



SUMMARY RECORD OF THE 3rd MEETING

Chairman: Mr. FRANCIS (Jamaica)

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AGENDA ITEM 127: REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE
LAW ON THE WORK OF ITS NINETEENTH SESSION

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The meeting was called to order at 10.45 a.m.

AGENDA ITEM 127: REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS NINETEENTH SESSION (A/41/17)

1. Mr. KARTHA (Chairman of the United Nations Commission on International Trade Law), introducing the report of UNCITRAL on the work of its nineteenth session (A/41/17), said that that session, held at United Nations Headquarters from 23 June to 11 July 1986, had been especially devoted to consideration of the draft Convention on International Bills of Exchange and International Promissory Notes. Although it had been hoped that the Commission would be able to finalize and adopt the draft during the session, that had not proved possible because the session, originally scheduled to last four weeks, had been reduced to three as a result of a decision adopted by the General Assembly at its fortieth session. Accordingly, it had been possible to allocate only two weeks to consideration of the draft Convention. In the event, part of the third week had also been devoted to it, as well as to meetings of a drafting group and other ad hoc groups, so that other agenda items which were to have been taken up during that third week had been given only cursory attention.

2. The major portion of the report of the Commission was devoted to the draft Convention on International Bills of Exchange and International Promissory Notes (A/41/17, annex I). The work of the Commission had profited greatly from the high level of expertise of the delegations of many Member States and observers, both within the Working Group on International Negotiable Instruments and within the Commission itself.

3. The Commission had first considered certain controversial issues that, generally speaking, affected a number of articles that had to be considered together. It had then considered additional issues and individual draft articles, and a drafting group had been established to implement the decisions adopted by the Commission. Because of the shortened session, it had not been possible to review the entire text or even to consider all the recommendations of the drafting group. However, all of its proposals had been included in the text of the draft Convention. Those proposals that had not been considered by the Commission had been indicated in a footnote (A/41/17, p. 61).

4. The Commission had also examined carefully the procedure for adopting the draft Convention. After considering various approaches, it had been decided that the draft Convention as it had emerged from the nineteenth session should be reviewed by the Working Group at a meeting in January 1987. Subsequently, at its twentieth session, to be held in 1987, the Commission would complete the review of the draft and adopt a final text.

5. In order to promote participation by States at the session of the Working Group, the Commission had decided to expand membership of that Group to include all States members of the Commission. In addition, all States that were not members would, as usual, be invited to participate as observers in the Working Group and at the twentieth session of the Commission. The Secretariat had been requested to stress, when extending those invitations, how desirable it was for States to attend the sessions of the Working Group and the Commission.

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6. By the time the Commission completed its work on the draft Convention at its twentieth session, the text of the draft would have been considered over a period of almost 15 years, with ample opportunity for participation by all States. Therefore, and in view of the considerable expense involved in holding a diplomatic conference, the Commission had decided to recommend that the draft Convention should be adopted by the General Assembly, stating: "The draft Convention, as finalized at the twentieth session, would be transmitted to the General Assembly with the recommendation that it be adopted as a convention by the Assembly without amendment of the substance of the text" (A/41/17, para. 224). Since that procedure had not been previously followed, the Commission had indicated that it would be of great assistance to it if the Sixth Committee could indicate whether it would entertain such a suggestion. Naturally, the Commission would make such a suggestion in 1987 only if the text it was recommending had reached the same level of technical perfection and general acceptability as a text emanating from a diplomatic conference.

7. The Commission had received a report from the Working Group on the New International Economic Order on the progress of its work on the draft legal guide on drawing up international contracts for the construction of industrial works, and had welcomed its intention to submit the draft legal guide to the Commission for consideration at its twentieth session. The Commission had also considered a document submitted by the Secretariat (A/CN.9/277), which discussed various subjects relating to the new international economic order that the Commission might take up in the future. Support had been expressed in the Commission for the possibility of undertaking work on three of those subjects: procurement, countertrade and joint ventures. However, since the Secretariat did not have the resources to undertake work on all three subjects simultaneously and the Working Group could not start work on more than one of them, it had been decided to give priority to procurement and the Secretariat had been requested to prepare preliminary studies on the other two subjects and submit them to the Commission at a future session.

