noted on the working day following the date of presentment.

Article 634

The bearer shall reserve his right of recourse against the drawer even if he has not presented the cheque to the drawee or if he has not protested the refusal or taken any action to that effect within the statutory period, unless the drawer has provided consideration for the cheque, the consideration remaining in the custody of the drawee until expiry of the period for presentment of the cheque and then becoming no longer available through an act not attributable to the drawer.

Article 635

- 1) If due, to force majeure presentment of a cheque or notice of a protest or an action to that effect cannot be carried out within the statutory periods, the said periods shall be extended accordingly.
- 2) The bearer must notify the person who endorsed the cheque to him of the force majeure without delay, confirming the said notification, signing and dating it on the cheque itself or on the attached sheet. The notifications shall be made in sequence back through the chain of endorsers up to the drawer, in accordance with Article 560.
- 3) Once the force majeure is lifted, it is up to the bearer to present the cheque for payment and, if necessary, to lodge a protest or the equivalent of a protest without delay.
- 4) If the force majeure persists for more than fifteen days calculated from the date the bearer notified the endorser of the force majeure, regardless of whether the said date was prior to the period for presentment of the cheque, action may be taken against the parties liable on the cheque, without the need for presentment or for lodging a protest or the equivalent.
- 5) Personal matters shall not be deemed to constitute force majeure, whether these relate to the bearer of the cheque or to the person authorized by him to present the cheque for payment, lodge a protest or the equivalent.

Section 6

Alterations and multiple copies

Article 636

- 1) The drawee shall be held solely liable for any damage suffered as a result of payment of a cheque containing a forged signature of the drawer or alterations to any of the particulars, so long as it can be established that no act of gross negligence has been committed by the drawer whose name is written on the cheque such that this led to the forgery or alteration of the particulars being carried out. Any consideration to the contrary shall be deemed without effect.
- 2) The drawer shall be deemed particularly at fault if he fails to exercise the due care necessary for the protection of the cheque book delivered to him.

Article 637

- 1) With the exception of bearer cheques, a cheque may be drawn in multiple copies, each of them corresponding to the other, if the said cheque is drawn in the United Arab Emirates and payable in a foreign country or vice-versa.
- 2) If a cheque is drawn in multiple copies, each copy must be numbered on the back. Otherwise, each copy shall be deemed to constitute a separate cheque.

Article 638

In the event of denial and in the absence of legal justification, the following shall not be heard.

- 1) An action by the bearer of a cheque against the drawer, the endorsers or any parties liable on the cheque for payment of the said cheque brought two years after expiry of the presentment period.
- 2) An action by one liable against another brought one year after the due date on which the liable party has effected payment of the cheque or the date on which payment was sought from him through legal action.
- 3) An action brought by the bearer against the drawee three years after expiry of the presentment period.
- 4) The periods stipulated above shall not apply to actions brought against a drawer who has failed to provide consideration for payment of the cheque or who, having provided the consideration, withdraws all or part of it and to actions against any liable party who has obtained an illegal gain.

Article 639

- 1) Even if the actions brought against them is time-barred, defendants must re-affirm that they are discharged of any liability for the debt under oath, if asked to do so.
- 2) Their heirs and descendants must under oath of having no knowledge of their testator having died owing the debt.

Article 640

- 1) If an action is brought, the periods stipulated in Article 638 shall apply only from the date of the last procedure in the action.
- 2) The said periods shall not apply if a debt judgement is pronounced or if the debt is acknowledged by the debtor in a separate document, whose effect is that the debt is renewed.
- 3) The effects of interruption of the periods stipulated for limitation of the time for taking legal action shall only have effect on those parties whose action led to interruption of such periods.

Section 7
Penalties

Article 641

A fine or imprisonment shall be imposed anyone who has committed one of the following acts:

- 1) Deliberately and falsely claiming that there is no consideration for a cheque or that the consideration is less than the amount payable on the cheque.
- 2) Refusing, in bad faith, payment of a cheque drawn on a bank to a bearer against whom no valid countermand has been issued, despite the existence of the consideration for the cheque.
- 3) Refusal to issue the statement referred to in Article 632.

Article 642

If the court reaches a guilty verdict on any of the cheque offences stipulated in the Penal Code, it may order publication of a summary of the judgement, at the expense of the guilty party, in a daily newspaper published within the State. This summary shall contain the name, address and occupation of the guilty party and the penalty imposed on him. Publication is mandatory if the guilty party re-offends.

Article 643

If the court reaches a guilty verdict on any of the cheque offences stipulated in the Penal Code, it may order that the cheque book should be withdrawn from the guilty party and that no new cheque books should be issued to him for a period designated by the court.

Article 644

If an action under criminal law is brought against the drawer for any of the cheque offences stipulated in the Penal Code, the bearer of a cheque who has brought a civil action may apply to the court for a judgement awarding him a sum equal to the amount of the cheque or the amount of it which remains unpaid and, where applicable, compensation.

BANKRUPTCY AND DEEDS OF ARRANGEMENT

Chapter I

Bankruptcy

Section 1

Declaration of bankruptcy

Article 645

- 1) Notwithstanding the provisions of an arrangement, any businessman may be declared bankrupt if he fails to pay his commercial debts by their due dates because his financial status has been upset and his credit undermined.
- 2) Any businessman shall be deemed to be in a state of insolvency if he uses extraordinary or illegal means to settle his debts, thus indicating that his financial situation is bad.
- 3) bankruptcy shall be declared by a judgement pronounced in the competent civil court.
- 4) The pronouncement of a bankruptcy judgement shall give rise to the state of bankruptcy and, unless otherwise stipulated by the law, the insolvency or use by the businessman of extraordinary or illegal means to settle his debts shall have effect only when the judgment is pronounced.

Article 646

- 1) A businessman may be declared bankrupt after his death, on his going out of business or losing his legal capacity, should any of these events occur while he is in a state of insolvency. The petition to have him declared bankrupt must be submitted within one year of the date of his death, or of the removal of his name from the commercial register if he goes out of business or of the date on which he loses legal capacity.
- 2) In the event of the death of the businessman, notice of the bankruptcy action shall be served at his last known place of residence without need to designate the heirs.
- 3) The heirs of the businessman may apply to have to have him declared bankrupt after his death within the period specified in Paragraph 1. If some of the heirs object to the declaration of bankruptcy, their testimonies must be heard by the court, which will then rule on the petition in accordance with the interests of those concerned.

Article 647

- 1) A businessman may be declared bankrupt upon his own application or upon an application by one of his creditors.
- 2) The court may decide to declare a businessman bankrupt at the request of the Public Prosecutor or of its own accord.

Article 648

if the court sees fit to declare a businessman bankrupt of its own accord, it must notify him of the date of the session. In expedited matters, the court may order a declaration of bankruptcy after giving the creditor notice to appear, even if only hours' notice given.

Article 649

A businessman may apply to be declared bankrupt if his financial affairs are in disarray and he is insolvent. The application becomes mandatory once thirty days have elapsed from the start of insolvency. In the event of failure to do so, he will be deemed to have committed the crime of bankruptcy by default. The application shall be made in the form

of a report submitted to the court, setting forth the reasons for the insolvency. The report shall be accompanied by the following documents:

- a. the main books of the business
 - b. a copy of the last balance sheet, audited in accordance with the principle of accountancy, and the profit and loss account;
 - c. a statement of all personal expenses for the two years preceding submission of the application to be declared bankrupt or for the period during which he was engaged in business if this is less.
 - d. a detailed statement of his real and movable property and their approximate value at the date of the insolvency;
 - e. a statement giving the names and address of creditors and debtors, the amounts owed to or by them and the securities to guarantee these sums;
 - f. a statement of protest made against the businessman during the two years preceding submission of the petition to be declared bankrupt.
- 2) The documents must be dated and signed by the businessman. If he fails to submit certain documents or to complete the particulars, the report must state the reasons for this. Minutes of this will be drawn up by the office of the clerk of court.

Article 650

- 1) Any creditor with an immediate commercial or civil debt may apply for a judgement to declare the business debtor bankrupt, provided that the creditor submits proof that the debtor has ceased payment of his commercial debt.
- 2) A creditor with a deferred or conditionally suspended commercial or civil debt may apply for a bankruptcy judgement to be pronounced if the debtor has no known address in the state or if he takes flight, closes up his business, starts to liquidate the business or engages in actions prejudicial to his creditors, provided that the creditor proves that the debtor has ceased payment of his immediate commercial debt.

Article 651

A businessman may not be declared bankrupt on the grounds that he has ceased payment of fines or taxes of whatever kind.

Article 652

- 1) A court hearing an application for a declaration of bankruptcy may order that the necessary steps be taken to safeguard the assets of the debtor or to administer them until a ruling on the declaration of bankruptcy has been made.
- 2) The court may appoint an expert to carry out enquiries into the financial position of the debtor and the cause for his insolvency and to submit a report on the matter.

Article 653

- 1) The civil court within the jurisdiction of which the business of the debtor is located shall be competent to make the declaration of bankruptcy. If there is more than one place of business. If the businessman has gone out of business, the competent court shall be the court with jurisdiction from his place of residence within the State. If he has no place of residence within the State, the competent court shall be the court with jurisdiction for the place in which the insolvency occurred.

- 2) Without prejudice to the provisions of international conventions applying within the State, a businessman may be declared bankrupt if he has a branch, agency or office within the State, even if he has not been declared bankrupt by a court in a foreign state. In such a case, the competent court to make the declaration of bankruptcy is the court with jurisdiction for the branch, agency or office.

Article 654

- 1) The court which makes the declaration of bankruptcy shall be competent to examine all applications and actions arising from the bankruptcy.
- 2) An action shall be deemed to arise from the bankruptcy if it is connected with administration of the bankrupt's estate or if examination of the action requires the application of bankruptcy judgements. Actions arising in respect of debts owed to third parties by the bankrupt's estate or by the parties to the bankrupt's estate if such actions could have arisen without the bankruptcy.

Article 655

- 1) In pronouncing a bankruptcy judgement, the court shall determine a provisional date for the suspension of payments, order seals to be applied to the debtor's business and appoint a trustee in bankruptcy.
- 2) When a bankruptcy judgement is pronounced, the court shall forthwith send copies thereof to the Public Prosecutor, the trustee in bankruptcy, to the Ministry of Economy and Trade, to the Association of Chambers of Commerce and Industry, to the relevant office of the commercial register and to the Central Bank of the State.

Article 656

The presiding judge of the circuit which pronounces the bankruptcy judgement shall be a judge over the bankrupt's estate. If it is the court of appeal which pronounces the bankruptcy judgement, one of the presiding judges of the first instances circuits shall be appointed as a judge over the bankrupt's estate.

Article 657

- 1) The court may, whenever necessary, replace the judge supervising the bankrupt's estate by another judge.
- 2) A decision to replace the judge supervising the bankrupt's estate shall not be open to any channel of appeal.

Article 658

- 1) If a bankruptcy judgement does not specify a date for the suspension of payments by the debtor, the date on which the judgement was pronounced shall be deemed the provisional date for the suspension of payments.
- 2) If a bankruptcy judgement is pronounced after the death of the debtor or after he has gone out of business or lost his legal capacity and no date is specified for the suspension of payments, the date of his death or going out of business or loss of legal capacity shall be deemed a provisional date for the suspension of payments.

Article 659

- 1) The court may, whether of its own accord or at the request of the Public Prosecutor the debtor, a creditor, the trustee in bankruptcy or any other interested party, amend the provisional date for suspension of payments to a date ten days after the date on which the verified list of debts is deposited with the office of the clerk of court in accordance with the provisions of Paragraph 1 of Article 728. After the expiry of this period, the date specified for the suspension of payments becomes final.

- 2) In any event, the date for the suspension of payments may not be referred to back to more than two years from the date the bankruptcy judgement is pronounced.

Article 660

- 1) The judgement to declare the debtor bankrupt or to amend the date for suspension of payments shall be entered in the commercial register in accordance with the regulations of the register concerned.
- 2) The day after the judgement has been pronounced, the court shall order that the judgement be affixed to the court notice-board for a period of thirty days and that it be sent to all courts with jurisdiction for the business, branch, agency or office of the debtor, there to be affixed to the notice-board of the court for a period of thirty days.

Article 661

- 1) The trustee in bankruptcy shall be responsible for publishing a summary of the judgement clearing bankruptcy in one or more daily newspapers designated by the court. The publication of this notice must take place within fifteen days of the judgement being pronounced. The summary of the bankruptcy judgement shall contain the name of the bankrupt, his place of residence, his commercial register number, the court which pronounced the judgment, the date on which the judgement was issued, the provisional date for suspension of payments, the name of the judge supervising the bankrupt's estate and the name and address of the trustee in bankruptcy. The notice will also contain an invitation to the creditors to submit their debts for registration in the bankruptcy proceedings. A summary of the amendment of the date for suspension of payments will be published in the same manner but, instead of the foregoing particulars, it will contain the new date appointed by the court.
- 2) The trustee in bankruptcy shall also be responsible, in the name of the creditors committee, for registering a summary of the judgement at the land registry office within thirty days of the date on which the judgement is pronounced.

Article 662

- 1) Interested third parties may appeal against a bankruptcy judgement by raising an objection before the court which pronounced the judgement within ten days of the last publication of the summary of the judgement in the press. Without prejudice to the provisions of Article 659, the period for objection by third parties against all judgements pronounced in actions arising from the bankruptcy proceedings is ten days from the date on which the judgement was pronounced, save where publication is required, in which case the period starts from the date of publication of the judgement.
- 2) The judgement pronounced on the objection is open to appeal.

Article 663

Appeals against judgement in bankruptcy actions shall comply with the periods and procedures laid down in the Law on Civil Proceedings.

Article 664

If a debtor becomes capable of paying all his debts before final execution of the bankruptcy judgement, the court must cancel the judgement and the debtor must pay the costs of the action.

