

## 6. ARE YOU AWARE OF ANY MARKET CONVENTIONS OR MARKET PRACTISES DEALING WITH THIS ISSUE?

<b>ITALY</b>	<ul style="list-style-type: none"> <li>▪ In the banking industry there are many regulations governing the bank's responsibility in case of force majeure. As an example, the Uniform Customs and Practise for Documentary Credits 1993 Revision, International Chamber of Commerce, Publication n. 500 states in Art. 17 that "Banks assume no liability or responsibility for the consequences arising out of the interruption of their business by Acts of God, riots, civil commotion, insurrections, wars or any other causes beyond their control or by any strike or lockouts. Unless specifically authorised, banks will not, upon resumption of their business, incur a deferred payment undertaking, accept Draft (s) or negotiate under credits which expire during such interruption of their business".</li> </ul>
<b>DENMARK</b>	<ul style="list-style-type: none"> <li>▪ In the relationship between Danish Banks and their customers the following clause regulating force majeure is used: 'The Bank shall not be liable for any loss caused by statutory provisions, measures adopted by any governmental or other authority, actual or imminent war, insurrections, civil commotion, terrorism, sabotage or Acts of God. Nor shall the Bank be liable for any loss caused by strikes, lockouts, boycotts or blockades, whether or not the Bank itself is a party to the dispute, and notwithstanding that the dispute may affect only part of the Bank's functions. These provisions shall not exempt the Bank from liability for damages resulting from errors or negligence on the part of the Bank.'</li> </ul>
<b>FINLAND</b>	<ul style="list-style-type: none"> <li>▪ No. In the event of strike Finnish financial institutions usually jointly define the situation case by case.</li> </ul>
<b>SWEDEN</b>	<ul style="list-style-type: none"> <li>▪ The 'General Terms and Conditions for Trading in Financial Instruments' issued by the Swedish Securities Dealer's Association in 1999, establish the rule of the "Limitation of Bank's Liability", providing that: 'The Bank shall not be responsible for damage resulting from Swedish or foreign legislation, Swedish or foreign actions by public authorities, acts of war, strikes, blockades, boycotts, lockouts, or other similar circumstances [...] Any damage which occurs in other circumstances shall not be compensated by the bank, provided the bank has exercised normal care. The bank shall not be liable for damage which is caused by Swedish or foreign securities exchanges or other marketplaces, custodian institutions, central securities depositories, clearing organisations, or other parties which provide equivalent services [...]'</li> </ul>
<b>PORTUGAL</b>	<ul style="list-style-type: none"> <li>▪ There are no market conventions or practices dealing with this issue. Commonly, financial contracts do not have any force majeure clauses and therefore the referred general provisions of the Portuguese Civil Code are applied.</li> </ul>
<b>GREECE</b>	<ul style="list-style-type: none"> <li>▪ Greek legal practice, with few exceptions, has not so far developed any product-specific force majeure clause, probably due to the fact that the parties have always preferred to rely on the general rules of interpretation (notably Articles 173 and 200 of the Greek Civil Code) than to list specific events, knowing that such listing would never be exhaustive.</li> </ul>
<b>THE NETHERLANDS</b>	<ul style="list-style-type: none"> <li>▪ General Banking Conditions – drawn up by the Netherlands Bankers' Association – provides <i>inter alia</i>, that insofar liability is not already excluded by operation of the law, the Bank shall not be liable if a shortcoming of the Bank is the result of: '[...] labour disturbances among the staff of third parties or the Bank's own staff'.</li> </ul>
<b>SPAIN</b>	<ul style="list-style-type: none"> <li>▪ By the virtue of the freedom of contract, the parties may agree to consider strikes as a cause of force majeure; by the way recourses to such clauses are quite rare.</li> </ul>
<b>FRANCE</b>	<ul style="list-style-type: none"> <li>▪ The User's Guide to the 1992 ISDA Master Agreement contains a form of suggested wording for an "Impossibility" provision, which could be considered as a form of force majeure. The parties could include the provision in the Schedule to their Master Agreement. The provision states:  <i>"Due to the occurrence of a natural or man-made disaster, armed conflict, act of terrorism, riot, labor disruption or any other circumstance beyond its control after the date on which a Transaction is entered into, it becomes impossible (other than as a result of its own misconduct) for such a party (which will be the Affected Party):  to perform any absolute or contingent obligation, to make a payment or delivery or to receive a payment or delivery in respect of such Transaction or to comply with any other material provision of this Agreement relating to such Transaction; or  to perform, or for any Credit Support Provider of such party to perform, any contingent or other obligation which the party (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction."</i> </li> <li>▪ The 2001 ISDA Master Agreement Protocol (the "Agreement"), still in a draft form, may include an "Illegality and Force Majeure" annex (the "Force Majeure Annex"). Even if the Agreement does not define expressly a force majeure event, the "Force Majeure Annex" is intended to address events "that make it unlawful, impossible or impracticable for a party (or its Credit Support Provider) to perform, or that otherwise prevent the party (or its Credit Support Provider) from performing, its obligations under the Agreement or Credit Support Document". These events could be a change in law or a natural or man-made disaster, armed conflict, act of terrorism, riot, labour disruption, or any other circumstance beyond a party's control (mainly the same as the "Impossibility" provision suggested in the User's Guide to the 1992 ISDA Master Agreement).</li> <li>▪ The European Master Agreement (EMA) incorporates a similar termination event due to illegality or impossibility. In case of illegality or impossibility, either party may terminate the transactions affected by such event. Moreover, the EMA indicates "that a party will not be obliged to perform any obligation through any of its offices other than the booking office if performance through the booking office is unlawful or impossible as a result of any change of law, catastrophe, armed conflict, act of terrorism, riot or other circumstance beyond the party's reasonable control".</li> </ul>
<b>GERMANY</b>	<ul style="list-style-type: none"> <li>▪ In the field of documentary credit business art. 17 of the UCP 500 provides that banks assume no liability or responsibility for the consequences arising out of the interruption of their business by any strikes. A similar rule is included in the art. 15 of the URC 522 for documentary collections.</li> <li>▪ Furthermore, rule 3.14 of the ISP 98 provides that the last day for presentation of documents under a standby letter of credit is automatically extend to the day occurring 30 calendar days after the place for presentation reopens for business if on the last business day for presentation the place for presentation stated in the standby is for any reason closed and presentation is not timely made because of the closure. This would include a closure by reason of a strike.</li> </ul>

