

Penn State International Law Review

Volume 23

Number 3 *Penn State International Law Review*

Article 6

1-1-2005

Unknown World Government: Some Very Recent Commercial Law Developments and Gaps, The

Donald B. King

Follow this and additional works at: <http://elibrary.law.psu.edu/psilr>

Recommended Citation

King, Donald B. (2005) "Unknown World Government: Some Very Recent Commercial Law Developments and Gaps, The," *Penn State International Law Review*: Vol. 23: No. 3, Article 6.

Available at: <http://elibrary.law.psu.edu/psilr/vol23/iss3/6>

This Article is brought to you for free and open access by Penn State Law eLibrary. It has been accepted for inclusion in Penn State International Law Review by an authorized administrator of Penn State Law eLibrary. For more information, please contact ram6023@psu.edu.

The Unknown World Government: Some Very Recent Commercial Law Developments and Gaps

Donald B. King*

I. Introduction

I am pleased to bring some ideas for discussion at this distinguished Institute of learning and research here in Riga headed formerly by Professor Jan Ramberg of Stockholm University and currently by Professor Norbert Reich of Berman University, both members of the Academy. I also want to thank members of the Academy for their letters and friendship, and want to congratulate Lou Del Duca on the fine job he has done as President these past two years. Also the accomplishments of other members are awesome.

The main hypothesis was presented in the past at the last Academy Conference¹ at the Max Planck Institute in Hamburg: *Current comparative and international law and developments form a substantial part of an unrecognized world government*. However, this talk is on the *most recent* developments not discussed in the earlier one. I welcome your suggestions, input, and criticism.

A very brief mention of some aspects of the overall framework of this proposed unknown world government may be useful. Basically it is incremental and defacto. Both history and definitions of government tell us that a variety of types and forms may exist.² However, to help organize our thinking in more familiar terms, we may think of legislative, executive, and judicial functions.

* Professor of Law Emeritus, Saint Louis University School of Law; Professor King taught also at University of Washington, Dickinson, Wayne State, Cincinnati and Stetson law schools; B.S. Washington State University, Juris Dr., Harvard Law School, LL.M. New York University, MSW, Saint Louis University; Member of the Washington State, Missouri, and Supreme Court Bars; Life Member of American Law Institute.

1. See Donald B. King, *Does an Unknown World Government Exist? Impact of Commercial and Consumer Law*, 22 PENN. ST. INT'L. L. REV. 73 (2003).

2. See e.g., WEBSTERS NEW AMERICAN DICTIONARY (1995); RANDOM HOUSE DICTIONARY OF THE ENGLISH LANGUAGE (unabridged ed. 1987).

II. Legislative

In the economics sphere many of the developments are well known to all of you. The current world government is considerably more advanced than was the Articles of Confederation government found in the early stages of the United States.³ There is a regulation of world tariffs and world barriers that far exceeds any type of controls found in that earlier form of government. This regulation is on a worldwide basis. This agreement in effect very much curtails the leveling of tariffs by any country or the creation of other artificial trade barriers. It also regulates practices which tend to economically destroy competition in the marketplace. The legislation was achieved through an international treaty system. Further, there is an administrative organization known as the World Trade Organization (WTO), as well as a court.⁴

While the law governing tariffs is an integral part of the legislative part of the unknown world government, and has major economic benefits with increased world trade, it is not without its problems. In the last two years, some of these have gained increased attention. Some are solved by the WTO dispute resolution process, which is a part of the judicial branch of the unknown world government. However, some are of a substantive nature which may require additional global legislation and organization.

The meeting of the nations at Cancun in 2003 highlighted some of these problems. While the basic framework of tariff reduction is relatively effective and has facilitated international trade, there are serious challenges.