8. At its nineteenth session, the Commission had had before it a report from the Secretariat on the legal guide on electronic funds transfers (A/CN.9/278), which referred to the replies received from Governments and international organizations on the draft guide. Since the draft had been so well received, the Commission had authorized the Secretariat to publish the legal guide in all the official languages of the United Nations. With respect to its possible further work in that area, the Commission had agreed that it could play a valuable role by formulating model legal rules, and had entrusted that task to a Working Group, which was to meet for the first time in late 1987 to consider the preliminary work prepared by the Secretariat.

9. The Commission had also received a report from the Working Group on International Contract Practices on its progress in drafting uniform legal rules on the liability of operators of transport terminals (A/CN.9/275), and had noted with appreciation the progress made.

10. At its nineteenth session, the Commission had considered three reports prepared by the Secretariat in the context of the mandate of the Commission as the

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core legal body of the United Nations system in the field of international trade law. One of them was a comprehensive and very useful survey of the activities of international organizations related to the harmonization and unification of international trade law (A/CN.9/281). The second report (A/CN.9/280) focused on the activities of certain international organizations in the area of international commercial arbitration. The Commission, which had made major contributions in that area, had decided to request the Secretariat to submit, for a future session of the Commission, studies on multi-party arbitration and the taking of evidence in arbitral proceedings, and to continue to monitor developments in that area. The third report dealt with the legal implications of automatic data processing (A/CN.9/279). In that regard, the Commission had agreed with the Secretariat's conclusion that a greater degree of co-ordination in that field was desirable, and had endorsed its suggestion that the Commission should take the lead in efforts to achieve that end.

11. The Commission had examined the status of Conventions which had emanated from its work; it had been encouraged by the ratifications of and accessions to the Convention on the Limitation Period in the International Sale of Goods and the United Nations Convention on Contracts for the International Sale of Goods. In particular, it had welcomed the optimism expressed by the Secretary of the Commission that, by the time of the twentieth session of the Commission, both Conventions would have received the number of ratifications and accessions needed to bring them into force. The Commission had also been encouraged by the measures being taken by the Secretariat to promote the United Nations Convention on the Carriage of Goods by Sea.

12. The Commission had taken note with appreciation of the report of the Secretary-General on training and assistance in the field of international trade law (A/CN.9/282).

13. With regard to its next session, the Commission had decided to allocate two weeks for an article-by-article review of the draft Convention on International Bills of Exchange and International Promissory Notes, taking into account the report of the Working Group and the comments of Governments. As for the draft legal guide on drawing up international contracts for the construction of industrial works, the Commission had recognized that it would not be possible to engage in a detailed review of the text, which had 29 chapters; nevertheless, it was of the view that one week should be allocated to consideration and adoption of that important first product of the Commission's work in the field of the new international economic order. In order to ensure sufficient time to consider those two drafts and to bring them to a successful conclusion, the Commission recommended that its twentieth session, in 1987 should be of four weeks' duration. The fourth week would be devoted to the discussion of the other important agenda items and to the preparation and adoption of the report on the session. A shortening of the session, as had occurred during the current year, would mean that completion of one or another of those important projects would have to be delayed for at least one year. He would be listening with great interest to the observations of members of the Sixth Committee on the report. Those observations, as well as the resolutions of the General Assembly on the report, constituted valuable guidance for the work of UNCITRAL. He thanked the Committee for its support for the work of UNCITRAL.

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14. Mr. DJORDJEVIC (Yugoslavia) requested that copies of the introductory statement just made by the Chairman of the United Nations Commission on International Trade Law should be distributed to delegations.

15. The CHAIRMAN said that copies of the statement would be distributed to delegations, as requested by the representative of Yugoslavia. He appealed to delegations to be on time for meetings in order to facilitate the work of the Committee.

The meeting rose at 11.20 a.m.