Article 665

- 1) Bankruptcy actions must be heard rapidly. In urgent cases, an application may be submitted to the court by a statement showing the insolvency and the causes for urgency. In such an eventually, the court may hear the application after calling upon the adversaries to appear, even at an hour's notice. It is sufficient to serve notice on the debtor at his last place of residence.

- 2) Unless otherwise stipulated, judgement in bankruptcy actions are subject to summary enforcement without surety.

Article 666

- 1) Should a debtor apply to be declared bankrupt and the application be rejected, the court may impose on him a fine of not less than 5000 (five thousand) and not more than 10000 (ten thousand) dirhams, if it is shown that the debtor deliberately intended to bring about an artificial bankruptcy.
- 2) Should a creditor apply for a declaration of bankruptcy and the application be rejected, the court may impose on him the fine stipulated in the preceding clause. If it is shown that he deliberately sought to damage the commercial reputation of the debtor, the court may, at his expense, order publication of the judgement in a newspaper of its choice, without prejudice to the right of the debtor to seek compensation.

Article 667

If, at the time bankruptcy is declared, the estate does not have sufficient funds to meet the cost incurred so as to make the bankruptcy judgement, to declare and publish it, to appeal against it, to place seals on the bankrupt's assets or to remove them, or to safeguard the bankrupt's assets, such expenses will be met from public funds upon an order from the judge supervising the bankrupt's estate. Such sums shall be repaid to the Public Treasury, with priority over all other creditors, from the first monies entering the bankrupt's estate.

Section 2

Person responsible for administration
of the bankrupt's estate

Article 668

- 1) In its judgement declaring the debtor bankrupt or in a subsequent judgement, the court will appoint a paid agent, called the trustee in bankruptcy, to manage the bankrupt's estate.
- 2) The judge supervising the bankrupt's estate may, at any time, whether of his own accord or at the request of the bankrupt or the inspector, order the appointment of one or more additional trustees up to a maximum of three.

Article 669

- 1) A person may not be appointed as a trustee in bankruptcy if he is a creditor of the bankrupt, the spouse of the bankrupt, a relation by marriage or a relation up to the fourth degree of consanguinity. he must not have been a partner, employee, accountant or agent of the bankrupt during the two years preceding the declaration of bankruptcy.
- 2) A person may not be appointed as a trustee in bankruptcy if he has been convicted of a felony or of a misdemeanor of theft, misappropriation, breach of trust, fraud, bankruptcy by default or perjury.

Article 670

- 1) The trustee is responsible for administering and preserving the assets of the bankrupt and disputes relating to them be restricted after the pronouncement of the bankruptcy judgement, whether in respect of commercial or civil debts.
- 2) The trustee shall keep a daily record of all actions concerned with the administration of the bankrupt's estate. These shall be written down in a special ledger with numbered pages, signed by the judge supervising the bankrupt's estate and endorsed by him on the last page to indicate that the record is at an end.
- 3) The court, the judge supervising the bankrupt's estate and the inspector may all examine this ledger at any time. The bankrupt may also inspect the ledger with the permission of the judge supervising the bankrupt's estate.

Article 671

- 1) If there is more than one trustee in bankruptcy, they must work together and they are jointly liable for their administration.
- 2) However, the judge supervising the bankrupt's estate may apportion the work between them or may instruct one of them to carry out a particular task. In such a case, the trustee in bankruptcy is liable only for the work he has been instructed to carry out.
- 3) The trustees in bankruptcy may delegate to each other the carrying out of the tasks assigned to them. However, they may not delegate the work to a third party without permission from the judge supervising the bankrupt's estate. In such a case, the trustee and the person to whom the work is delegated are jointly liable for such work.

Article 672

The bankrupt and the inspector may object to the judge supervising the bankrupt's estate about the work of the trustee before it has been completed. If an objection is submitted, the work will cease and the judge supervising the bankrupt's estate must then examine the objection within five days of the date of submission. His decision is enforced forthwith.

Article 673

Whether of his own accord or at the request of the bankrupt or the inspector, the judge supervising the bankrupt's estate may decide to remove the trustee in bankruptcy or, if there is more than one, to reduce the number of trustees. The judge supervising the bankrupt's estate must examine such a request within ten days of the date on which it is submitted. His decision in this regard is open to appeal. If the judge supervising the bankrupt's estate fails to rule on the petition within the period stipulated, the petition may be referred directly to the court for a decision.

Article 674

- 1) The fees and expenses of the trustee in bankruptcy shall be assessed the judge supervising the bankrupt's estate after the trustee has submitted a report on his administration.
- 2) The judge supervising the bankrupt's estate may order sums to be paid to the trustee in bankruptcy prior to submission of the above-mentioned report, the amounts concerned then being deducted from his fees.
- 3) any interested party may appeal to the court against the assessment of the trustee's fees and expenses decided by the judge supervising the bankrupt's estate.

Article 675

- 1) In addition to the powers accorded to the judge supervising the bankrupt's estate under the present law, he is further responsible for overseeing the administration of the bankrupt's estate and the progress of the related proceedings, and for taking the necessary steps to preserve the assets of the said estate.
- 2) He shall invite the creditors to meet under the conditions laid down in the law and shall chair their meetings.
- 3) he may, at any time, summon the bankrupt or his heirs, agents or servants or any other person, in order to hear their evidence in matters relating to the bankrupt's estate.
- 4) He shall submit a report to the court every three months on the condition of the bankrupt's estate and on any dispute connected with it is entitled to rule.

Article 676

The decisions pronounced by the judge supervising the bankrupt's estate shall be lodged with the office of the clerk of court on the day following their issue. he may order that they be notified to those concerned.

Article 677

- 1) The decisions pronounced by the judge supervising the bankrupt's estate are not open to appeal, unless the law so permits or the decisions exceed the powers of the judge.
- 2) If an appeal is permitted, the complaint must be submitted to the competent court of appeal within ten days of the date of issue of the contested decision or the date of notification of those concerned. The court shall not be open to any channel of appeal.
- 3) The court may order stay of execution of the order under appeal provisionally until the appeal has been decided.

Article 678

- 1) The judge supervising the bankrupt's estate shall appoint one or more inspectors from among the creditors who offer themselves as candidates.
- 2) The bankrupt or any creditor may appeal to the court against the decision of the judge

supervising the bankrupt's estate with regard to the appointment of the inspector. However, such an appeal shall not lead to stay of execution of the order.

Article 679

An inspector or a representative of a legal entity appointed as an inspector may not be the spouse of the bankrupts or be related to him by marriage or be related to him up to the fourth degree of consanguinity.

Article 680

- 1) In addition to the powers accorded to him by special provisions, the inspector shall examine the balance sheet and report submitted by the debtor and shall assist the judge supervising the bankrupt's estate in overseeing the work of the trustee.
- 2) The inspector shall have the right to ask the trustee in bankruptcy for explanations as to the course of the proceedings with regard to the estate, the income and expenditure thereof and the situation of any related legal actions.

Article 681

- 1) The inspector shall not receive remuneration for his work.
- 2) The inspector may be dismissed by a decision of the judge supervising the bankrupt's estate.
- 3) The inspector shall be held liable only for gross error.

Section 3
Effects of bankruptcy

Part 1

Effects on the debtor

Article 682

- 1) The judge supervising the bankrupt's estate may, at any time, whether of his own accord or at the request of the Public Prosecutor or the trustee in bankruptcy, decide to detain the bankrupt or to place him under supervision if he willfully conceals assets or books or refuses to carry out the decisions of the judge supervising the bankrupt's estate. The judge may order that any precautionary measures needed to maintain the rights of the creditors be taken and any such decision shall be executed forthwith by the Public Prosecutor.
- 2) The bankrupt may appeal against a decision issued in accordance with the preceding clause but such an appeal shall not result in stay of execution of the decision.
- 3) The judge supervising the bankrupt's estate may, at any time, decide to release the bankrupt's from such supervision or detention or to lift the precautionary measures imposed on him.

Article 683

- 1) A person who has been declared bankrupt may not vote, stand in elections or be appointed to the National Assembly, the Municipal Council, the Chambers of Commerce and Industry or professional associations. He may not be a manager or a member of the board of directors of any company or engage in work as a commercial agent or import-export agent or as a broker buying or selling commercial paper, or selling, or selling at public auctions.
- 2) A person who has been declared bankrupt may not act on behalf of a third party to administer his assets. However, the competent court may permit him to administer the assets of his minor children, provided that this is not to their detriment.

Article 684

A bankrupt may not leave his place of residence without giving written notice of his whereabouts to the trustee in bankruptcy. He may not change address or leave the State without permission from the judge supervising the bankrupt's estate.

Article 685

- 1) As soon as the bankruptcy judgement is pronounced, the bankrupt is prevented from administering and disposing of his assets. Any disposals made on the day of the judgement shall be deemed to have been made after the bankruptcy judgement was pronounced.
- 2) If such a disposal is not concluded and forcefully and enforceable by a third party until after registration or some other formality, it shall be binding on the group of creditors unless the said procedure is completed prior to the pronouncement of the bankruptcy judgement.

Article 686

The fact that the bankrupt is barred from administering or disposing of his assets shall not prevent him from taking the necessary steps to preserve his rights.

Article 687

- 1) Once the bankruptcy judgement has been pronounced, the bankrupt may no longer pay his debts or collect sums due to him.
- 2) However, if the bankrupt holds trade bills he may obtain payment for the value thereof at term unless the trustee in bankruptcy objects in accordance with Article 543.

Article 688

Once the bankruptcy judgement has been pronounced, nor set-off is permitted between what is owed to or by the bankrupt unless there is connection between them. Such a connection obtains, in particular, if rights and obligations arise from the same cause or if they are both covered by one current account.

Article 689

- 1) The prohibition on administration and disposal by the bankrupt covers all the assets owned by him at the date on which the bankruptcy judgement is pronounced and any assets which revert to his ownership he remains in a state of bankruptcy.
- 2) However, the prohibition on administration and disposal does not cover the following:
 - a. Assets which are not subject to legal distraint and the allowances granted to the bankrupt.
 - b. Assets owned by third parties other than the bankrupt.
 - c. Rights connected with the marital status of the bankrupt.
 - d. Compensation due to the beneficiary of a guarantee in a contract validly concluded by the bankrupt prior to the issue of the bankruptcy judgement. However, unless otherwise stipulated by law, the beneficiary is obliged to return to the bankrupt's estate any installment payments made under such contract by the bankrupt from the date appointed by the court for the suspension of payments.
 - e. The prohibition on administration and disposal by the bankrupt referred to in Paragraph 1 above does not include rights connected with the person of the bankrupt, with his position as head of a household or with any purely moral interest. Equally, the prohibition does not cover profits which may accrue to the bankrupt from his activities or industry, to the extent which the judge considers appropriate in relation to the needs of the bankrupt and the support of himself and his family.

Article 690

- 1) If the bankrupt receives an inheritance, his creditors are not entitled to the assets thereof until the sums owing to the creditors of the testator have been paid from the estate.
- 2) The trustee in bankruptcy is responsible, subject to the control of the judge supervising the bankrupt's estate, for liquidating an inheritance left to the bankrupt, and for settling any debts owed by such inheritance. Any legal actions connected with the assets of the inheritance and any proceedings for their enforcement shall be suspended from the time the bankruptcy judgement is pronounced until the liquidation of the inheritance is completed.

Article 691

Following the pronouncement of the bankruptcy judgement, legal actions may not be brought or

pursued by the bankrupt or brought or pursued against him, with the exception of the following:

- 1) actions connected with assets, rights and disposals which are not covered by the prohibition preventing the bankrupt from administration or disposal;
- 2) actions which the law permits the bankrupt to bring in connection with the bankruptcy proceedings;
- 3) actions under criminal law;
- 4) actions preparatory to a judgement to close proceedings

Article 692

- 1) The court may permit the bankrupt to take part in legal actions connected with the bankrupt's estate. The court may also permit a creditor to take part in such actions if he has a particular interest in them.
- 2) If actions are brought by or against the bankrupt under criminal law or in matters concerned with his personal or civil status, the trustee in bankruptcy must take part in financial claims are involved.

Article 693

If, after the bankruptcy judgement has been pronounced, the bankrupt is ordered to pay damages to a third party, the party awarded damages may seek the compensation awarded to him from the bankrupt's estate, unless it is shown that he has colluded with the bankrupt.

Article 694

- 1) After hearing the testimony of the trustee in bankruptcy, the judge supervising the bankrupt's estate may at the request of the bankrupt or his dependents, decide to grant the applicant an allowance from the bankrupt's estate.
- 2) The judge supervising the bankrupt's estate may, at any time, whether of his own accord or at the request of the trustee in the bankruptcy or the applicant for an allowance, change the amount of the allowance or order it to be cancelled. Such a decision is open to appeal.
- 3) Payment of the allowance shall cease as soon as a deed of arrangement is ratified or a state of union of creditors is established.

Article 695

With the permission of the judge supervising the bankrupt's estate, the bankrupt may engage in a view business with funds other than those of the bankrupt's estate. Creditors whose debts arise in connection with such a business shall have priority in payment of the sums owed to them from the assets of this business.

Article 696

If, after the date of suspension of payments and prior to the bankruptcy judgment, the debtor takes any of the following actions, they shall not be binding on the group of creditors:

- 1) makes any donations, with the exception of small customary gifts;
- 2) pays any term debt, by whatever means, prior to the due date;
- 3) pays immediate debts, other than in the form agreed (payment by means of trade bills or bank transfer shall be deemed to be cash payment);
- 4) enters into any mortgage or other agreed charge secured on his assets to guarantee a prior debt.

Article 697

Any disposal made by the bankrupt during the said period, other than those referred to in the preceding article, may be adjudged unenforceable vis-a-vis the group of creditors if such a disposal is harmful to them and if the party to whom the disposal was made was aware at the time that the bankrupt was insolvent.