One major problem relates to farm subsidies given to European and American farmers by their governments. These massive subsidies, which would be impermissible in regard to other products under the worldwide agreement reducing tariffs, are still permitted. Needless extra crops are produced because of the subsidies. The results are disastrous for many of the farmers in developing and underdeveloped countries. Receiving subsidies, the farmers of the United States and Europe are able to sell their crops for far less. Exported to the third world countries at lower prices, they cause the market prices there to drop. This drop in prices is often so great, that small farmers in those countries are unable to sell their locally grown crops at even the cost of producing them. The result is even greater poverty for them.

3. James Brown Scott, *Articles of Confederation*, in THE DECLARATION OF INDEPENDENCE, THE ARTICLES OF CONFEDERATION, AND THE CONSTITUTION OF THE UNITED STATES, 13-23 (1917).

4. See generally THE LAW OF THE WTO (Philip Raworth & Linda C. Reif eds., Oceana Press 1995).

At the Cancun meeting,⁵ both developing and underdeveloped countries asked Europe and the United States to drop or substantially lower their farm subsidies. But farmers in the developed countries have very considerable political power; Europe and the United States refused to do so. This caused a deadlock in the overall negotiations on other matters as well. Any further progress on lowering other trade barriers was stopped.

At another meeting in 2004, called the Doha talks, this same basic problem was reconsidered. The European Union and the United States agreed in principle to meet the "Third World" demands to lower their subsidies.⁶ The overall desirability of maintaining this important aspect of trade and the world government far outweighs the narrow farm related interests in developed countries.

At a meeting in Geneva, the deadlock appears to have been broken and a framework for continued progress of the WTO has been agreed upon by all 147 nation members. In terms of agriculture, there is a basic agreement "to scrap" export subsidies, cut trade-distorting domestic subsidies, and reduce tariffs.⁷ In regard to trade in industrial goods, there is a commitment to cut tariffs even more.⁸ In regard to the services trade, there is a generalized agreement that there should be more progress. It also was agreed that customs procedures should be simplified.⁹ All of this may take some time, perhaps until 2006 or 2007.¹⁰

III. Politics, Time and Economics

Some might think or say that the resolution of such issues, such as the effect of farm subsidy legislation of developed countries, is not one within the scope of law. Rather, they would say this is politics or political science. But would constitutional law scholars or practitioners say that civil rights are the realm of politics and not law. Would they say that lawsuits or legislation promoting those rights is not within the realm of law? We know that these things are very much within the realm of law and within the concern of judges, law scholars and practitioners. So too would consumer law scholars find major legislation to protect consumers within the realm of law. International laws which help farmers in underdeveloped countries, and their families, are not just a matter of politics, but a matter of concern to those in the law as well. For it is laws which contribute to the problem and it is the changing of laws

5. See Editorial, *The Unkept Promise*, N.Y. TIMES, Dec. 30, 2003, at A22.

6. INT'L. HERALD TRIBUNE, Saturday, July 31-Sunday, August 1, 2004, at 4.

7. *Now Harvest It; World Trade*, THE ECONOMIST, Aug. 7, 2004, at 67.

8. *Id.*

9. *Id.*

10. *Id.*

which can aid in some solution of the problem. It is law which affects trade and commerce. Producers, sellers, and consumers on a worldwide basis are dramatically affected. It is very much a concern of commercial law, consumer law scholars, and the legal profession.

This is certainly a problem which is multi-disciplinary, involving law, political science, and economics. To the extent that one is concerned with the overall legal structure and the solving of disputes under it, this problem deserves our attention.

The element of "time," as it relates to legal development, changes, and reform is also important. Too often we do not think or analyze the solution of problems in terms of time, and years go by before reforms are accomplished. Yet the price of not achieving reform more rapidly is a tremendous one in terms of the effect on hundreds of thousands, if not millions of people. For example, in civil rights, how many millions of persons were affected over the course of the two hundred years that it took in the United States to resolve the issue of slavery, or even over the half century it took to go from "separate but equal" to a meaningful equality standard. Time is important in getting better commercial laws and better consumer protection. For all the years that improvements are not made, millions of persons worldwide may be adversely affected. Certainly that is true in the resolution of the problem concerning the effect of outlandish and wasteful farm subsidy laws on commerce and individuals in underdeveloped countries. Also years of delay in effectuating consumer protection laws affects millions of people. "Time" should be an element of all our legal analysis. Unfortunately this vital factor—time—has not been recognized or appreciated as it should be within both legal scholarship and application of the law.

One important consideration is that there is not a surplus of some foods being produced when one considers the many undernourished or starving persons in the world. While the tremendous increase in world population is a problem which must be looked into in the near future by those in several disciplines, including law, the feeding of living individuals throughout the world is important. While there are both government agencies, including those from the United Nations, which are concerned with reducing world hunger, some new approaches may be necessary. It may be necessary for a new international organization to adequately stabilize farm product prices within certain price ranges on a worldwide basis in both developed and third world countries. This may also mean the large scale purchasing of surplus farm products by the new international agency and the increased distribution of some of these products to the world's needy.

In regard to the distribution of food, the United Nation's World Food Program may be useful. The World Food Program had been

suggested in 1960 by President Eisenhower and was made permanent. In 2003, its expenditures were estimated at 3.33 billion dollars. It has aided peoples affected by earthquakes, droughts, and other national disasters. It has given emergency relief in the Balkans, Africa, Afghanistan, Iraq, and North Korea. It also had some long term projects involving improved agricultural techniques and nutrition. Its experience would make it a valuable part of a larger solution.¹¹

In the legislative sphere, UNCITRAL has been active.¹² In addition to the Convention for International Sale of Goods, some other international laws relate to some specific areas including arbitration, bills and notes, terminal operators, credit transfer, procurement, guarantee and stand by electronic commerce, and insolvency.¹³ In addition, Gerhard Herrman, former Secretary of UNCITRAL, proposed a Global Commercial Code. This would provide a framework for all of the current laws and future ones governing the various aspects of international commerce. It also would make the unknown world government more visible.¹⁴

There is also some economic legislation in terms of international investment. Indeed, there is a United Nations sponsored treaty which has been approved by a number of nations relating to the protection of investments.¹⁵

While there is not yet an international system relating to security for loans or sales of equipment on credit, there are some efforts being made in this regard. There are groups working on creating an international type of "security interest" which can make sales on credit even more feasible.

There are also international standards set for letters of credit. The International Chamber of Commerce also has drafted a letters of credit type of law which many businessmen use for international transactions. In addition, the International Chamber of Commerce has drafted definitions for various types of shipping terms and abbreviations for shipping terms and has spelled out the legal obligations of each.

11. See Steve Stecklow, *Before Iraqi War, UN, US Hatched Plan to Feed Nation*, WALL ST. J., Sept. 26, 2003, at A1.

12. See, e.g., 1 U.N. Comm'n on Int'l Trade L. Y.B., U.N. Doc, A/CN.9/SER. A/1970.

13. See Michael Joachim Bonell, *Creating International Legislation for the Twenty-First Century: Do We Need a Global Commercial Code?*, 106 DICK. L. REV. 87, 88 n.7 (2001). Professor Bonell was honored by the Academy for his work with UNIDROIT in formulating international standards.

14. Gerhard Herrman, *Outline of Paper presented at 10th Biennial Conference of the International Academy of Commercial and Consumer Law held at the Dickinson School of Law of the Pennsylvania State University* (2000).

15. See King, *supra* note 1, at 75-76.

Another part of the unknown world government's policies involves consumer rights. The United Nations' endorsement of consumer rights was only briefly mentioned¹⁶ in my past address. Therefore some of the basics should be pointed out here. Also they support current and future possibilities.