Article 698

If any of the cases referred to in the two preceding articles, the group of creditors may bring an action for restitution. If the means of payment was a bill of exchange or a cheque, the said action will be brought only against the person who gave the bill of exchange or cheque on his own account. If the means of payment was a promissory note, the action may be brought only against the first endorser. In either case, it must be shown that the person from whom restitution is sought was aware that the debtor was insolvent at the time the instrument was issued.

Article 699

- 1) Mortgages or liens secured on the assets of the debtor may be adjudged unenforceable vis-à-vis the group of creditors if they are registered after the date of suspension of payments.
- 2) A creditor having a second mortgage following the mortgage ruled unenforceable vis-à-vis the group of creditors shall have receive from the proceeds of the sale of the asset on which the mortgage or lien is secured only what he would obtain on the assumption that the prior mortgage was enforceable and the difference shall go the group of creditors.

Article 700

- 1) If a disposal is ruled to be unenforceable vis-à-vis the group of creditors, the party to whom the disposal was made must return to the bankrupt's estate whatever was obtained from the bankrupt by virtue of the disposal or the value of the thing at the time it was received. He is further obliged to repay any yield received from the date of receipt and any consideration for its use.
- 2) The party to whom the disposal was made shall be entitled to the return of the consideration provided to the bankrupt if such consideration is itself present in the bankrupt's estate. If it is not present, the party concerned shall be entitled to seek from the group of creditors the benefit obtained from the disposal and to share in the bankrupt's estate as an ordinary creditor for any amount in excess thereof.

Article 701

In accordance with the rules laid down in the Law on Civil Proceedings, the trustee in bankruptcy shall have sole right to request that disposals by the debtor vis-à-vis the group of creditors be non-enforceable if they take place prior to the bankruptcy judgement being pronounced.

If a disposal is ruled to be non-enforceable, it shall be without effect with regard to the creditors as a whole, whether their rights arose before or after the occurrence of the disposal.

Article 702

- 1) To the legal time limits for not hearing cases brought by the trustee in bankruptcy against third parties and to the other periods laid down by law for the steps to be taken by the bankrupt or the trustee in bankruptcy, a further six months shall be added from the date on which the bankruptcy judgement becomes finally applicable.
- 2) In the event of rejection or the absence of due cause, legal actions arising in application of the provisions stipulated in Articles 696, 697, 698 and 701 shall not be heard once a period of two years has elapsed from the date on which the bankruptcy judgement was pronounced.

Part 2
Effects in relation to creditors

Article 703

As soon as the bankruptcy judgment is pronounced, a group of creditors is established by force of law, consisting of persons having valid claims on the bankrupt dating from before the bankruptcy judgement. The committee has a legal personality and is represented by the manager of the bankrupt's estate. The said group of creditors does not include persons with debts secured by mortgage or special lien, with the exception of cases in which such persons are involved in the bankruptcy proceedings as ordinary in accordance with the provisions of the present law.

Article 704

- 1) The pronouncement of the bankruptcy judgement results in the suspension of individual proceedings and actions brought against the bankrupt by ordinary creditors or preferred creditors.
- 2) The creditors referred to in the preceding paragraph may not take enforcement proceedings against the assets of the bankrupt nor may they complete proceedings already started prior to the pronouncement of the bankruptcy judgement. However, if a date has been set for the sale of real property belonging to the bankrupt, enforcement proceedings may be continued with the permission of the judge supervising the bankrupt's estate and the proceeds will pass into the bankrupt's estate.
- 3) After the bankruptcy judgement has been pronounced, actions may not be continued or brought against the bankrupt's estate nor may any other legal measures be taken against it, save by permission of the judge supervising the bankrupt's estate and on the conditions which he has laid down, except by mortgage creditors and preferred creditors, who may bring or continue actions against the trustee in bankruptcy and who may enforce measures or continue enforcement in respect of the assets over which they have a charge.

Article 705

Article 682

- 1) When the bankruptcy judgement is pronounced, all monetary debts owed by the bankrupt become payable, whether ordinary or secured by a genus; or particular charge.
- 2) The court may deduct from a non-interest bearing fixed-term debt a sum equal to the legal interest for the period from the date of the bankruptcy judgement to the date on which the debt becomes due.

Article 706

- 1) Interest on ordinary loans due to the group of creditors shall cease when the bankruptcy judgement is pronounced.
- 2) Interest may not be claimed on loans secured by a mortgage or lien, save in respect of sums arising from the sale of the assets on which the loans are secured. The principal sum is deducted first, then interest due prior to the bankruptcy judgement and finally interest due after the judgement.

Article 707

In the case of debts depending on a resolutive condition, it is possible to share in the bankrupt's estate by providing a surety. In the case of debts depending on a suspensory condition, the share is set aside from dividends until the result of the condition becomes apparent.

Article 708

- 1) If a number of debtors are responsible for a single debt and one of them is declared

bankrupt, such a bankruptcy shall not affect the other debtors unless the law stipulates otherwise.

- 2) If a deed of arrangement is made with the debtor who is declared bankrupt, the conditions of the arrangement shall not apply to the other debtors.

Article 709

If the creditor of a number of debtors for a single debt receives part of the debt from one of them and then one or the remainder of them are declared bankrupt, the creditor may seek to obtain only the remainder of his debt from the estates of the bankrupts. He retains the right to seek the remainder from a debtor who is not bankrupt. This debtor may share in every bankrupt estate for the amount paid to him.

Article 710

- 1) If all the obligors for a single debt are made bankrupt at the same time, the creditor may share in each bankrupt estate for the whole of the debt until the principal, expenses and interests have been paid in full.
- 2) One bankrupt estate may not have recourse against another bankrupt estate for any payment made.
- 3) If the total amount received by the creditor exceeds the debt and related sums, the surplus must be returned to an estate someone guaranteed by the others in accordance with the ranking of their obligations for the debt. If no such ranking exists, the surplus will be returned to the bankrupt estates which have paid more than their share of the debt.

Part 3
Effects on creditors with debts secured by
a chattel mortgage or lien

Article 711

- 1) The names of creditors of the bankrupt who have secured by a chattel mortgage or lien shall be entered in the group of creditors by way of a reminder, with reference made to the mortgage or lien.
- 2) After obtaining permission from the judge supervising the bankrupt's estate, the trustee in bankruptcy may, at any time, pay a debt secured by such a mortgage and return the objects of the mortgage to the account of the group of creditors.

Article 712

- 1) If a mortgaged chattel is sold at the request of the mortgage and the price exceeds the debt, the trustee in bankruptcy must receive the surplus for the account of the group of creditors. If the price is less than the debt, the mortgage creditor shall share in the bankrupt's estate for the remaining amount as an ordinary creditor, provided that the debt arose in accordance with the provisions of the law.
- 2) The trustee in bankruptcy may forgive a mortgage creditor and notify him of the need to take legal measures to enforce the objects of the mortgage before the end of a state of union. If the mortgage creditor fails to take these measures, the judge supervising the bankrupt's estate may, at the request of the trustee and after hearing the testimony of the mortgage creditor, permit the trustee to sell the mortgaged chattels. The decision of the judge supervising the bankrupt's estate to permit the sale must be notified to the mortgage creditor. The creditor may appeal against the decision and, if he does so, this will result in the enforcement of the sale being suspended.

Article 713

- 1) After seeking the permission of the judge supervising the bankrupt's estate, the trustee in the bankruptcy shall, within ten days of the bankruptcy judgement being pronounced, pay the wages and salaries due to workers and staff for the period of thirty days prior to the declaration of bankruptcy. Such sums shall be paid from the funds at his disposal in the bankrupt's estate, irrespective of any other debts. If the trustee in the bankruptcy does not have the necessary funds to pay these debts, he must pay them from the first funds entering the bankrupt's estate, even if there are other debts higher on the scale of priority.
- 2) Any sums due to the said categories in excess of the amount stipulated in the preceding paragraph shall be ranked in accordance with their legal privilege.

Article 714

If the trustee in bankruptcy pays a debt from his own funds or if the debt is paid by another person subrogated in the rights of an interested party, his debt shall be paid from the first monies to enter the bankrupt's estate, with no right of objection by any of them.

Article 715

In the event of the termination of a lease in accordance with Article 722, the owner of the property leased to the bankrupt has a privilege guaranteeing the rent due to him for the year prior to the pronouncement of the bankruptcy judgement for the current year. If the chattels present at the leased property are sold or transferred, the lessor retains his privilege.

Article 716

The privilege accorded to the government for taxes of all kinds covers only tax debts due from the bankrupt for the two years preceding the pronouncement of the bankruptcy judgement. Taxes owed for years other than these two years are ranked as ordinary debts.

Article 717

At the disposal of the trustee in bankruptcy, the judgement supervising the bankrupt's estate may, where necessary, order that the first funds entering the bankrupt's estate be used to pay the sums due to creditors with debts secured on the chattels of the bankrupt, provided that their names are included in the final list of uncontested debts referred to in Paragraph 1 of Article 757. If there is any objection to the privilege, the debt may not be settled until there has been a final ruling on the objection.

Part 4
Effects on secured creditors
with a mortgage or lien on real property

Article 718

If a dividend paid for the proceeds of real property before the proceeds of chattels or if the two are paid together, mortgage creditors or preferred creditors who have been paid some or all of their debts out of the proceeds of the real property may share with the ordinary creditors for the outstanding amount in the dividend due to the group of creditors, provided that their debts have been verified.

Article 719

- 1) If one or more dividends are paid in respect of the proceeds of chattels before a dividend in respect of the proceeds of real property, mortgage creditors or preferred creditors may share in the dividends for all their debts, provided that the debts have been verified.
- 2) After the sale of the real property and the final settlement in accordance with the rank of the mortgage and preferred creditors, no one qualified by rank to receive the whole of his debt from the proceeds of the said real property shall be permitted to collect the debt until deduction of the amount received by him from any dividends for chattels. This amount shall be returned to the group of ordinary creditors.
- 3) Should the rank of a creditor qualify him to receive only part of his debt, he must return to the group of ordinary creditors any amount received in excess of this amount if the dividend in respect of real property subject to mortgage or lien is paid prior to the dividend for chattels. He may then seek the remainder of his debt from the bankrupt's estate.

Article 720

Mortgage creditors and preferred creditors who receive nothing from the proceeds of the properties on which they have a charge shall be deemed ordinary creditors and shall be subject to all the effects arising from the work of the group of creditors and, where applicable, a judicial arrangement.

Part 5

Effect of bankruptcy on valid contractors concluded prior to the declaration of bankruptcy

Article 721

- 1) The pronouncement of a bankruptcy judgement shall not result in the rescission of a contract which is binding on two parties, one of whom is the bankrupt, unless the contract is based on personal considerations.
- 2) If the trustee in bankruptcy does not perform the contract or will no longer continue to do so, the other party may seek rescission. Any decision made by the trustee in bankruptcy with regard to the contract must be submitted for authorization to the judge supervising the bankrupt's estate. The other party may grant the trustee in bankruptcy a grace period to clarify his position with regard to the contract.

Article 722

- 1) If the bankrupt leases his business, the pronouncement of the bankruptcy judgement shall not result in termination of the lease or prevent payment of the rental for the remaining period and any provision to the contrary shall be without effect.
- 2) If the lessor has started enforcement procedures against the chattels present on the property and enforcement is not complete at the time the bankruptcy judgement is pronounced, enforcement must cease for a period of sixty days from the date of the judgement, without prejudice to the right of the lessor to take precautionary measures and to apply for the property to be vacated in accordance with the general rules. In this case, the suspension of enforcement shall proceed without need for the issue of a decision to this effect. The judge supervising the bankrupt's estate may, if he sees fit, order that the suspension of execution be continued for a further period of thirty days. During the period of suspension, the trustee in bankruptcy must notify the lessor of the property of his intention to terminate or to continue the lease.
- 3) If the trustee in bankruptcy decides to continue the lease, the outstanding rent must be paid and an adequate guarantee given for the payment of the future rent. If the trustee gives notice of his wish to continue the lease, the lessor may, with fifteen days, apply to the judge supervising the bankrupt's estate for termination of the lease if the guarantee is inadequate.
- 4) After receiving permission from the judge supervising the bankrupt's estate, the trustee in bankruptcy may sub-let the property or give up the lease, even if the bankrupt was forbidden from doing so by the lease, provided that this does not result in damage to the lessor, that there is genuine and clear interest on the part of the group of creditors and that the lessor receives fair compensation.

Article 723

If the bankrupt is an employer, the employee and the trustee may terminate the contract, taking into account the provisions of the Labour Law.

Article 724

An agency agreement shall lapse upon the bankruptcy of the agent or the principal. However, the agency shall not lapse upon the bankruptcy of the principal if the agent or a third party have an interest in such agency.

Part 6

Restitution

Article 725

- 1) Any person shall be entitled to restitution from the bankrupt's estate in respect of specific items which he can prove he owned at the time of the bankruptcy judgement.
- 2) After seeking the opinion of the inspector and obtaining authorization from the judge supervising the bankrupt's estate, the trustee in bankruptcy may return such items to their owner. If the trustee in bankruptcy refuses to return them, the matter must be referred to the court.

Article 726

- 1) Goods which are in the custody of the bankrupt by way of deposit or for sale on the account of the owner or for delivery to him may be returned, provided that they are themselves present in the bankrupt's estate. The value of the goods may also be returned if they have not been paid for in the form of cash, negotiable instruments set-off or entry in a current account between the bankrupt and the purchaser.
- 2) The party seeking restitution must pay the trustee in bankruptcy the amounts due to the bankrupt.
- 3) If the bankrupt has deposited the goods with a third party, he may seek restitution of them by the third party.
- 4) If the bankrupt has obtained a mortgage on the goods and the creditor did not know at the time of the mortgage that the bankrupt did not own them, they cannot be returned until the debt secured by the mortgage has been settled.