In 1985, the United Nations endorsed eight consumer rights which are now recognized internationally. The eight rights include those four initially declared by John F. Kennedy over two decades previously. The United Nations Guidelines for consumer protection provide¹⁷:

1. The right to safety—the right to be protected against products, production processes and services that are hazardous to health or life.
2. The right to be informed—the right to be given the facts and information you need to make your own choices.
3. The right to choose—the right to be able to choose from a range of products and services offered at competitive prices. As a consumer, you have the right to expect satisfactory quality.
4. The right to be heard—the right to have your interests as a consumer represented in government policy.
5. The right to redress—the right to a fair settlement of consumer disputes, including compensation for misrepresentation, shoddy goods or unsatisfactory services.
6. The right to education—the right to learn the knowledge and skills you need to make informed and confident choices about goods and services.
7. The right to a healthy environment—the right to live and work in an environment which does not threaten the well-being of present and future generations.
8. The right to satisfaction of basic needs—the right to access basic essential goods and services like adequate food, clothing, shelter, health care, education and sanitation.

16. King, *supra* note 1, at 81.

17. G.A. Res. 39/248, U.N. GAOR, 39th Sess. 106th plen. mtg., U.N. Doc. A/RES/39/248 (1985) [hereinafter G.A. Res. 39/248]. See also David Harlan, *The United Nations Guidelines for Consumer Protection: Their Impact in the First Decade*, in CONSUMER LAW IN A GLOBAL ECONOMY: NATIONAL AND INTERNATIONAL DIMENSIONS 5 (Iain Ramsay ed. 1997).

In 1999, the United Nations' guidelines were amplified in the United Nations' Guidelines for Consumer Protection.¹⁸ The objectives of these guidelines were stated:

- (a) To assist countries in achieving or maintaining adequate protection for their population as consumers;
- (b) To facilitate production and distribution patterns responsive to the needs and desires of consumers;
- (c) To encourage high level of ethical conduct for those engaged in the production and distribution of goods and services to consumers;
- (d) To assist countries in curbing abusive business practices by all enterprises at the national and international levels which adversely affect consumers;
- (e) To facilitate the development of independent consumer groups;
- (f) To further international cooperation in the field of consumer protection;
- (g) To encourage the development of market conditions which provide consumers with greater choice at lower prices;
- (h) To promote sustainable consumption.

Following the statement objectives and guidelines, there is a more detailed set of guidelines.¹⁹

While these objectives, general principles and guidelines are important statements of policy, they do not have the effect that an international law of consumer rights would have. The globally ratified treaty for the international sale of goods would be an example of a law that is enforceable in courts. It is an example for what could be done in the field of consumer protection.

The subject of consumer protection is clearly in the gambit of United Nations' concern. This is manifested by the general statement on consumer rights and by the guidelines. It may well be asked whether a United Nations' organization such as UNCITRAL should formulate a treaty guaranteeing consumer rights.

18. G.A. Res. 54/449, U.N. GAOR, 54th Sess., at 21 (1999). See also Brooke Overby, *Contract in the Age of Sustainable Consumption*, 27 IOWA J. CORP. L. 603 (2002).

19. G.A. Res. 39/248, *supra* note 17.

Some would argue that consumer rights are more local in nature. But the universal declaration of needs and goals contradicts such an assertion. Consumers are an unfortunate part of international trade and services. There is no reason why they should be denied protection dealing with products and services which often cross international boundaries.

Similar arguments were raised in the United States in regard to consumer protection concerning "state" versus "federal" regulation. It was sometimes said that consumer protection was a local matter. Yet consumers throughout the country have similar needs for consumer protection. In addition, they often dealt with goods and services produced elsewhere. There has been some major federal consumer protection, ranging from regulation of unfair advertising,²⁰ to the Magnuson-Moss Warranty Act,²¹ to some regulation of credit cards.²² There is no reason to consider consumer protection to be local in nature. Advertising, financing, and the sale of goods across state boundaries, and persons in all states are equally in need of laws for consumer protection.

Some would argue that consumer protection is a controversial subject, and is not a proper subject for international treaties. But it is controversial only in that some industries oppose any regulation of their activities. This is not a sufficient reason to forego the formulation of a global treaty setting forth basic consumer rights.

Some might argue that it would be hard to get nations to ratify such a treaty. But with the current agreement of nations on the basic principles, this should not be too difficult a task. In a number of countries, the public lacks greater consumer protection. Of course, some economic interests will complain and actively object to such regulation. But business is used to the fact that the public often demands such protection and enacts national consumer protection. Since trade is international, there is no reason to forego the formulation of a multi-national treaty.

In talks with the current Secretary of UNCITRAL, he has acknowledged that it is clearly within the scope of the United Nations action.²³ Concerns about controversy or the need of considerable efforts to get nations to ratify, should not stop such progress.

Thus, it can be seen in the economic realm that there is a considerable amount of legislation which serves as a basis of law in the

20. See MICHAEL M. GREENFIELD, CONSUMER TRANSACTIONS 12-15 (Foundation Press, 2003).

21. 15 U.S.C. § 2301-2312 (2005).

22. 15 U.S.C. § 1666 (2005).

23. Interview with Jernej Sekolec, Secretary, UNCITRAL, in Vienna, Austria (Aug. 2002).

economic sphere. The general principle of freedom of contract, with certain limitations, is also a generally accepted basis of world trade. This overall body of law forms an important part of the law of the existing world government.

IV. Executive

The executive branch of the existing world government is multifaceted. It is not a more singular type of unit such as we find in the United States with the president as chief executive. Nor is it like a number of the European countries where the prime minister also serves as the executive leader. Instead, the current executive branch of the world government is found in several organizations.

One of those organizations is the WTO. It is this body which governs most of the world legislation on tariffs and free trade. It tries to enforce the treaties against tariffs or other barriers to free trade. It hears complaints from various nations and tries to settle them. If it is unable to settle these disputes in its executive function, there is a court to which parties can resort.

Another facet of the executive branch of the current world government is that of the United Nations. The United Nations Secretary General is in charge of a rather large administrative unit composed of various parts. He speaks for the nations of the world generally, and also is in charge of a variety of administrative agencies. The Security Council also acts in an administrative manner at times by undertaking action.

Another major part of the executive branch is found in various coalitions of nations. These coalitions are often times formed and utilized when United Nations action is impracticable. Very often the use of the coalition element is directed towards military action. The possible use of the veto power in the Security Council sometimes has precluded the United Nations from heading the military action. In those instances the military action fell to coalitions of nations.²⁴

In recent times, the enforcement of restrictions on Iraq pertaining to biological or other weapons of mass destruction has involved both use of the United Nations and coalition building.

The United States had initially placed its emphasis on the United Nations' decision making before undertaking any military action. It initially urged the United Nations to re-enter Iraq and search for weapons. Even though the inspectors had not completed the inspections and evidence did not appear as to imminent danger of mass destruction,

24. For example, the military effort in Bosnia in the 1990s required the military expertise of the United States, U.N. Coalition Forces, and European nations.

the Bush administration still sought United Nations backing for an invasion. It sought to obtain a majority vote in the Security Council. When it was clear it could not get even a majority vote, Bush turned to the coalition approach.

While the United States President, G.W. Bush, sometimes talked of the possibility of unilateral military action, he also has desperately attempted to build supporting coalitions of nations. Ironically, some coalitions of major nations—Germany, France, Russia and China—have rejected the idea of proceeding against Iraq without United Nations' approval. Likewise the Arab League has called for United Nations approval of any possible actions. Some countries which would be looked to for support in the sense of airbases or other military assembly points, likewise insisted on a United Nations' decision. Still, Bush was able to convince Great Britain, and some other nations as well, to be part of the coalition for invading Iraq.