Article 727

Trade bills and other valuable instruments - delivered to the bankrupt in order to obtain the value or profit or allocated to settle a particular obligation - may be the object of restitution if that are themselves present in the bankrupt's estate and their value has not been paid at the time of the bankruptcy judgement.

However, restitution is not permitted if the said trade bills or instrument have been entered in a current account between the applicant for restitution and the bankrupt.

Article 728

Monies deposited with the bankrupt, whether in notes or coin, may not be returned unless the applicant for restitution return can prove ownership of the particular sum.

Article 729

In the circumstances stipulated in the preceding articles, the applicant for restitution must pay the trustee in bankruptcy any amounts due to the bankrupt.

Article 730

- 1) If a contract of sale is rescinded by a judgement or by a contractual condition prior to the pronouncement of the bankruptcy judgement, the seller may seek the return of some or all of the goods from the bankrupt's estate, provided that they are themselves present.
- 2) Restitution is permitted, even after the pronouncement of the bankruptcy judgement, provided that the action for restitution or rescission was brought prior to the pronouncement of the judgement.

Article 731

- 1) If a purchaser is declared bankrupt before the price has been paid and the goods are still with the seller, the seller may retain them.
- 2) If the purchaser is declared bankrupt after the goods have been dispatched to him but before they have entered his stores or the stores of an agent authorized to sell them, the seller may apply for them to be returned to his custody. However, restitution is not permitted if the goods have lost their essential character or if the bankrupt has disposed of them to a purchaser in good faith by non-fraudulent means prior to their arrival by virtue of schedules of ownership or shipping documents.
- 3) In any event, the trustee in bankruptcy, with the permission of the judge supervising the bankrupt's estate, may demand delivery of the goods, provided that the agreed price is paid to the seller. If the trustee in bankruptcy does not make such a demand, the seller may maintain his right to rescission and to seek compensation.

Article 732

- 1) Without prejudice to the provisions of Article 48 of the present law, if the purchaser is declared bankrupt prior to the payment of the price and after the goods have entered his stores or the stores of an agent authorized by him to sell them, the seller may not seek rescission of the sale or restitution of the goods. The seller also loses his lien on them.
- 2) Any condition which may enable the seller to seek restitution of the goods or to maintain his lien on them shall not be used in pleadings against the group of creditors.

Part 7

Rights of the bankrupt's spouse

Article 733

- 1) In the vent of the bankruptcy of one spouse, the other spouse may not plead against the group of creditors in respect of gifts made to him/her during the five years prior to the date of suspension of payments.
- 2) The group of creditors of the estate of either spouse may not keep gifts given by one spouse to the other during the period referred to in the preceding paragraph.

Article 734

Irrespective of the matrimonial financial arrangements, either spouse may seek restitution of real or movable assets from the estate of the other, if ownership can be proved under the general rules. Such assets shall remain encumbered by rights legally acquired by third parties.

Article 735

- 1) Assets purchased by the bankrupt for the account of minors in his custody from the date of engaging in business shall be deemed to have been purchased with the funds of the bankrupt and shall form part of the assets of the bankrupt's estate unless there is proof to the contrary.
- 2) Assets purchased by the spouse of the bankrupt for the other spouse up to five years before the date of the pronouncement of the bankruptcy judgement shall be deemed to have been purchased with the funds of the bankrupt and shall form part of the assets of the bankrupt's estate there is proof to the contrary.
- 3) Any debt paid by one spouse on behalf of the other spouse who is declared bankrupt shall be deemed to have been paid with the funds of the later unless there is proof to the contrary.

Section 4

Administration of the bankrupt's estate

Part 1

Administration of assets

Article 736

- 1) As soon as the bankruptcy judgement is pronounced, the judge supervising the bankrupt's estate shall place seals on the bankrupt's business premises, offices, stores, books, papers and chattels. He may delegate this task to a court employee. He shall notify the presiding judge of each court within the jurisdiction of which the bankrupt's assets are located so that seals can be placed on them.
- 2) If the judge supervising the bankrupt's estate considers that it possible to make an inventory of the bankrupt's assets within a day, he may proceed forthwith to draw up the inventory without need to impose seals.
- 3) A report on the imposition of seals shall be drawn up and signed by the person responsible for this procedure. The report shall be delivered to the judge supervising the bankrupt's estate if the task was not carried out by him.

Article 737

Seals may not be imposed on the clothes and chattels required by the bankrupt and his dependents. These shall be designated by the judge supervising the bankrupt's estate and a list of them shall be delivered to the bankrupt and signed by him and by the judge supervising the bankrupt's estate.

Article 738

- 1) The judge supervising the bankrupt's estate may, of his own accord at the request of the trustee the bankruptcy, order that seals should not be placed on the following things or that they should be removed from them.
 - a. commercial books;
 - b. trade bills or other paper having short maturity dates or requiring formalities to be carried out in order to maintain the rights inherent in them;
 - c. cash needed to pay for urgent matters relating to the bankrupt's estate;
 - d. things which deteriorate rapidly, lose value quickly or require costly maintenance;
 - e. articles needed to operate the business, if it is decided to keep the business as a going concern.
- 2) An inventory of the things referred to in the preceding paragraph shall be drawn up in the presence of the judge supervising the bankrupt's estate or someone else delegated by him. The signed list shall be delivered to the trustee in bankruptcy.
- 3) The commercial books may not be delivered until they have been closed by the judge supervising the bankrupt's estate, if possible in the presence of the bankrupt.

Article 739

- 1) At the request of the trustee in bankruptcy, the judge supervising the bankrupt's estate

shall order the removal of the seals in order to carry out the inventory of the bankrupt's assets.

- 2) The removal of the seals and the carrying out of the inventory shall begin within five days of the date on which the bankruptcy judgement is pronounced.

Article 740

- 1) The inventory shall be carried out in the presence of the judge supervising the bankrupt's estate or someone else delegated by him for this purpose, the trustee in bankruptcy and the clerk of court. The bankrupt must be notified and he may attend.
- 2) The inventory shall be drawn up in two copies and shall be signed by the judge supervising the bankrupt's estate or someone else delegated by him for this purpose, by the trustee in bankruptcy and by the clerk of court. One copy shall be lodged with the court and the other shall remain with the trustee in bankruptcy.
- 3) The inventory shall list the assets on which seals have not been imposed of from which they have been removed.
- 4) Assistance may be obtained from an expert to carry out the inventory and value the assets.

Article 741

If a businessman is declared bankrupt after his death and an inventory had not been carried out at the time of the decease or if the businessman dies after the declaration of bankruptcy but before the inventory is started or before it is completed, the inventory must be drawn up immediately or continued in the manner described in the preceding article, in the presence of the heirs of the bankrupt or after they have been given notice to attend.

Article 742

After the inventory has been carried out, the trustee in bankruptcy will take delivery of the bankrupt's assets, books and papers and will sign this inventory to this effect.

Article 743

If the bankrupt has not submitted a balance sheet, the trustee in bankruptcy must prepare one forthwith or, with permission from the judge supervising the bankrupt's estate, must have one prepared by a chartered auditor and lodge it immediately with the court.

Article 744

The trustee in bankruptcy shall receive, open and retain the mail delivered to the bankrupt in connection with his business affairs. The bankrupt shall have the right to inspect such mail.

Article 745

- 1) The trustee in bankruptcy shall take all actions necessary to maintain the rights of the bankrupt in respect of third parties and shall call for and receive payment from them.
- 2) The trustee in bankruptcy shall register any rights of the bankrupt in rem on the real property of his debtor, if the bankrupt has not already done so.
- 3) The trustee in bankruptcy shall submit to the judge supervising the bankrupt's estate a report on the state of the bankrupt's estate at least once every three months.

Article 746

- 1) The assets of the bankrupt's estate may not be sold during the period of the preliminary proceedings. However, at the request of the trustee in bankruptcy, the judge supervising the bankrupt's estate may permit the sale of things which deteriorate rapidly, lose value

quickly or require costly maintenance. Permission may also be given to sell assets of the bankrupt's estate if the sale is necessary to obtain cash to pay for the affairs of the estate or if the sale would achieve a definite benefit for the creditors or the bankrupt. In the latter case, permission for the sale cannot be given without consulting the inspector and hearing the testimony of the bankrupt or notifying him of the sale.

- 2) Sales of chattels shall be made in the manner prescribed by the judge supervising the bankrupt's estate. Sales of real property shall be made in accordance with the provisions laid down in the Code of Civil Proceedings for enforcement in respect of real property.
- 3) The decisions of the judge supervising the bankrupt's estate to sell the assets of the bankrupts is open to appeal.

Article 747

- 1) After consulting the inspector and hearing the statements of the bankrupt or notifying him, the judge supervising the bankrupt's estate may permit the trustee in bankruptcy to conclude an arrangement or to accept arbitration in any dispute connected with the bankrupt's estate, even in relation to rights or actions concerning real property.
- 2) However, if the dispute is not for a specific sum or if the sum is in excess of 10000 (ten thousand) dirhams, the arrangement or acceptance of arbitration shall not be enforceable until the conditions thereof have been ratified by the judge supervising the bankrupt's estate. The bankrupt must be called upon to appear at the ratification and the judge supervising the bankrupt's estate will hear his testimony if he appears.
- 3) The trustee in bankruptcy may not waive the right of the bankrupt or confirm the rights of a third party save in accordance with the conditions laid down in the two preceding paragraphs.
- 4) It is possible to appeal against a decision of the judge supervising the bankrupt's estate if he refuses to ratify an arrangement or arbitration.

Article 748

- 1) At the request of the trustee in bankruptcy or the bankrupt, the judge supervising the bankrupt's estate may, after consulting the inspector, permit the business to remain in operation if this is in the public interest or in the interest of the debtor or creditors.
- 2) At the proposal of the trustee, the judge supervising the bankrupt's estate shall appoint and pay someone to be responsible for administration of the business. It is possible to appoint the bankrupt to administer it and pay which he receives is deemed to be an allowance to him.
- 3) The trustee in bankruptcy shall oversee the person appointed to administer the business and shall submit a monthly report to the judge supervising the bankrupt's estate on the progress of the business.
- 4) The bankrupt and the trustee in bankruptcy may appeal against a decision not to keep the business in operation.

Article 749

If the bankrupt dies, he shall be replaced by his heirs in the bankruptcy procedures and they must appoint one of their number to represent them in this matter. If they do not agree on delegating one of their number to represent them, the judge supervising the bankrupt's estate, at the request of the trustee in bankruptcy, may make the appointment. The judge may, at any time, dismiss the representative of the heirs and appoint another.

Article 750

- 1) The sums obtained by the trustee in bankruptcy for the account of the estate shall be deposited with the court treasury or with a bank designated by the judge supervising the bankrupt's estate. They shall be deposited on the day they are obtained or on the next working day after deduction of sums allocated for expenses. The trustee in bankruptcy must then send the judge supervising the bankrupt's estate an account of these sums within five days of the date on which they are deposited.
- 2) These sums or other sums deposited by third parties for the account of the bankrupt's estate may not be withdrawn without an order from the judge supervising the bankrupt's estate.

Article 751

- 1) Where necessary, the judge supervising the bankrupt's estate may, after consulting the inspector, order dividends to be paid to the creditors whose debts are confirmed. The dividend shall be based on a list prepared by the trustee in bankruptcy and endorsed by the judge supervising the bankrupt's estate for distribution.
- 2) The bankrupt and any other interested party may against a decision of the judge supervising the bankrupt's estate with regard to payment of a dividend to the creditors.

Part 2

Verification of debts

Article 752

- 1) All creditors, even if their debts are guaranteed by particular sureties or established by simple judgements, must, after the bankruptcy judgement has been pronounced, deliver to the trustee in bankruptcy the documents relating to their debts, accompanied, where applicable, by a statement of the debts and sureties, specifying the amounts in the national currency on the basis of the rate of exchange prevailing on the date the bankruptcy judgement was pronounced. The statement must be signed by the creditor or his agent. The trustee in bankruptcy will issue a receipt upon delivery of the statement and the documents relating to the debt.
- 2) The statement and document may be sent to the trustee in bankruptcy.
- 3) The trustee in bankruptcy will return the documents to the creditors once the bankrupt's estate has been closed. He will be responsible for them for a period of one year from the date of closure.

Article 753

- 1) If all the creditors whose names are entered in the balance sheet do not submit the documents relating to their debts within the ten days following the publication of the bankruptcy judgement in the press, the trustee in bankruptcy must immediately publish a notice in a daily newspaper designated by the judge supervising the bankrupt's estate, inviting the creditors to submit the documents, accompanied by the statement referred to in the preceding article. Notice must be sent to creditors whose addresses are known.
- 2) Creditors must submit the documents relating to their debts, accompanied by the statement, within ten days of the date of publication in the press. For creditors resident outside the State, the period is one month.

Article 754

- 1) The trustee in bankruptcy will verify the debts with the assistance of the inspector, in the presence of the bankrupt or after he has been invited to attend.
- 2) Should the trustee in bankruptcy, the inspector or the bankrupt object to a debt, to the amount or to the security thereof, the trustee forthwith notifies the creditor.

The creditor must then submit oral or written explanations within ten days of receipt of the notice. For creditors resident outside the State, the period is thirty days.

- 3) Debts due to the government for taxes of any kind are not subject to the verification procedures.

Article 755

- 1) When the verification procedure is complete, the trustee in bankruptcy will lodge with the court a schedule of the debts, including a statement of the related documents, the reasons for any objections and an opinion as to whether they should be accepted or rejected. He will also lodge a file giving the names of creditors claiming that they have a special charge on the assets of the bankrupt, stating the amounts owed to them, the types of charge and the assets on which they are secured.
- 2) This lodging of documents must take place within sixty days at most from the date on which the bankruptcy judgement is pronounced. Once this period has elapsed, it may be extended by decision of the judge supervising the bankrupt's estate.
- 3) Within five days of lodging the documents, the trustee in bankruptcy must

publish notice that this has been done in a daily newspaper designated by the judge supervising the bankrupt's estate and must send to the bankrupt and to each creditor a copy of the schedule and file with a statement of the sums that he intends to accept from each debt.

- 4) Any interested party may inspect the schedule and file lodged with the court.

Article 756

The bankrupt and each creditor named in the schedule of debts may object to the debts contained therein within ten days of the date of publication in the press that the schedule has been lodged. For creditors resident outside the State, the period is thirty days. The objection must be submitted to the judge supervising the bankrupt's estate or sent by registered letter or cable.

Article 757

- 1) After the expiry of the period stipulated in the preceding article, the judge supervising the bankrupt's estate will establish a final schedule of uncontested debts. The statement accompanying the documents relating to the debts will be endorsed to indicate acceptance and the amount of each debt which has been accepted.
- 2) The judge supervising the bankrupt's estate may consider a debt as being contested debts within thirty days of the date for the expiry of the period for objection.
- 3) The judge supervising the bankrupt's estate shall give interested parties at least three days' notice of the hearing and shall notify them of the decision on the objection as soon as it is pronounced.

Article 758

- 1) The decision of the judge supervising the bankrupt's estate to accept or reject a debt is open to appeal.
- 2) An appeal shall not result in the bankruptcy proceedings being halted unless the court issues an order to this effect.
- 3) Prior to the appeal judgement, the court may order that the debt be provisionally accepted for an amount which it sees fit.
- 4) A debt may not be provisionally accepted if it is the subject of an action under criminal law.
- 5) If an appeal against a debt is connected with sureties, the debt must be provisionally accepted as an ordinary debt.
- 6) A creditor whose debt has not been finally or provisionally accepted may not take part in the bankruptcy proceedings.

Article 759

- 1) Creditors who fail to submit their application within the legally stipulated periods may not take part in current dividends but may object in order to stop dividends from being disbursed. They are responsible for the expense of such an objection.
- 2) An objection shall not result in the cessation of dividends ordered by the judge supervising the bankrupt's estate. However, the said creditors may take part in new dividends for the sums provisionally assessed by the judge supervising the bankrupt's estate. They may retain their shares until a decision is issued with regard to the objection.
- 3) If their debts are subsequently established, they may not seek payment of the dividends which have already been paid but may take from the remaining undistributed amounts the portion of the debt which would have been allocated to them if they had taken part in the preceding dividends.

Part 3

Closure of the bankrupt's estate because of insufficiency of assets

Article 760

- 1) If the bankruptcy proceedings are halted because of an insufficiency of assets prior to ratification of an arrangement or establishment of a state of union, the court may, at its own discretion or in accordance with a report from the judge supervising the bankrupt's estate, order that the bankrupt's estate be closed.
- 2) If it is decided to close the bankrupt's estate because of an insufficiency of assets. each creditor once again has the right to take steps and to initiate individual actions against the bankrupt.
- 3) If a creditor's debt has been verified and finally accepted in the bankruptcy proceedings he may enforce it against the assets of the bankrupt on the basis of a performance order from the judge supervising the bankrupt's estate, specifying the amount of the debt, the fact that it has been finally accepted and the decision to close the bankruptcy proceedings because of an insufficiency of funds.

Article 761

- 1) The bankrupt and every interested party may, at any time, apply to the court for cancellation of the decision to close the bankruptcy proceedings due to an insufficiency of assets if there is a proof of sufficient funds to meet the expense of the bankruptcy proceedings or if a sufficient amount is delivered to the trustee in bankruptcy.
- 2) The court may also, of its own accord or at the request of the judge supervising the bankrupt's estate, reopen and continue the bankruptcy proceedings.
- 3) In any event, priority must be given to payment of the expense of the proceedings, specified in the two preceding paragraphs.

Section 5

Termination of bankruptcy proceedings

Part 1

Extinction of the interest of the group of creditors

Article 762

After establishing the schedule of debts referred to in Article 757, the court may, at any time, at the request of the bankrupt, order the termination of the bankruptcy proceedings if it is shown that he has paid all the debts of the creditors represented in the bankruptcy proceedings or that he has lodged with the court or with the trustee in bankruptcy the sums necessary to pay the principal and interest of such debts and the expense of the bankruptcy proceedings.

Article 763

- 1) The court may not decide to terminate the bankruptcy proceedings because of the extinction of the interest of the group of creditors until it has seen a report of the judge supervising the bankrupt's estate indicating that one of the two conditions referred to in the preceding article now obtains.
- 2) The state of bankruptcy is terminated merely by the issue of the decision and the bankrupt is restored to all his rights, with the exception of the rights which require a court decision for his reinstatement.

Part 2

Deeds of arrangement

Article 764

- 1) The judge supervising the bankrupt's estate shall invite the creditors whose debts have been finally or provisionally accepted to attend deliberations on the arrangement.
- 2) An invitation to the arrangement meeting will be sent, provided that no objection to the debts is received within seven days of the lodging of the schedule of debts referred to in Article 757. If an objection is received, the invitation will be sent within seven days of the expiry of the period for appeal to the judge supervising the bankrupt's estate against the last decision issued by him with regard to acceptance or rejection of the debts.
- 3) During the period stipulated in the preceding paragraph, the trustee in bankruptcy must publish the invitation to the arrangement meeting in a daily newspaper designated by the judge supervising the bankrupt's estate.

Article 765

- 1) The arrangement meeting will be held at the time and place appointed by the judge supervising the bankrupt's estate who shall chair the proceedings.
- 2) The meeting shall be attended by the creditors themselves or by their authorized agents.
- 3) The bankrupt will be summoned to appear and he may not be represented by third party, save for serious cause acceptable to the judge supervising the bankrupt's estate. If he is in detention, he must be granted leave to attend the meeting by order of the judge.

Article 766

- 1) The trustee in bankruptcy will submit to the arrangement meeting a report covering the

conditions of the bankrupt's estate, the measure taken, the proposals of the bankrupt for the arrangement and the opinion of the trustee in bankruptcy with regard to them.

- 2) The report of the trustee in bankruptcy will be read to the arrangement meeting and will be delivered signed by him to the judge supervising the bankrupt's estate. The testimony of the bankrupt will be heard and the judge supervising the bankrupt's estate will draw up the minutes of the meeting.

Article 767

- 1) A deed of arrangement will not be concluded unless it is approved either by a numerical majority of the creditors or by voters representing two thirds of the debts which have been finally or provisionally accepted.
- 2) Any creditor who is absent from the meeting will be deemed to reject the arrangement.

Article 768

- 1) neither the spouse of the bankrupt nor his relations or in-laws up to the fourth degree of consanguinity to whom the bankrupt is in debt may take part in the deliberations with regard to the deed of arrangement or vote on the conditions thereof.
- 2) If such a creditor assigns his debt to a third party after the bankruptcy judgement has been pronounced, the assign may not take part in the deliberations over the arrangement or vote on the conditions thereof.

Article 769

- 1) Creditors who have securities in rem secured on the assets of the bankrupt may not take part in the voting on the deed of arrangement in respect of the debts secured by the said securities unless the securities in question are previously assigned. The assignment will be referred to in the minutes of the meeting.
- 2) If one of the creditors referred to in the preceding paragraph takes part in the vote on the deed of arrangement without stating that his security has been assigned, this shall be deemed to be an assignment of the security.
- 3) In any event, the assignment of the security shall not be final unless the deed of arrangement is ratified.
- 4) If the arrangement shall be declared invalid the surety shall be returned which is included in the assignment.

Article 770

- 1) Added of arrangement shall be deemed null and void unless the minutes of the arrangement are signed at the meeting in which it is voted.
- 2) If one of the two majorities stipulated in Article 767, is not reached, the deliberations will be postponed for ten days, after which there will be no further grace period.
- 3) Creditors who attended the first meeting or who were presented at it and signed the minutes are not required to attend the second meeting. In this case, their approval of the deed of arrangement in the first meeting shall remain valid and effective in the second meeting unless they attend the latter meeting and revoke the approval given at the first meeting or the debtor makes material changes to the proposals for the arrangement between the two meetings.

Article 771

A deed of arrangement may not be contracted with a bankrupt who has been convicted of fraudulent bankruptcy. If the bankrupt is investigated for this crime, the deliberations with regard to the arrangement must be postponed as soon as the investigation begins.

Article 772

- 1) The fact that someone is ruled to be bankrupt by default shall not prevent an arrangement with him.
- 2) If the bankrupt is investigated for such a crime, the creditors may deliberate on the arrangement or postpone their deliberations.

Article 773

- 1) The arrangement may grant the debtor time to pay the debts. It may also permit the assignment to the debtor of part of the debt, the debtor remaining liable for the part covered by the assignment as a natural debt.
- 2) The arrangement may be contracted on condition of payment if the debtor is solvent for a period of five years from the date of the arrangement. The debtor shall not be deemed to be solvent unless the value of his assets exceeds his debts.
- 3) The creditors may require the submission of one or more sureties to guarantee the execution of the conditions of the deed of arrangement.

Article 774

- 1) The judge supervising the bankrupt's estate shall submit the minutes of the arrangement to the court which pronounced the bankruptcy judgement for ratification. Any party to the arrangement may apply for it to be ratified.
- 2) Any interested party, may within five days of the date of signature of the minutes of the arrangement, give notice in writing to the judge supervising the bankrupt's estate of any observations he may have with regard to the arrangement.
- 3) The court shall then, within three days of the expiry of the period referred to in the preceding paragraph, issue a decision to void or to ratify the arrangement.
- 4) A decision to void the arrangement must be reasoned and such a decision is open to appeal.
- 5) The arrangement is enforceable as soon as the decision is made to ratify it. The inspector is responsible for overseeing the execution of the conditions of the arrangement. If there is no inspector for the bankrupt's estate, the court shall appoint an inspector to oversee the execution of the conditions of the arrangement.

Article 775

- 1) The arrangement shall apply to the creditors making up the group of creditors, whether or not they took part in the proceedings or approved it.
- 2) The arrangement shall not apply to creditors with a mortgage or lien unless they have assigned them nor shall it apply to ordinary creditors whose debts have arisen during the period of the bankruptcy proceedings.

Article 776

- 1) The decision to ratify the arrangement shall be announced in the same way as the bankruptcy judgement. The abstract published in the press shall contain the name and

address of the debtor, his commercial register number, the date of the ratification decision and a summary of the most important conditions of the arrangement.

- 2) Within ten days of the date of the decision by the court to ratify the arrangement, the trustee in bankruptcy shall register a summary thereof, in the name of the inspector in his capacity as delegate of the creditors, with every land registry office in the area of which the bankrupt owns real property. Such registration will result in the creation of a mortgage on the said property to guarantee the rights of the creditors to whom the arrangement applies. The inspector will apply for the mortgage to be deleted when the conditions of the arrangement have been executed.
- 3) Notwithstanding the provisions of Article 48 of the present law, the trustee in bankruptcy shall, within the period referred to in the preceding paragraph, register a summary of the judgement ratifying the arrangement, in the name of the inspector in his capacity as delegate of the creditors, with the commercial register office in the area of which the bankrupt has his business. Such registration will result in the creation of a mortgage on the basis elements of the business to guarantee the rights of the creditors to whom the arrangement applies. The inspector will delete the mortgage when the conditions of the arrangement have been executed.

Article 777

- 1) With the exception of the deprivation of rights stipulated in particular laws, all the effects of bankruptcy shall be removed with the pronouncement of the court decision to ratify the arrangement. However, this shall not affect any criminal prosecution.
- 2) Trustee in bankruptcy must present a final account to the bankrupt. The account papers shall be returned to him against a receipt. The trustee in bankruptcy shall not be responsible for these things unless they are not returned to the bankrupt within one year of date of confirmation of the final account.
- 3) The task of the trustee in bankruptcy shall end and the bankrupt's assets, books and papers shall be returned to him against a receipt. The trustee in bankruptcy shall not be responsible for these things unless they are not returned to the bankrupt within one year of confirmation of the final account.
- 4) The judge supervising the bankrupt's estate shall draw up minutes of all the foregoing. If any dispute, should arise, the judge supervising the bankrupt's estate will refer it to the court for examination.

Article 778

- 1) The arrangement shall be a nullity if, after it has been ratified, the bankrupt is found guilty of any offence of fraudulent bankruptcy.
- 2) The arrangement shall also be a nullity if, after it has been ratified, the bankrupt is shown to have fraudulently concealed assets or exaggerated his debts. In such eventuality, an application must be made to void the arrangement within six months of the date on which the fraud became apparent. Otherwise, the application will be unacceptable. In any event an application to void the arrangement will not be acceptable if it is submitted after three years have elapsed from the date of issue of the decision to ratify the arrangement.
- 3) The voiding of the arrangement shall release a surety from guaranteeing execution of its conditions.

Article 779

If a criminal investigation is opened against the bankrupt for fraud after the ratification of the

arrangement or if a criminal prosecution is brought against him after ratification of the arrangement, the court which pronounced the bankruptcy judgement may, at the request of any interested party, order such measures to be taken as it sees to preserve the assets of the debtor. These measures will be cancelled by law if the investigation is discontinued or if the bankrupt is found not guilty.

Article 780

- 1) If the bankrupt does not execute the conditions of the arrangement, an application may be made to the court which ratified the arrangement for it to be cancelled.
- 2) The cancellation of the arrangement does not release the surety from his obligation to guarantee execution of the conditions of the arrangement. He must be called upon to attend the hearing for examination of the application of cancel the arrangement.

Article 781

- 1) In the judgement to cancel or void the arrangement, the court shall appoint a judge supervising the bankrupt's estate and a trustee in bankruptcy. The court may order seals to be placed on the assets of the bankrupt.
- 2) Within seven days of the date of the issue of the judgement to cancel or void the arrangement, the trustee in bankruptcy must publish a summary of the judgement in a daily newspaper designated by the judge supervising the bankrupt's estate.
- 3) The trustee in bankruptcy, in the presence of the judge or someone delegated by hi, shall draw up a supplementary inventory of the bankrupt's assets and an additional balance sheet.
- 4) The trustee in bankruptcy shall invite the new creditors to submit the documents relating to their debts for verification in accordance with the verification procedures for debt.