While the coalition type of executive action is possible, it suffers from some uncertainties. There is no definition of what constitutes a "coalition" for world government type action. Is a coalition consisting of the United States, Great Britain, and a few other medium or small nations sufficient? Years ago, when Great Britain and France combined to attempt to take over the Suez Canal, objections of other countries precluded this goal. It would seem that if a coalition approach of action is undertaken, it should be a coalition of a large number of both significant and smaller nations. For a nation to undertake war, it may no longer undertake to do so by itself. But the question remains as to whether a nation should be able to undertake war when its coalition is not very significant, is inconsistent with expectations of other major nations, or is opposed by other significant coalitions. Thus, the coalition form of executive actions is not a desirable form. United Nations' executive action seems more desirable. But only when there is reform of the veto power is it likely that the alternative of coalition action will be abandoned.

It also should be noted, however, that any failures of the unknown world government to prevent war does not mean that such government doesn't exist. Even the United States government failed at times to prevent rebellion and war within itself. In the early years, the small rebellions were crushed relatively easily.²⁵ But the great U.S. Civil War went on for over four years with casualties in the hundreds of thousands. While the government failed to prevent war, it still remained a

25. For example, President George Washington successfully undermined the Whiskey Tax Rebellion, an uprising orchestrated in Pennsylvania to protest the increased tax on whiskey, in 1794.

government. In a similar way, the unknown world government may still exist, even though it failed to prevent the Iraq war.

V. Judicial

When one thinks of courts, the International Court of Justice comes to mind. In some ways it has been effective, but in others it has not. This Court has been active over many years in deciding disputes between nations, often involving boundaries, and has undoubtedly prevented some possible wars. Although its effect has been limited by nations such as the United States, which has not fully accepted the court's jurisdiction, it may possibly play a role in future peacekeeping. Regardless of its relatively little use and questions as to its effectiveness, it forms one of the judicial bases for world government and could be more effective in future years. Even the United States Supreme Court was not always effective, and was not always able to enforce its judgments. Also, the developing international judicial system is much broader than just this court.

Commercial law plays a role in the "judicial" branch of world government. If an international trade dispute arises concerning tariff or other anti-competitive measures, then the help of the WTO court may be invoked. This court will hear the arguments of both parties and render a decision. In a relatively short span of a few years, there have already been numerous cases decided by the WTO judicial branch. Some of the most recent activity has involved the imposition of high tariffs on imported steel by the United States. This went to trial and the initial and appellate decisions were against the United States. The American tariffs on steel were found to go beyond any rules allowing a country to protect an industry against any sudden surges of imports. Unless the tariffs were dropped quickly, the European Union would be allowed to impose more than two billion dollars in tariffs on American goods as a sanction.²⁶ Interestingly, not only were foreign steel producers harmed by the high tariffs, but American automakers in need of steel were also affected. Ultimately American consumers were hurt by higher automobile prices.

The acceptance of the WTO's decision in the steel tariffs case by President George W. Bush was of landmark proportion.²⁷ It meant the recognition and success of this judicial branch of the unknown world government.

A judicial system which exists for trying cases governed by the

26. See Elizabeth Becker, *U.S. Tariffs on Steel Are Illegal, World Trade Organization Says*, N.Y. TIMES, Nov. 11, 2003, at A1.

27. See David E. Sanger, *A Blink from the Bush Administration*, N.Y. TIMES, Dec. 5, 2003, at A28.

International Sale of Goods law is simply the use of regular courts in the various countries which have ratified the Convention. These courts have tried a number of contracts cases. Already there is a body of law developing around the adequacy of notice in regard to allegedly defective goods. There also are other cases on matters such as the use of the remedy of specific performance.²⁸

In addition to the WTO court and the national courts, which may try cases under the Convention for the International Sale of Goods, there are also proposals for international courts to try cases involving commercial disputes. An international commercial law court for appeals in disputes arising under the convention for the international sale of goods was proposed at a United Nations conference a few years ago by this writer.²⁹ It would be feasible to create and staff such a court to handle appeals involving the international sales convention. It could be effectuated through a simple addition to the current convention with specific ratification by the existing signatories. It could be administered by UNCITRAL, with judicial appointments of well known commercial law authorities.