Article 782

The new debts will be verified forthwith without verifying again the debts already accepted. However, debts which have been paid in full will be eliminated and debts which have been paid in part will be reduced.

Article 783

Payments received from the debtor after the issue of the decision to ratify the arrangement and before it is voided or cancelled are valid in respect of the creditors. The creditors may apply for them not to be enforced only in accordance with the rules laid down in the Law on Civil Proceedings for actions not to execute payment. Such cases may not be heard once two years have elapsed from the date on which the arrangement is voided or cancelled.

Article 784

- 1) After the arrangement has been voided or cancelled, the creditors are restored their debts in full respect of the bankrupt alone.
- 2) Such creditors take part in the group of creditors for their original debts in full, provided that they have not received things to the amount stipulated for them in the arrangement. Otherwise their original debts must be reduced by the proportion of the above-mentioned amount that they have received.
- 3) The provisions referred to in the two preceding paragraph shall if the debtor is declared bankrupt again before the conditions of the arrangement have been executed in full.

Part 3

Arrangement with surrender of assets

Article 785

- 1) An arrangement may be contracted on the basis of the debtor surrendering some or all of his assets for them to be sold and the proceeds distributed among the creditors.
- 2) The provisions relating to judicial shall be followed with regard to the conditions of such an arrangement, to its effects and to its voiding or cancellation. However, the debtor shall continue to be prohibited from administering or disposing of the assets he has surrendered.
- 3) Such cases shall be sold and the proceeds distributed in the manner followed for the sale and distribution of assets in a state of union.

Article 786

If the proceeds arising from the sale of the assets surrendered by the debtors exceed the debts required of him, the surplus shall be returned to him.

Part 4

Union of creditors

Article 787

The creditors are deemed to be in a state of union by law if the seed of arrangement is not concluded.

Article 788

- 1) After the state of union has been established, the judge supervising the bankrupt's estate shall invite the creditors to deliberate on the affairs of the bankrupt's estate and to decide whether to keep or to change the trustee in bankruptcy. Creditors with securities in kind/in rem on the assets of the bankrupt may take part in the deliberations and vote without this resulting in the forfeiture of their securities.
- 2) If a majority of the creditors present decide to change the trustee in bankruptcy, the judge supervising the bankrupt's estate must forthwith appoint a replacement. The new trustee is referred to as the "trustee" of the union of creditors".
- 3) The former trustee must submit to the trustee of the union, within the period designated by the judge supervising the bankrupt's estate and in his presence, an account of his management and give the debtor notice of the period for submission of the account.

Article 789

- 1) During the meeting stipulated in the preceding article, the view of the creditors will be taken as to whether to order an allowance from the bankrupt's estate to the debtor or to his dependents.
- 2) If a majority of the creditors present decide to change the trustee in bankruptcy, the judge supervising the bankrupt's estate must determine the amount of the allowance after consulting the trustee of the union and the inspector.
- 3) The trustee of the union alone may appeal against the decision of the judge supervising the bankrupt's estate to set the amount of the allowance. In this case, the allowance will be paid to the person concerned until the appeal has been heard.

Article 790

- 1) The trustee of the union may not continue the business of the debtor, even if this was previously permitted, until authorization to this effect is received from a majority representing three quarters of the creditors by numbers and amount. The authorization must specify the term and powers of the trustee and the sums he may ratify by the judge supervising the bankrupt's estate.
- 2) The authorization to continue the business may not be executed until it has been ratified by the judge supervising the bankrupt's estate.
- 3) If the continuation of the business gives rise to obligations which exceed the funds of the union, the creditors who approved the continuation of the business shall be individually and not jointly liable for the excess, provided that it arises from activities coming within the bounds of the authorization issued by them. The liability of each creditor shall be in proportion to his debt.

Article 791

- 1) The trustee of the union may sell the bankrupt's chattels and place of business and receive amounts due to him. With regard to the sale of the bankrupt's real property, this must be carried out by the union trustee under the supervision of the judge supervising the bankrupt's estate, in accordance with the provisions for the execution of property stipulated in the Law on Civil proceedings.
- 2) If execution against the real property of the debtor has not begun prior to the establishment of the state of union, the trustee alone has the right of execution. He must commence execution within ten days of the establishment of the state of union unless the judge supervising the bankrupt's estate orders that execution be postponed.
- 3) The trustee may agree to an arrangement or to arbitration for all amounts owing to the bankrupt, provided that the provisions stipulated in Article 747 are complied with, apart from the invitation to the bankrupt to attend the ratification of the arrangement or arbitration.

Article 792

- 1) The judge supervising the bankrupt's estate may designate to the union trustee the manner in which to sell the bankrupt's chattels and place of business.
- 2) Save with the permission of the judge supervising the bankrupt's estate, the union trustee may not sell the assets of the bankrupt's estate at one time for a lump sum. The judge supervising the bankrupt's estate may not give such permission without consulting the inspector.
- 3) Any interested party may appeal against the decision of the judge supervising the bankrupt's estate with regard to the manner of selling the bankrupt's chattels or the permission to sell the assets at one time for a lump sum. The appeal shall result in stay of execution of the decision.

Article 793

- 1) The union trustee will deposit the sums arising from the sale of the bankrupt's assets with the court cashier or with a bank designated by the judge supervising the bankrupt's estate, at least by the day following receipt thereof.
- 2) The trustee shall submit to the judge supervising the bankrupt's estate a monthly statement of the state of the liquidation and the amounts deposited.

- 3) These sums may be withdrawn only with permission from the judge supervising the bankrupt's estate.

Article 794

- 1) Deduction shall be made from the sums arising from the sale of the bankrupt's assets for fees and expenses for the administration of the bankrupt's estate, the allowances granted to the bankrupt and his dependents, amounts due to preferred creditors. The remainder shall be distributed among the creditors in proportion to the debts due to them.
- 2) Shares for the debts to which objection has been raised shall be set aside until a final decision has been made with regard to them.

Article 795

The judge supervising the bankrupt's estate shall order dividends to be distributed to the creditors and shall designate the amounts to be distributed. The union trustee shall so notify the creditors. Where necessary, the judge supervising the bankrupt's estate shall order that the decision to distribute a dividend be published in a daily newspaper designated by him.

Article 796

- 1) The union trustee may not pay any share unless the creditor submits a debt note endorsed to indicate that the debt has been verified and accepted. The debt note will be endorsed for the sums paid.
- 2) If the creditor is unable to submit a debt note, the judge supervising the bankrupt's estate may permit payment of the debt after verifying that it has been accepted.

Article 797

If six months' elapse from the date of establishment of the state of union without the work of liquidation of the bankrupt's estate being completed, the trustee must submit a report to the judge supervising the bankrupt's estate on the state of the liquidation and the causes for the delay in completing it. The judge will send the report to the creditors and invite them to a meeting to discuss the matter. This procedure will be repeated whenever six months have passed without the work of liquidation being completed.

Article 798

- 1) When the work of liquidation is complete, the union trustee shall submit a final account to the judge supervising the bankrupt's estate. The judge must then send copies of the account to the creditors or invite them to inspect it after it has been posted on the court notice board.

In either case, the judge must invite the creditors to a meeting to discuss the said account. The bankrupt shall be invited to attend the meeting.

- 2) The union shall be dissolved and the bankruptcy proceedings shall be deemed complete in law once the account has been approved.
- 3) The union trustee shall remain responsible for the books, documents and papers delivered to him for a period of one year from the date of the end of the bankruptcy proceedings.

Article 799

After the state of union has ended, each creditor shall regain the right of enforcement against the debt to obtain the remainder of the debt.

The acceptance of the debt in the bankruptcy proceedings shall be deemed to be a simple judgement in connection with such enforcement.

Part 5

Small bankrupt's estate

Article 800

If, after taking an inventory of the bankrupt's assets, it appears that their value does not exceed 50,000 (fifty thousand) dirhams, the judge supervising the bankrupt's estate may, of his own accord or at the request of the trustee or a creditor, order that the bankruptcy should proceed in accordance with some or all of the following measures:

- 1) to reduce by half the periods stipulated in Article 753, Article 754, Paragraph 2, Article 755 Paragraph 2, Article 756, Article 757 Paragraph 3 and Article 770 Paragraph 2;
- 2) to make all the decisions of the judge supervising the bankrupt's estate non-applicable;
- 3) not to appoint a bankruptcy inspector;
- 4) not to grant an allowance to the bankrupt or his dependents;
- 5) in the event of any objection to debts during verification, to invite the creditors to deliberate on the arrangement within five days of the judge supervising the bankrupt's estate ending his making judgement on the objections;
- 6) to make the arrangement effective as soon as it is approved by the meeting of creditors which approval must be ratified by the judge supervising the bankrupt's estate at the same meeting;
- 7) not to change the trustee in bankruptcy when the state of union is established;
- 8) to pay only one dividend to creditors after the sale of the bankrupt's assets.

Part 6

Company bankruptcies

Article 801

In addition to the provisions of the articles already stipulated in this chapter, commercial company bankruptcies shall be subject to the provisions of the articles which follow

Article 802

- 1) With the exception of share-partnerships companies any commercial company may be declared bankrupt if it ceases to pay its commercial debts when they fall due because its final affairs are disturbed.
- 2) A company may be declared bankrupt, even when it is liquidation. If the liquidation has been completed, the company may not be declared bankrupt.
- 3) The foregoing provisions apply to companies which are to be wound up if they continue in de facto operation.

Article 803

Joint Stock companies and limited liability companies shall be subject to the following provisions:

- 1) If an application is made to have the company declared bankrupt, it is necessary to cease examination of any application to liquidate the company or to place it in receivership until the bankruptcy have been completed.
- 2) If a bankruptcy judgement is pronounced, the company may not be liquidated or placed in receivership until the bankruptcy proceedings have been completed.

Article 804

- 1) The managing director or, as the case may be, the liquidator of a company may not apply for the company to be declared bankrupt until permission for this has been completed.
- 2) The report referred to in Article 649 shall be submitted to the court competent to declare bankruptcy.
- 3) The report must contain the names of the existing general partners and those who have left the company after it has ceased payment. It must state the place of residence of each of them and the date on which their departure from the company was entered in the commercial register.

Article 805

A creditor of the company may apply to have it declared bankrupt even if he is a partner. Partners who are not creditors may not apply to have the company declared bankrupt in their individual capacity.

Article 806

The court may, of its own accord or at the request of the company, postpone the declaration of bankruptcy for a period not exceeding one year if there is a likelihood of support for its financial position or if the economic interest of the country so requires. In this case, the court will order such steps to be taken as it sees fit to preserve the company's assets.

Article 807

- 1) If the company is declared bankrupt, all the general partners must be declared bankrupt, including general partners who have left the company after the suspension of payments,

provided that no more than a year has elapsed since the date on which notice of their departure from the company was entered in the commercial register.

- 2) The court shall pronounce the bankruptcy of the general partners in a single judgement even if it is not competent to declare such partners bankrupt.
- 3) The court shall appoint a single judge to deal with the bankruptcies of the company and of the general partners.

However, each bankruptcy shall be treated separately with regard to administration, verification of the debts and manner of termination.

Article 808

If an application is made to declare the company bankrupt, the court may decide to declare bankrupt any person who has carried on commercial activities in its name on his own account and treated its assets as though they were his own assets.

Article 809

If it appears that the company's assets are insufficient to meet at least 20% (twenty percent) of the company's debts, the court which pronounced the bankruptcy judgement may order the members of the board of directors or some or all of the managers, whether jointly or otherwise, to pay some or all of the company's debts in cases where they are proved liable in accordance with the provisions of the Commercial Companies Law.

Article 810

The representative of a company which has been declared shall stand in its place in all matters where the law requires the opinion of the bankrupt to be given or requires his presence.

The representative of the company must appear before the judge supervising the bankrupt's estate or the trustee in bankruptcy whenever requested to do so and must provide whatever information or clarification is requested.

Article 811

The trustee in bankruptcy, with the permission of the judge supervising the bankrupt's estate, may require the partners to pay up the remainder of their shares even if they are not yet due. The judge supervising the bankrupt's estate may order this request to be reduced to the amount needed to pay the company's debts.

Article 812

Debentures issued by the company in accordance with the principles laid down in Commercial Companies Law are not subject to the procedures for verification of debts. Such debentures will be accepted at their nominal value after deduction of any amounts paid by the company.

Article 813

- 1) Proposals for an arrangement shall be drawn up with the approval of a majority of partners in general and limited partnerships and with the approval of the extraordinary general meeting of shareholders in other companies.
- 2) The representative of the company is responsible for submitting the arrangement proposals to the group of creditors.

Article 814

- 1) If an arrangement relates to a company which has issued debentures amounting to 20% (twenty percent) of its total debts, the arrangement shall not be allowed unless the conditions are approved by a general meeting of the debenture holders. In any event,

approval is required if the arrangement contains conditions which are not in accordance with the conditions on the basis of which the debentures were issued.

- 2) The decision of the general meeting of debenture holders shall be issued in accordance with the provisions stipulated in the Commercial Companies Law.
- 3) In cases where the approval of the general meeting of debenture holders is required, the invitation to creditors to attend a meeting to deliberate on the arrangement shall be postponed until the resolution is passed by the meeting.

Article 815

- 1) If the bankruptcy proceedings of a company end in union and an arrangement is reached with one or more of the general partners, the funds of the company may not be allocated to comply with the conditions of such an arrangement or to guarantee its execution. A partner who has obtained an arrangement shall be relieved of joint liability.
- 2) If an arrangement is reached with the company and the bankruptcy proceedings of the partners' end in union, the company shall remain in existence unless the basis for the arrangement was the surrender of the company's assets.
- 3) If the bankruptcy proceedings of the company and the partners end in a deed of arrangement shall be separate from the others and the conditions thereof shall apply only to the creditors of the particular arrangement.