Another possible international procedural and court system to try commercial cases and disputes is a current formulation of the American Law Institute.³⁰ It creates an international procedure for trying the cases, merging Common Law and the Civil Law procedures. It envisions the appointment of special judges from those currently a part of the courts of each nation.

It was the job of the drafters to produce a system which would be acceptable to judges throughout the world. The proposed procedural system is one which should be usable by both common law and civil law lawyers and judges. The new ALI procedural system provides that each jurisdiction shall have special judges appointed to hear such matters from its regular court system. To facilitate formation and enactment throughout the world, the ALI made UNIDROIT a partner in this endeavor. Discussions of the draft have been held throughout the world.

In the Preface to the most recent draft, two major objections have been noted and overcome.³¹ In regard to the constitutional problems

28. See L. F. Del Duca & Patrick Del Duca, *Selected Topics Under the Convention on International Sale of Goods*, 106 DICK. L. REV. 205, 229 (2001). Professor John Honnold, an Academy member, was honored by the Academy for his work in the drafting of this international legislation.

29. U.N. COMMISSION ON INTERNATIONAL LAW, UNIFORM COMMERCIAL LAW IN THE TWENTY-FIRST CENTURY, PROCEEDINGS OF THE CONGRESS OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, 105, 251 (1992).

30. A.L.I./UNIDROIT, *Principles and Rules of Transnational Civil Procedure*, (Preliminary Draft No. 3, 2002).

31. Council Draft No. 2 of the Principles and Rules of Transnational Civil

raised by having a procedure without a jury system, the drafters acknowledge that such a system would not be practical for global development, and therefore limit themselves to commercial cases. The other objections are noted and answered:

Part of the dissent evidently reflects some irritation at “American cultural imperialism.” We hope that work product reflects the fact that one of the ALI Reporters, Professor Taruffo, one of the UNIDROIT Reporters, Professor Stürmer, and the Associate Reporter, Professor Gidi, are civil-law scholars and lawyers. We have all endeavored to overcome the parochialism of our backgrounds.³²

The drafters also note that, “we believe that we are much closer to an approximation of civil procedure worldwide than when we commenced this project several years ago.” They also point out the larger alternatives:

In this era of globalization, the world is marching in two paths. One path is of separation and isolationism, with war and turmoil: in such a world, this project is useless and unwelcome. The other path is increasing exchange of products and ideas among the people of the world; this path underscores the need for a Transnational Civil Procedure.³³

The final version received formal ALI approval in 2004.

VI. Conclusion

While the “unknown world government” is not embodied in a single constitution or organized legislation, it does exist in a combination of treaties, organizations, coalitions, and courts. While these are not always clear-cut legislative, executive and judicial divisions, there are definitely these functions of government which exist on a world-wide basis. Commercial law plays a very important role in this new world government. There is an established framework for facilitating international trade on a large scale and legislation facilitating the formation of international contracts and remedies. In the consumer realm, basic goals and principles have been established, but await the formation of international consumer legislation. It seems only a matter of time before this gap is plugged. In the executive realm, the problems which have been seen with coalition type executive action will no doubt result in some reform of the United Nations executive and the veto power. Then the United Nations and its Security Council will become

Procedures, (Council Draft No. 2, 2003).

32. *Id.* at xv.

33. *Id.*

the major executive force. In the judicial realm, international sales law will increasingly be used and internationally oriented judges shall be deciding such cases within the framework of worldwide judicial procedures. Persons in Commercial Law, and also hopefully persons in Consumer Law, may be proud of the role that these subjects play in the overall world government.