Article 816

A company is not dissolved if the bankruptcy proceedings end in union. However, the court which pronounced the bankruptcy judgement may decide to dissolve the company if it is apparent that the assets remaining after the liquidation of the union are insufficient to carry on the business profitably.

Part 7

Discharge of the bankrupt

Article 817

Except in cases of fraudulent bankruptcy, all the right of which a bankrupt has been deprived under particular laws shall be restored once three years have elapsed from the date on which the bankruptcy proceedings ended.

Article 818

- 1) Even if the period stipulated in the preceding article has not expires, a bankrupt shall be discharged if he has paid all his debts, including principal, expenses and interest, including the part from which he was released, for a period of one year.
- 2) If the bankrupt is a general partner in a company which is declared bankrupt, then, even if he has reached a private arrangement with his creditors, he shall not be discharged until all the debts of the company have been paid, including principal, expenses and interest, for a period of one year.

Article 819

Even if the period stipulated in Article 817 has not expired. a bankrupt may be discharged in either of the following cases:

- 1) if he reaches an arrangement with his debtors and execute the conditions thereof. This condition applies to a general partner of a company which is declared bankrupt if the partner reaches a private arrangement and executes the provisions thereof.
- 2) If it is proved that the creditors have released him from all the debts for which he remains responsible after the end of the bankruptcy proceedings.

Article 820

Without prejudice to the provisions of Articles 818 and 810, a bankrupt who has been found guilty of an offence of default bankruptcy may not be discharged until the penalty imposed has been paid in full or he has been pardoned or has lapsed with time or the period for payment has expired if a stay of execution was granted.

Article 821

A bankrupt who has been found guilty of an offence of fraudulent bankruptcy may not be discharged unless three years have elapsed since the execution of the sentence imposed on him or he is pardoned or the penalty lapses with time, provided that he has paid all his debts, including principal, interest and expenses, or he has come to a settlement with his creditors.

Article 822

A bankrupt may be discharged after his death at the request of his heirs. In this case, the periods stipulated in the two preceding articles shall be counted from the date of death.

Article 823

If a creditor fails to collect his debt or is absence or his place of residence cannot be discovered, the debt may be deposited with the court cashier. With regard to the discharge of the bankrupt, the deposit slip shall be deemed to be receipt for payment of the debt.

Article 824

- 1) The application for discharge must be submitted to the court which pronounced the bankruptcy judgement and must be accompanied by the supporting documentation.

- 2) The court shall forthwith send a copy of the application to the Public Prosecutor and to the commercial register department and shall give notice of the application for discharge to the creditors whose debts were accepted in the bankruptcy proceedings.
- 3) A summary of the application shall be published at the expense of the bankrupt in a daily newspaper designated by the court. The summary must contain the name of the bankrupt, the date of the bankruptcy judgement, the manner in which the bankruptcy proceedings terminated and notice to the creditors to submit their objection, if any.

Article 825

Within thirty days of the date of receipt of the copy of the application for discharge, the Public Prosecutor shall submit a report containing particulars of the nature of the bankruptcy, any judgments pronounced on the bankrupt for bankruptcy offences or any prosecutions or enquiries in progress in this regard and the Public Prosecutor's reasoned opinion with regard to acceptance or rejection of the application for discharge.

Article 826

Any creditor who has not been paid may submit an objection to the application for discharge within thirty days of the date of publication of the application in the press. The objection must be submitted to the court in writing and must be accompanied by supporting documentation.

Article 827

After the expiry of the periods stipulated in the preceding article, the court shall give notice to the creditors who have objected to the application for discharge, informing them of the date for the hearing to examine the application.

Article 828

- 1) The court shall rule on the application for discharge in a judgement which can be appealed against in the relevant court of appeal.
- 2) If the application for discharge is rejected, it may not be resubmitted until six months have elapsed from the date of the pronouncement of the judgement of rejection.

Article 829

if, prior to a decision on the application for discharge, the bankrupt is investigated or prosecuted for a bankruptcy offence, the Public Prosecutor must notify the court forthwith. The court must then cease examination of the application for discharge until the investigation has been conducted or until the final judgement has been pronounced in the prosecution.

Article 830

If, after the use of a discharge judgement, the debtor is finally pronounced guilty of a bankruptcy offence, the discharge shall be deemed a nullity. The debtor may then obtain a discharge only on the conditions laid down in Articles 820 and 821.

Chapter II

Deeds of arrangement

Article 831

- 1) Any businessman whose financial affairs are to be distributed that this leads to a suspension of payments may, within twenty days of such cessation, apply for an arrangement with his creditors.
- 2) A businessman who has ceased payment of his debts may seek an arrangement with his creditors may be granted to any company which meets the conditions stipulated in the two preceding paragraphs. However, such an arrangement cannot be granted to a company which is in liquidation.

Article 832

An arrangement with its creditors may be granted to a de facto company.

Article 833

- 1) An application for an arrangement with creditors can be accepted only from an applicant who has carried on his business continuously for the year prior to the application and, during this period, has complied with the provisions relating to the commercial register and book-keeping.
- 2) The manager of a company may not apply for an arrangement with creditors unless he has obtained permission from a majority of the partners in the case of general and limited partnerships and from an extraordinary general meeting of shareholders in the case of other companies.

Article 834

Anyone to whom a business is transmitted as an heir or executor may, if he continues the business, apply for an arrangement within the three months following the death of the testator provided that the businessman, prior to his death, was one of those permitted to obtain an arrangement. If an objection is made to the arrangement, the objector must be heard by the court which will then decide on the application in accordance with the interests of those concerned.

Article 835

A debtor may not reapply for an arrangement during the execution of an arrangement.

Article 836

No examination of an application to have a debtor declared bankrupt may be heard until a final judgement has been pronounced to refuse the application for an arrangement.

Article 837

- 1) An application for an arrangement must be submitted to the court competent to declare bankruptcy. The application must state the causes for the financial disruption, the proposals for the arrangement and the guarantees for its execution. However, the proposed settlement must not be less than 50% of the debt and the period for payment must not be more than three years from the date of ratification of the arrangement.
- 2) The application for an arrangement must be accompanied by the following:
 - a. documentation to support the statements referred to;
 - b. a certificate from the commercial register to prove that the applicant has complied with the commercial register provision during the year preceding the application for an arrangement.

- c. a certificate from the chamber of commerce to prove that the applicant has been continuously engaged in business for the year preceding the application for an arrangement;
 - d. the statutory commercial books;
 - e. a copy of the last balance sheet and profit and loss account;
 - f. a statement of all personal expenditure for the year preceding the application for an arrangement;
 - g. a detailed statement of fixed and movable assets and their approximate value at the time of the application for an arrangement;
 - h. a statement giving the names and addresses of debtors and creditors, the amounts owed by and to them and the sureties to guarantee them;
 - i. confirmation from the debtor that he has not been found guilty of any of the offences stipulated in Article 839 Paragraph and that he has not previously obtained an arrangement which is in the course of execution.
- 3) If the application is made by a company, it must also be accompanied by a copy of the memorandum and articles of association duly authenticated by the office of the commercial register; document to prove the capacity of the person submitting the application; a copy of the resolution of the partners or of the general meeting to apply for an arrangement; and a statement of the names and addresses of the general partners.
 - 4) The documents must be signed and dated by the applicant for the arrangement. If it is impossible to submit all of them or provide all the particulars, the application must contain the reasons for this.
 - 5) The clerk of court will draw up minutes for the receipt of the documents referred to above.

Article 838

The court which examines the application for an arrangement shall order that the necessary steps be taken to preserve or administer the debtor's assets until a ruling has been made on the application.

The court may delegate an expert to carry out studies into the financial situation of the debtor and the causes for its disruption and to submit a report. The court shall expedite a ruling on the application without the adversaries.

Article 839

The court must reject the application for an arrangement in the following cases;

- 1) if the applicant for an arrangement does not submit the documents and particulars stipulated in Article 837 or fails to submit some of them without good cause;
- 2) if a final guilty verdict is pronounced on the applicant for an arrangement for fraudulent bankruptcy, an offence of forgery, theft, deception, reach of trust or embezzlement of public funds.
- 3) if the applicant has failed to comply with the obligations of a previous arrangement;
- 4) if the applicant has been declared bankrupt and has not paid all the original debts of all his creditors or has not complied with the obligations of the arrangement to complete them;

- 5) if the applicant has given up business or has taken flight;
- 6) if the applicant for an arrangement does not submit adequate guarantees for a distribution at the rate proposed.

Article 840

Should the court decide to reject the application for an arrangement, it may impose on the businessman a fine of not less than 5000 (five thousand) dirhams and not more than 10000 (ten thousand) dirhams if it is clear that the disruption to his financial affairs is an imaginary matter or that the disruption has been created by him deliberately. The court, furthermore, may, of its own accord, declare bankruptcy if the necessary conditions obtain.

Article 841

- 1) If the court decides to accept the application for an arrangement, it must order the opening of proceedings. In its decision, the court will appoint a judge to supervise the arrangement and one or more trustees to initiate and follow up the arrangement proceedings. This decision shall not be open to any channel appeal.
- 2) The debtor must deposit with the court cashier a determined sum as a bond to meet the expenses of the proceedings. The court must order the arrangement proceedings to be cancelled or stopped if the debtor fails to lodge the surety within the appointed period.

Article 842

The decision issued by the judge responsible for supervising the arrangement are not to open to appeal unless the law stipulates otherwise or they exceed the scope of his powers. Appeals are subject to the provisions stipulated in Article 677.

Article 843

The trustee for the arrangement shall be appointed in accordance with Articles 668 and shall be subject to the prohibitions stipulated in Article 669.

Article 844

- 1) The trustee for the arrangement shall be notified by the court of the decision to appoint him by the day following the issue of the decision at least.
- 2) Within five days of the date on which he is informed of his appointment, the trustee shall enter in the commercial register the decision to open arrangement proceedings and shall publish a summary of the decision, together with an invitation to the creditors to attend a meeting, in two daily newspapers designated by the supervising judge.
- 3) Within the period specified in the paragraph, the trustee shall send to the creditors whose addresses are known the invitation to the meeting and notice of the proposals for the arrangement.

Article 845

- 1) As soon as the decision to open the arrangement proceedings is issued, the supervising judge must close and sign the debtor's books.
- 2) As soon as the trustee is notified of his appointment, he must begin the inventory procedures in the presence of the debtor and the clerk of court.

Article 846

- 1) After the decision to open arrangement proceedings, the debtor shall continue to administer his assets under the supervision of the arrangement trustee and may carry out all ordinary transactions required for his commercial affairs. However, any donations made by him after the issue of the said judgement shall not be binding on the creditors.

- 2) After the issue of the decision, the debtor may not take out a loan, contract an arrangement or mortgage or convey any property not required for his ordinary commercial activities without obtaining permission from the supervising judge. Any transaction carried out to the contrary shall not be binding on the creditors.

Article 847

- 1) As soon as the decision to open arrangement proceedings is issued, actions and enforcement proceedings against the debtor shall cease. Debtors jointly liable with the debtor or guarantors of his debt shall not benefit from such a cessation. Actions brought by the debtor and enforcement proceedings which he has initiated shall remain in effect with the intervention of the trustee.
- 2) No pleas may be made vis-à-vis creditors with a mortgage or lien on the assets of the debtor registered after the issue of the decision to open arrangement proceedings.

Article 848

The issue of the decision to open arrangement proceedings shall not result in the falling due of loans owed by the debtor or to the suspension of interest on them.

Article 849

The court may, of its own accord, order the cancellation of the arrangement proceedings if, after submission of the application, the debtor conceals or destroys part of his assets or engage in bad faith in actions detrimental to his creditors or in the actions referred to in Article 645.

Article 850

- 1) Within ten days of the date of publication in the newspaper of the summary of the decision to open arrangement proceedings or of the date of receipt of the letter of notification, all creditors, even if their debts are not due or are guaranteed by private sureties or established by final judgements, must deliver to the trustee the documents relating to their debts, accompanied by a statement of the debts and any sureties and the amount thereof, converted into the national currency at the rate of exchange prevailing on the date of issue of the decision. The statement and documents may also be sent to the trustee.
- 2) For creditors resident outside the state, the period referred to in the preceding paragraph is thirty days.

Article 851

- 1) After the period stipulated in the preceding article, the trustee shall draw up a list of the names of the creditors who have applied to take part in the arrangement proceedings, a statement of the amount of the debt of each one of them, the supporting documents, any sureties guaranteeing the debts and the opinion of the trustee as to whether the debt should be accepted or rejected.
- 2) The trustee must request the creditor to submit explanations about the debt, to supplement the documents or to change the amount or particulars.

Article 852

- 1) The trustee must deposit the list of debts with the court. This must be done within thirty days at most from the date of issue of the decision to open the arrangement proceedings. When this period has expired, it may be extended by a decision of the supervising judge.
- 2) Within three days of the list being deposited, the trustee must publish an announcement that this has been done in a local daily newspaper designated by the supervising judge. The trustee must send to the debtor and to each creditor a copy of the list of the debts and a statement of the amounts of each debt which he considers to be acceptable.
- 3) The list deposited with the court may be inspected by any interested party.

Article 853

The debtor and any creditor whose name appears on the list of debts may object to the debts entered on the list within ten days of the date of publication in the press that the list has been deposited. The objection may be submitted to the supervising judge and it may be sent by registered letter, cable, telex, fax or other modern means of communication. No extension of this period will be granted for reasons of distance.

Article 854

- 1) After the expiry of the period stipulated in the preceding article, the supervising judge will establish a final list of uncontested debts and will endorse the statement relating to the debt to indicate acceptance and the amount accepted.
- 2) The supervising judge may consider a debt as being contested, even if no objection has been submitted in respect of it.
- 3) The supervising judge will give a ruling on the contested debts within thirty days of the date for the expiry of the period for objection.
- 4) The supervising judge shall give interested parties at least three days' notice of the hearing and shall notify them of the decision on the objection as soon as it is pronounced.

Article 855

- 1) The decision of the supervising judge to accept or reject a debt is open to appeal in the court to which the application for an arrangement was submitted.
- 2) An appeal shall not result in the arrangement proceedings being halted unless the court issues an order to this effect.
- 3) Prior to the appeal judgement, the court may order that the debt be provisionally accepted for the amount which it sees fit.
- 4) A debt may not be provisionally accepted if it is the subject of an action under criminal law.
- 5) If an appeal against a debt is connected with sureties, the debt must be provisionally accepted as an ordinary debt.

Article 856

Creditors who fail to submit the documents relating to their debt within the period stipulated in Article 850 and whose debts are not finally or provisionally accepted may not take part in the arrangement proceedings.

Article 857

- 1) After the debts have been verified, the supervising judge shall designate a period for a creditors meeting to deliberate on the arrangement proposals. The invitation to attend the meeting will be sent to every creditor whose debt has been finally or provisionally accepted.
- 2) The supervising judge may order that the invitation be published in a local daily newspaper designated by him.

Article 858

- 1) At least five days prior to the date specified for the meeting, the arrangement trustee shall lodge with the court a report on the debtors' financial condition and the reasons for the disruption of it and a statement of the names of the creditors who are entitled to take part in the arrangement proceedings.

- 2) The report must state the trustee's opinion with regard to the conditions proposed by the debtor for the debtor for the arrangement.

Article 859

- 1) The meeting of the creditors shall be chaired by the supervising judge.
- 2) A creditor may send a proxy to attend the meeting. The debtor must attend the meeting in person and may not be represented by a proxy save for a reason acceptable to the supervising judge.

Article 860

Deliberation of the conditions of the arrangement shall not commence until after the reading of the report by the arrangement trustee on the financial condition of the debtor. The debtor may propose amendments to the conditions of the arrangement during the deliberations.

Article 861

- 1) The arrangement may be concluded only with the approval of a majority of the creditors whose debts have been finally accepted or whose debts have been provisionally accepted, provided that they own two thirds of the debts. These two majorities shall not count creditors who did not take part in the voting nor shall their debts be counted.
- 2) If the arrangement relates to a company which has issued debentures, account must be taken of the provisions stipulated in Article 814.

Article 862

- 1) The arrangement shall be subject to the prohibitions stipulated in Article 768
- 2) The provisions stipulated in Article 769 shall apply with regard to the participation of creditors with securities in rem in the voting on the arrangement.

Article 863

- 1) Arrangement shall be deemed null and void unless the minutes of the arrangement are signed at the meeting in which it is voted.
- 2) If one of the two majorities stipulated in Article 861 is not obtained, the provisions of Article 770 must be applied.

Article 864

- 1) Minutes shall be drawn up for the arrangement meeting and signed by the supervising judge, the trustee, the debtor and the creditors in attendance.
- 2) Any interested party may within five days of the date of signature of the minutes of the arrangement, give notice in writing to the supervising judge of any observations he may have with regard to the arrangement.
- 3) The supervising judge shall then bring the matter before the court within three days of the expiry of the period referred to in order to issue a decision to void or to ratify the arrangement.
- 4) A decision to void the arrangement must be reasoned and such a decision is open to appeal.
- 5) The arrangement is enforceable as soon as the decision is made to ratify it and this decision is not open to appeal. In this decision the court shall appoint one or more inspectors from among the creditors to supervise the enforcement of the conditions of the arrangement and to inform the court of any breach of the conditions by the debtor.

Article 865

- 1) The arrangement may include a condition that the debt is paid in full if the debtor is solvent during a period of five years from the date of the arrangement. The debtor shall not be deemed to be solvent unless the value of his assets exceeds his debts.
- 2) The creditors may require the submission of one or more sureties to guarantee the execution of the conditions of the arrangement.

Article 866

- 1) The decision to ratify the arrangement shall be announced in the manner prescribed for a declaration of bankruptcy. The summary published in the press shall include the name of the debtor, his place of residence, his commercial register number, the date of ratification and a summary of the main conditions of the arrangement.
- 2) Within ten days of the decision to ratify the arrangement, the inspector delegated by the creditors to supervise the execution of the conditions of the arrangement shall register this summary with every registry office within the district in which the bankrupt has real property. Unless otherwise stipulated in the arrangement, such registration will result in the creation of a mortgage on the said property to guarantee the rights of the creditors to whom the arrangement applies. The inspector will apply for the mortgage to be extinguished when the conditions of the arrangement have been executed.

Article 867

The arrangement shall apply to all creditors whose debts are deemed to be ordinary debts in accordance with the conditions of bankruptcy, even if they did not take part in or approve the proceedings.

Article 868

- 1) Joint debtors with the debtor or guarantors for his debt shall not benefit from the arrangement. However, if the arrangement is concluded with a company, partners liable in all their assets for the debts of the company shall benefit from the conditions unless the arrangement stipulates otherwise.
- 2) The arrangement shall not apply to debts for living expenses or to debts arising after the issue of the decision to open the arrangement proceedings.

Article 869

The court may grant the debtor periods to pay debts arising after the issue of the decision to open arrangement proceedings, provided that they do not exceed the period laid down in the arrangement and that they do not apply to debts for living expenses.

Article 870

The arrangement shall not result in the debtor being deprived of periods for payment longer than the period laid down in the arrangement.

Article 871

Within fifteen days of the date on which performance of the conditions of the arrangement is completed, the inspector responsible for supervising the execution of the condition of the arrangement shall request the court to issue a decision to close the proceedings. This request shall be published in the manner prescribed in Article 844.

Article 872

The decision to close the proceedings shall be issued within thirty days of the date of publication in the press and shall be entered in the commercial register in accordance with the provisions applying to the register.

Article 873

- 1) The arrangement shall be a nullity if, after ratification, it is established that there was fraud on the part of the debtor, in particular, by the concealment of assets or the fabrication of debts or the deliberate exaggeration of the amount of debts.
- 2) The request to nullify the arrangement must be made within six months of the date on which the fraud is shown. Otherwise, the request is unacceptable. In any event, no request to nullify the arrangement will be acceptable if it is submitted more than two years after the date of issue of the decision to ratify the arrangement.

Article 874

- 1) The nullification of the arrangement shall result in the release of the surety guaranteeing the execution of the conditions.
- 2) The creditors shall not be required to return the parts of the debt which they receive prior to the judgement nullify the arrangement.

Article 875

If the debtor fails to execute the conditions of the arrangement, an application may be made to cancel it. An application may also be made to cancel the arrangement if the debtor dies and it is apparent that it cannot be expected that the conditions of the arrangement will be executed.

Article 876

The cancellation of the arrangement does not result in the release of the surety guaranteeing the execution of the conditions of the arrangement. he must be summoned to attend the meeting to examine the application for cancellation.

Article 877

- 1) The remuneration of the arrangement trustee shall be determined by the supervising judge. The decision issued in this respect shall be deposited with the court on the day following the date of issue.
- 2) Any interested party may dispute the decision within the three days of it being deposited. The decision issued with regard to the dispute shall be final.

Chapter III

Crimes during the bankruptcy and arrangement

Article 878

Any businessman finally declared bankrupt shall be deemed to be a fraudulent bankrupt and shall be sentenced to not more than five years' imprisonment if he is proved to have committed one of the following acts.

- 1) concealing some or all of his books or destroying or altering them;
- 2) misappropriating or concealing part of his assets to the detriment of his creditors;
- 3) knowingly declaring debts and owed by him, whether in writing or orally or in the balance sheet or failing to submit papers and explanation;
- 4) obtaining the arrangement by fraud.

Article 879

If a final bankruptcy judgment has been pronounced on a company, the members of the board of directors, the managers or the liquidators shall be sentenced to not more than five years' imprisonment if it is proved that they committed one of the following acts.

- 1) concealing some or all of the company's books or destroying or altering them;
- 2) misappropriating or concealing part of the company's assets;
- 3) knowingly declaring debts not owed by the company or failing to submit papers in their possession;
- 4) obtaining the arrangement by fraud;
- 5) making untrue statements about the capital subscribed or paid up, distributing fictitious profits or receiving remuneration/bonuses in excess of the amount stipulated by law or by the memorandum and articles of association of the company.

The penalty stipulated in the present article shall not apply to anyone who can prove that he did not take part in the criminal act or can prove that he reserved his position with regard to the decision issued in this regard.

Article 880

Any businessman finally declared bankrupt shall be deemed to be a bankrupt by default and shall be sentenced do not more than two years' imprisonment or to a fine not exceeding 20,000 (twenty thousand) dirhams if he is proved to have caused losses to his creditors by gross negligence in one of the following cases.

- 1) If he spends large sums on reckless ventures or speculation not required for commercial activity,
- 2) If, after suspension of payments, he pays a debt to one creditor to the detriment of the others, even if the intention is to obtain an arrangement;
- 3) If he disposes of goods at less than their ordinary price with the intention of delaying the suspension of payments, the declaration of bankruptcy or the cancellation of the arrangement or if, to this end, he resorts to illegal means to obtain money.

Article 881

Any businessman finally declared bankrupt shall be deemed to be a bankrupt by default and shall be sentenced to not more than one year's imprisonment or to a fine not exceeding 10,000 (ten thousand) dirhams in one of the following cases;

- 1) If he fails to keep commercial books adequate to arrive at a true picture of his financial position or if he fails to carry out the inventory/stocktaking required by law;
- 2) If he fails to comply with the rules for entry in the commercial register;
- 3) If, in the interest of a third party, he contracts, without consideration, undertakings which are too large in proportion to his financial situation at the time that the undertakings are made;
- 4) If he fails to submit the information required of him by the judge supervising the bankrupt's estate or the competent court or if he willfully submits false information;
- 5) If, after the suspension of payments, he shows favor to one creditor with the intention of obtaining acceptance of an arrangement;
- 6) If he becomes bankrupt again before satisfying the undertaking resulting from a prior arrangement;
- 7) If, before or after the suspension of payments, he spends excessive amounts on his personal or household expenses.

Article 882

In the event of a company being finally declared bankrupt, the members of the board of directors, the managers or the liquidators shall be sentenced to detention if it is proved that they committed one of the following acts;

- 1) if they fail to keep commercial books adequate to arrive at a true picture of the company's financial position;
- 2) if they do not submit the information required of them by the judge supervising the bankrupt's estate or the trustee in bankruptcy or if they willfully submit false information.
- 3) if, after the suspension of payments, they dispose of assets of the company with the intention of removing them from creditors;
- 4) if, after the suspension of payments, they pay the debt of one creditor to the detriment of the others or if they resolve to give sureties or advantages to one creditor in preference over the others, even with the intention of obtaining an arrangement;
- 5) if they dispose of the company's goods at less than their ordinary price with the intention of delaying the suspension of payments, the declaration of bankruptcy or the cancellation of the arrangement or if, to this end, they resort to illegal means to obtain money;
- 6) if they spend large sums on reckless ventures or speculation not required for the business of the company;
- 7) if they take part in or consent to actions contrary to law or to the memorandum and articles of association of the company.

The penalty stipulated in the present article shall not apply to anyone who can prove that

he did not take part in the criminal act or can prove that he reserved his position with regard to the decision issued in this regard.

Article 883

If an action under criminal law is brought against the bankrupt, the members of the board of directors, the managers or the liquidators for bankruptcy by fraud or negligence or if they are found guilty of the same under the provisions of the preceding articles, the action under civil or commercial law shall subsist and remain separate from the action under criminal law. Furthermore, the proceedings relating to the bankruptcy shall remain as laid down by law without being transferred to the criminal court or open to opposition by the court unless otherwise stipulated by law.

Article 884

- 1) The trustee in bankruptcy shall be subject to a penalty of not more than five years' imprisonment if he misappropriates funds from the bankrupt's estate while it is under his administration.
- 2) The trustee in bankruptcy shall be subject to imprisonment if he knowingly gives false information concerning the bankrupt's estate.

Article 885

Any person who misappropriates, steals or cancels assets from the bankrupt's estate shall be subject to imprisonment or a fine or both, even if the person concerned is the spouse of the bankrupt or an ascendant or descendant of the bankrupt or an ascendant or descendant of his spouse. The court may, of its own accord, decide to restore such assets, even if a verdict of not guilty is pronounced. The court may, at the request of an interested party, award compensation where necessary.

Article 886

Any creditor of the bankrupt may be imprisoned for one of the following acts:

- 1) Fraudulently increasing his debt from the bankrupt;
- 2) agreeing with the bankrupt or others to obtain private advantage in return for voting in favor of the bankrupt during bankruptcy or arrangement proceedings;
- 3) knowingly concluding with the bankrupt, after the suspension of payments, a secret agreement to obtain private advantage to the detriment of the other creditors.

The court may, of its own accord, rule that such agreements are a nullity with regard to the bankrupt and any other person and compel the creditor to restore anything he has obtained under the void agreement, even if he is found not guilty. The court may, at the request of an interested party, award compensation where necessary.

Article 887

Any person who fraudulently enters in the bankruptcy proceedings a fictitious debt, whether in his own name or in the of a third party, shall be punished by imprisonment.

Article 888

- 1) The trustee in bankruptcy or, as the case may be, the trustee of the arrangement must submit to the Public Prosecutor all papers, documents and explanations which may be required.
- 2) Such papers and documents shall be kept by the office of the clerk of court during the investigation or criminal trial. They may be inspected or official copies of them may be requested unless the court otherwise.

- 3) The papers and documents shall be returned to the trustee in bankruptcy or the inspector against a receipt after the investigation or trial.

Article 889

A debtor shall be sentenced to not more than five years' imprisonment: