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SIXTH COMMITTEE  
28th meeting  
held on  
Tuesday, 30 October 1979  
at 10.30 a.m.  
New York

SUMMARY RECORD OF THE 28th MEETING

Chairman: Mr. GUNA-KASEM (Thailand)

later: Mr. ZEHENTNER (Federal Republic of Germany)

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The meeting was called to order at 10.55 a.m.

CONSIDERATION OF THE IMPLICATIONS OF DRAFT RESOLUTION A/C.5/34/L.10 (continued)

1. The CHAIRMAN said that a meeting attended by the President of the General Assembly, the Chairmen of the Fifth and Sixth Committees and members of the Secretariat had been held at the end of the Sixth Committee's 27th meeting to consider the procedure to be adopted in connexion with draft resolution A/C.5/34/L.10 on the pattern of conferences. It had been agreed, after consultation, that summary records should be retained not only for the International Law Commission but also for the United Nations Commission on International Trade Law (UNCITRAL). In the light of that agreement, he would suggest that the procedure to be followed should be for the President of the General Assembly to announce, before a decision was taken in the plenary Assembly on draft resolution A/C.5/34/L.10, that it was the understanding of the Assembly that the provisions of that draft resolution did not apply to the summary records of the International Law Commission and UNCITRAL, in view of the over-all importance of the summary records of those two organs in the process of promoting the progressive development and codification of international law.
2. Miss MALIK (India) asked how other United Nations bodies would be affected. For instance, would summary records be discontinued in the case of the Legal Sub-Committee of the Committee on the Peaceful Uses of Outer Space and the Committee on an International Agreement on Illicit Payments? It was particularly important for lawyers working with their national Governments to be able to refer to certain basic documents prepared by bodies other than the International Law Commission and UNCITRAL.
3. Mr. SUY (Under-Secretary-General, The Legal Counsel) said that the question raised by the Indian representative was not one that would be decided by the Sixth Committee. In any event, summary records were not provided for the two bodies she had mentioned.
4. Mr. AL-QAYSI (Iraq) said that, while his delegation did not object to the procedure which the Chairman had suggested, it considered that if summary records were to be discontinued for certain bodies a different approach would be needed in the reports of those bodies to ensure that the positions taken by delegations on a given issue were reflected. Failing that, it would be quite impossible for a delegation which had not been represented on a given committee, or for a legal adviser in a Ministry of Foreign Affairs required to give an opinion on a matter having political implications, to ascertain the positions of the various delegations.
5. Mr. WINKLER (Austria) said that, in principle, he could support the procedure suggested. However, if his understanding of operative paragraph 2 of draft resolution A/C.5/34/L.10 was correct, it would apply only to summary records and not to verbatim records, in which case there should be no difficulty.

6. Mr. SUY (Under-Secretary-General, The Legal Counsel) said that the Austrian representative's point was well taken, although he was not himself in a position to comment on the intent behind the draft resolution. He would, however, draw attention to General Assembly resolution 33/56, which called upon all United Nations bodies to report to the General Assembly at its thirty-fifth session on the need for summary records and other documentation. There would thus be a further opportunity to review the whole matter on the basis of the reports submitted by the various United Nations bodies to that session of the General Assembly.
7. Mr. AL-QAYSI (Iraq) said his delegation's point did not appear to have been answered. It was convinced that the decision which the Committee was being invited to take was inextricably bound up with the question of the future format of the reports of the General Assembly's subsidiary bodies: in cases where summary records were to be discontinued, the report should make it quite clear who had made any given proposal.
8. Mr. EL BANHAWI (Egypt) said his delegation agreed that summary records were crucial to the work of legal bodies such as the International Law Commission and UNCITRAL. It also agreed, however, that if summary records were to be discontinued in certain cases some way should be found of reflecting the positions of delegations in the report of the body concerned.
9. Mr. ROSENSTOCK (United States of America) pointed out that the General Assembly was endeavouring to reach a decision on the issue at that very moment. If, therefore, the Committee's discussion was to have any relevance at all, it was essential that it take a decision forthwith. It could then consider whether and how to reflect the positions of delegations on a given issue either immediately after reaching its decision or at some later point.
10. Mr. AL-QAYSI (Iraq) observed that much progress would have been achieved had certain other issues been approached with the simplicity now displayed by the United States representative in regard to the issue before the Committee.
11. Mr. MALEK (Lebanon) said his delegation agreed that the International Law Commission and UNCITRAL should be excluded from the terms of draft resolution A/C.5/34/L.10 but trusted that the Secretariat would abide by the Chairman's interpretation of that procedure.
12. The CHAIRMAN said that the President of the General Assembly was endeavouring to strike a balance between the need, on the one hand, to rationalize procedures, and reduce costs and, on the other, to provide States with certain documentation. Since there would be an opportunity to review the whole process at the thirty-fifth session of the General Assembly, and in view of the urgent nature of the problem, he would again invite members to agree to the procedure he had suggested.

13. Mr. EL BAHAWI (Egypt) said he would have no objection to that procedure but would suggest that the President of the General Assembly, in making his announcement, should include a reference to General Assembly resolution 33/56 so that it would be clearly understood that the issue would be reconsidered at the thirty-fifth session of the General Assembly.
14. Mr. SUY (Under-Secretary-General, The Legal Counsel) said he would convey that suggestion to the President of the General Assembly.
15. Mr. AL-QAYSI (Iraq) pointed out that some Member States with large delegations could afford to be represented on all the Committees of the General Assembly and had enough staff to take notes and write reports. Many third world countries, however, were not so fortunate.
16. Mr. ROSEMAN (Israel) said he would point out that there was at least one major international conference which had been in progress since 1975 and which had no records whatsoever.
17. The CHAIRMAN, noting that there were no further comments, suggested that the Legal Counsel should be asked to convey the ideas expressed in the Committee to the President of the General Assembly. In the absence of any objection, he would take it that the Committee agreed to the procedure he had suggested.
18. It was so agreed.

AGENDA ITEM 109. REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS TWELFTH SESSION (continued)(A/34/17; A/C.6/34/L.5 and L.6)

19. Mr. EL BAHAWI (Egypt) expressed satisfaction at the interest shown in the meetings of UNCITRAL and noted that, despite the absence of certain members, the number of observers had increased to 22 during the twelfth session.
20. He agreed with the conclusions reached by UNCITRAL regarding the rarity of barter contracts in international trade, the need for further study and contacts with the bodies concerned with such issues and the need for the formulation of uniform rules on liquidated damages and penalty clauses applicable to a wide range of international trade contracts.
21. There was also a need for clauses protecting parties against the effects of currency fluctuations, particularly in view of the increasing number of States resorting to the gold standard, economically disadvantaged debtors, namely the developing countries, should be protected from being over-burdened with debts that reduced their economic development capacity.
22. He hoped that the Working Group on International Negotiable Instruments would be able to formulate clauses in keeping with the various legal systems. He agreed with UNCITRAL's recommendation that the draft Convention on International Bills of Exchange and International Promissory Notes should be extended to cover international cheques.

(Mr. El Bannawi, Egypt)

23. With regard to stand-by letters of credit, there was a need for methods of reducing claims which were fraudulent or not made in good faith, including, for example, certification of default by a third party. He considered that the role played by the International Chamber of Commerce in the work on stand-by letters of credit should be supported.

24. Concerning security interests in goods, he agreed that it would be desirable to formulate a model law with alternatives for provisions which presented particular difficulties. As noted in UNCITRAL's report (A/34/17, para. 52), the preparation of uniform rules on that topic would be an arduous task. He therefore agreed with the view expressed in the last sentence of that paragraph, namely that a better approach might be the preparation of conflict rules and that the attention of the Hague Conference on Private International Law should be drawn to the desirability of undertaking the unification of the rules of conflict of laws in that matter. As noted in paragraph 53 of the report, the preparation of a model law could be useful for those legal systems which wished to modernize their law of security interests and, over a period of time, it could be expected that the existence of a model law might have the effect of reducing the differences in the law which currently existed. He therefore supported the decision set out in paragraph 54 of the report.

25. In connexion with international commercial arbitration and conciliation, he stressed the importance of the 1958 New York Convention on the recognition and enforcement of Foreign Arbitral Awards and the report of the Secretary-General on the application and interpretation of that Convention (A/CN.9/168), which showed that the Convention had satisfactorily served its general purpose and that it would therefore be inadvisable to amend its provisions or prepare a protocol thereto, at least for the time being. In that connexion, he noted that UNCITRAL had requested the General Assembly to invite States, which had not yet done so, to ratify, or accede to, that Convention.

26. Despite the successful practical implementation of the UNCITRAL Arbitration Rules he supported the recommendation of the Asian-African Legal Consultative Committee that UNCITRAL should formulate guidelines for administering arbitration, which would facilitate the work of arbitration centres and arbitral institutions.

27. With regard to the possible preparation of a list of arbitral and other institutions that had declared their willingness to act as appointing authorities under the UNCITRAL Arbitration Rules, the situation would be clarified by the report the Secretary-General would submit on the advantages and disadvantages of such a list. He commended the recommendations made by the Asian-African Legal Consultative Committee and supported the decision taken by UNCITRAL to co-ordinate those recommendations with the provisions of the 1958 New York Convention, which must be applicable on a world-wide basis.

(Mr. El Danhawi, Egypt)

28. The draft UNICTRAL Conciliation Rules were essentially voluntary and non-binding. However, they were still being studied by the responsible Egyptian authorities and his Government would express its views in that connexion in a subsequent reply to the Secretary-General.

29. With regard to the work on the legal implications of the new international economic order, he had already expressed his support for that important work on past occasions. In that connexion, he referred to the reply submitted by Yugoslavia to the Secretary-General on that subject, which observed that UNICTRAL was the United Nations body best qualified to study the legal implications in question, that it should give absolute priority in its work to questions of interest to developing countries, and that its work on the new international economic order should be based on the International Development Strategy, the Programme of Action on the Establishment of the New International Economic Order and the relevant provisions of the Charter of Economic Rights and Duties of States, in accordance with Article 34 of the Charter. Yugoslavia had expressed the view that UNICTRAL should proceed to the codification of relevant norms of law relating to international economic relations, and had singled out the following topics as worthy of special consideration: sovereign rights of peoples over their natural resources, legal status of branch offices of transnational corporations in developing countries relative to head offices, general terms of the contract on transfer of technology, and contract on the execution of investment projects (consulting contract and engineering contract).

30. He thanked the countries that were providing the developing countries with training and assistance in the field of international trade law. Egypt had been the first State to ratify the United Nations Convention on the Carriage of Goods by Sea in April 1979 and, since only 27 States had signed the Convention, he appealed to the remaining States to ratify and accede to it at an early date so that it could enter into force.

31. Since it was important to co-ordinate the activities of international organizations concerned with international trade law, he hoped that the draft resolution sponsored by several non-aligned countries, including Egypt, and contained in paragraph 131 of UNCTRAL's report would receive support in the Committee and be referred to the plenary Assembly for adoption.

32. Egypt had supported the transfer of the International Trade Law Branch to Vienna in view of the obvious advantages to be gained with regard to UNCTRAL's work and productivity from the facilities offered by the Government of Austria, particularly with respect to the completion and maintenance of the Branch's library.

33. Mr. JEZIL (Czechoslovakia) said that the increase in the importance of international trade and of the rules by which it was governed was proportionate to the strengthening of the principles of peaceful coexistence and mutual co-operation among States. Czechoslovakia's evaluation of UNCTRAL's work was positive but his delegation considered it could make an even greater contribution to the strengthening of those principles by seeking to unify and harmonize international trade law through the adoption of legal measures that would be widely acceptable.

(Mr. Jezil, Czechoslovakia)

34. UNCITRAL's achievements included the Convention on the Limitation Period in the International Sale of Goods, the United Nations Convention on the Carriage of Goods by Sea and the UNCITRAL Arbitration Rules. It had also prepared a draft Convention on the International Sale of Goods, which was to be considered at the diplomatic conference to be held in 1980. Czechoslovakia attached the greatest importance to that draft Convention and would contribute as actively as possible to the success of the conference. Despite those successes, however, his delegation saw as UNCITRAL's main task the progressive unification and harmonization of international trade law and the elimination of the obstacles which derived from differences in internal laws. To that end, it was necessary to evolve, step by step, a system of generally acceptable legal norms with a view to achieving unification of the rights and duties of the parties in international trade. That, however, could be achieved only through codification. Accordingly, the existing practice, whereby agreements were prepared for certain limited groups of legal topics only, would have to be reconsidered, for though effective at the outset, it had given rise to difficulties because the codification of some issues was repeated and not always in exactly the same way. A comprehensive approach to codification would be far more effective.

35. His delegation further considered that UNCITRAL's programme should include the question of the gradual creation of a unified system of international trade law, preferably in the form of a unified code. In view of the complex and long-term nature of the subject, a working group should perhaps be appointed to formulate general principles of codification covering most, if not all, of the legal relations that arose in international trade.

36. One characteristic of the changing international economic order was the restructuring of the existing system on the basis of such new principles as full equality, mutual confidence, mutual advantage and elimination of discrimination in international economic relations: those were the principles which, in Czechoslovakia's view, should underlie the legal aspects of the new international economic order. His delegation welcomed the establishment of the Working Group on the New International Economic Order and was prepared to contribute to its work. Czechoslovakia believed that the activities of UNCITRAL and the working group should be concerned essentially with the question of relations among States in international trade. UNCITRAL should therefore give priority attention to the elimination of discrimination in international trade, the control of the activities of transnational monopolies and the duty of States to co-operate in international trade.

37. Czechoslovakia regarded discrimination as the key to all the legal aspects of the new international economic order, for discrimination against individual States in international trade led to discrimination against persons and corporate bodies, and against the imports and exports of a given State. Discrimination, moreover, was at variance with the Charter of Economic Rights and Duties of States. His delegation was convinced that a solution to that problem would serve to strengthen legal security in international trade.

38. UNCITRAL's future work should reflect more strongly its role as the

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(Mr. Jezil, Czechoslovakia)

co-ordinator of the work on international trade law being undertaken by other United Nations bodies and international agencies. In that regard, a firm foundation had been laid in the draft resolution submitted by a group of developing countries at UNCITRAL's twelfth session.

39. Mr. Zehentner (Federal Republic of Germany) took the chair.

40. Mr. YEPEZ (Venezuela) said that, because of the importance his delegation attached to the work of UNCITRAL, it had participated as an observer at its latest sessions. On the question of international trade contracts, his delegation felt that the Secretariat should proceed with its study of contemporary international contract practices, with a view to determining whether generally acceptable clauses could be identified or further guidelines should be prepared and issued on the matters which might be covered in different types of contract. To that end, the work on the collection of clauses in international contracts on various commodities in different regions should be expedited. Specifically, UNCITRAL might prepare standard clauses for barter-like transactions. UNCITRAL should also continue its study of liquidated damages and penalty clauses and examine the desirability of formulating uniform rules on the matter, in order to reduce uncertainties regarding the validity and effectiveness of such clauses in the various legal systems. It was also important that uniform rules should protect contracting parties in a weaker bargaining position from the imposition of unfair clauses. Another particularly useful study that UNCITRAL should pursue was the one relating to clauses protecting parties against the effects of currency fluctuations. That problem was crucial in the contemporary world, where major trade currencies were floated with adverse consequences both for the international community and for some of the parties in all transactions. It was to be hoped that UNCITRAL's study on such clauses would contribute to achieving balance in international trade.

41. His delegation noted with satisfaction the progress made by the Working Group on International Negotiable Instruments on the preparation of a draft Convention on International Bills of Exchange and International Promissory Notes. His delegation trusted that the Working Group would soon complete its task. He also noted with satisfaction the joint efforts of the Secretariat and the International Chamber of Commerce aimed at finding ways to protect parties against fraudulent claims or against fraud resulting from the execution of stand-by letters of credit. UNCITRAL should continue its study on the question of security interests in goods and the feasibility of establishing uniform rules to be used in the financing of trade, particularly with a view to determining the feasibility of drafting a model law that could be adopted by countries wishing to modernize their legislation on security interests, thus helping to eliminate the differences between the various legal systems.

42. The debate on the UNCITRAL Arbitration Rules and their use in administered arbitration had been very useful. The future work of UNCITRAL in that field, as outlined in paragraph 71 of the report, would promote and facilitate the use of the UNCITRAL Arbitration Rules. UNCITRAL should also prepare a preliminary draft of a model law on arbitral procedure, which should be restricted solely to international commercial arbitration and should take into account the 1958



(Mr. Yopez, Venezuela)

Convention on the Recognition and Enforcement of Foreign Arbitral Awards. His delegation supported the request to the Secretary-General to the effect that he should prepare the relevant preliminary draft of a model law. His delegation was also satisfied with UNCITRAL's work on the preliminary draft of its Conciliation Rules, conciliation being a friendly means for settling disputes that could be useful and effective in international trade.

43. UNCITRAL, through its recently established Working Group, would be taking up the study of what had been appropriately called the new international economic order, which was of vital importance to the developing countries. Although the international community had made progress in its discussion of the subject and had even adopted some documents in that connexion, such as the Code of Conduct for the Liner Conferences, the draft Code of Conduct for Transnational Corporations, the draft convention on restrictive business practices, the draft International Agreement on Illicit Payments, the draft Convention on International Multimodal Transport, and the United Nations Convention on the Transport of Goods by Sea, there were other aspects of the new international economic order which should be dealt with by the Working Group. Some of the most important were the general principles of international economic development, transfer of technology, transnational corporations, permanent sovereignty of States over natural resources, the legal basis of the relations between States when those relations were linked with international trade, the principle of non-discrimination, and the effective co-ordination of work being done by the international organizations and the bodies responsible for the unification of international trade law. His delegation was confident that the new Working Group would achieve results and hoped that UNCITRAL would contribute solutions that would satisfy the aspirations of the developing countries.

44. Finally, his delegation trusted that the United Nations Conference on Contracts for the International Sale of Goods, the documentation for which had been so patiently prepared by UNCITRAL, would be successful.

45. His delegation supported the draft resolution prepared by UNCITRAL on co-ordination in the field of international trade law (A/34/17, para. 131).

46. Mr. ALMODOVAR (Cuba) said that the work of UNCITRAL was very complex, particularly because of the wide variety of legal systems prevailing in international trade, which was dominated by the highly-developed capitalist countries which had imposed rules aimed at further submitting the economically weaker countries. Faced with a titanic task, it nevertheless seemed to be making progress in the development of a new and more harmonious structure of international trade law that would enhance economic relations between States. In that connexion, he noted with satisfaction that work on the preparation of a draft Convention on International Bills of Exchange and International Promissory Notes was almost completed. The efforts to prepare draft Conciliation Rules were also commendable. The report of the Secretary-General on liquidated damages and penalty clauses (A/CN.9/161) was very interesting. His delegation supported UNCITRAL's decision to improve co-ordination with agencies such as UNCTAD, UNIDROIT and the International Chamber of Commerce.

(Mr. Almodovar, Cuba)

47. Stressing the importance of UNCITRAL's efforts to close the gap between developed and developing countries, he expressed his delegation's satisfaction at the establishment of the Working Group on the New International Economic Order and said that its work could be very useful, particularly if it took into account the interests of the developing countries, which were undoubtedly the weakest links in the chain of international trade and therefore the most in need of legal protection. His delegation felt constrained to remind UNCITRAL, and particularly the member delegations representing developing countries, that although the unification and harmonization which were its goal were useful from the standpoints of legal technique and savings in time and resources, their people would benefit even more from legal instruments containing safeguards to protect contracting parties in a weaker bargaining position from the imposition of unfair clauses. The position of developing countries was the result not only of colonial domination, but of neo-colonial economic domination, as evidenced to a great extent in the so-called economic order and free trade, international contractual practices, international payments, rules of international transport, means used to settle disputes and other mercantile practices. A detailed examination of many of those mechanisms would reveal clauses which were tantamount to extortion on the part of the great capitalist countries, with all the political consequences of such a situation. If its work was to be relevant and beneficial to the majority of the international community, UNCITRAL must expand its outlook by opening the way, through codification, to the radical changes that must be made in international trade in order to satisfy the just demands of the developing countries. That course would lead towards achievement of the two paramount goals of the United Nations, namely peace and international security. UNCITRAL could count on his delegation's co-operation and support in that regard.

48. Mr. MUCHUI (Kenya) noted with satisfaction the progress made with respect to the new topics on UNCITRAL's agenda, particularly those relevant to the legal implications of the new international economic order. His country shared the general view that the Working Group on the New International Economic Order, of which it was a member, should interpret its mandate in a flexible manner and would be free to consider items not mentioned in the report of the Secretary-General.

49. His delegation agreed with the Chairman of UNCITRAL on the need for effective co-ordination of the work being done in the field of international trade law and therefore supported the draft resolution in paragraph 131 of UNCITRAL's report (A/34/17). His delegation had taken note of the progress made by UNCITRAL on the topics relating to international trade contracts.

50. He expressed satisfaction with the progress made by the Working Group on International Negotiable Instruments towards completion of a draft Convention on International Bills of Exchange and International Promissory Notes. The Working Group should be allowed to consider the desirability of preparing uniform rules applicable to international cheques within the context of the draft Convention. His delegation supported the recommendations adopted by UNCITRAL regarding stand-by letters of credit and security interests in goods.

51. UNCITRAL had done some very useful work in the field of international

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(Mr. Muchui, Kenya)

arbitration and conciliation and the approach adopted in the draft Conciliation Rules was a good one. Emphasis should, however, be placed on the amicable nature of that method of settling disputes by stressing the need for good faith coupled with the intention of bringing the dispute to a final settlement. His delegation would therefore support a provision in the Conciliation Rules similar to the existing draft article 22.

52. With regard to transport law, his delegation expressed regret at UNCITRAL's view (A/34/17, para. 104) that there was no support for work on either multimodal transport or transport by container, since a draft Convention on International Multimodal Transport had been completed by an UNCTAD Intergovernmental Group. That was one aspect of UNCITRAL's work which seemed to fall within its co-ordinating mandate. However, his delegation commended UNCITRAL for demonstrating a willingness to undertake work of a legal character in relation to the proposed study of charter-parties and marine insurance, subjects which fell within the mandate of the UNCTAD Working Group on International Shipping Legislation.

53. As one of the countries which benefited from the training and assistance offered through the symposia on international trade law organized in conjunction with certain sessions of UNCITRAL, Kenya expressed regret that one symposium had been cancelled and another postponed for lack of funding. His delegation appealed to those willing and able to contribute to that useful training programme to do so without making their pledges conditional on others doing the same.

54. Lastly, he said that Kenya would be seeking re-election to UNCITRAL during the current session of the General Assembly and expressed the hope that his delegation would be supported in that effort.

55. Mr. GANA (Tunisia), referring to chapter II of UNCITRAL's report (A/34/17), said his delegation had doubts about the usefulness of continuing the study on barter contracts in view of their rarity, and about the feasibility of formulating uniform rules on penalty clauses and on clauses protecting parties against the effects of currency fluctuations because of the complex problems which would arise with regard to the different legal systems and because of possible abuses of such clauses by economically strong creditors to the detriment of economically weak debtors.

56. With regard to chapter III, his delegation noted with satisfaction that the Working Group on International Negotiable Instruments had almost completed its work on a draft Convention on International Bills of Exchange and International Promissory Notes. It supported UNCITRAL's decision (A/34/17, para. 44) recalling its request to the Working Group that it should consider the desirability of preparing uniform rules applicable to international cheques and the question whether that could best be achieved by extending the application of the draft Convention to international cheques or by drawing up separate draft rules on international cheques. Concerning stand-by letters of credit, UNCITRAL should consider that question further in order to protect obligors acting in good faith. With regard to security interests in goods, his delegation supported the opinion

(Mr. Gana, Tunisia)

expressed in UNCITRAL (A/34/17, para. 52) that the law of security interests was strongly rooted in particular legal concepts of the various legal systems and that any attempt to prepare uniform rules would inevitably conflict with considerations relating to public policy and sovereignty and thus make the establishment of a system of registration or publicity on a world-wide basis difficult or impossible. Nevertheless, as noted in paragraph 53, the preparation of a model law could be useful for those legal systems which wished to modernize their law of security interests and might over a period of time reduce the differences in the law which currently existed.

57. With regard to chapter IV, his delegation supported any initiative designed to promote and facilitate the use of the UNCITRAL Arbitration Rules. With regard to their use in administered arbitration, his delegation felt that the Rules were sufficiently flexible to allow parties to utilize them in accordance with the administrative rules of the arbitral institution, and that therefore they need not be changed. At the most, model administrative guidelines could be prepared concerning the use of the Arbitration Rules in administered arbitration. His delegation expressed reservations with regard to the desirability of issuing a list of arbitral institutions that had declared their willingness to act as appointing authorities under the UNCITRAL Arbitration Rules, because of the risk of misinterpretation involved.

58. Concerning the procedure for the Conciliation Rules, the preliminary draft should put more emphasis on the voluntary, non-binding nature of conciliation and any commitment to undertake it.

59. His delegation supported UNCITRAL's conclusion regarding the desirability of amending the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards possibly through an additional protocol, because it felt that such an undertaking would make it difficult for more States to accede to the Convention and because it would be more useful to prepare a draft model law on arbitration procedure. In the light of the foregoing observations his delegation generally supported the conclusions, proposals and approach adopted by UNCITRAL and noted with satisfaction the positive results achieved through a constructive spirit of compromise.

60. With regard to chapter V, his delegation attached particular importance to the study of the legal implications of the new international economic order and fully supported the establishment of the Working Group on the New International Economic Order. The latter's mandate should be sufficiently flexible to allow it to consider freely the problems involved with a view to the progressive development of international law. To achieve the goal of expanding international trade on the basis of a more just and equitable exchange of goods, the unification and harmonization of international trade rules and practices should reflect clearly the changes that had taken place in that field and the pertinent General Assembly resolutions particularly those relating to the Declaration on the Establishment of a New International Economic Order, the Programme of Action on the Establishment of a New International Economic Order and the Charter of Economic Rights and Duties of States. The work should go beyond the narrow framework of private law so as

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(Mr. Gana, Tunisia)

to permit the consideration of the basic legal structures of relations between States in the context of international trade. The opposite approach would inevitably lead to the acceptance of an outmoded economic order, to the detriment of developing countries.

61. His delegation wished to stress the need for UNCITRAL to co-ordinate the work being done by various bodies in the field of international trade law in order to avoid duplication of effort and the adoption of contradictory texts. Lastly, he expressed strong regret at the cancellation of the UNCITRAL symposia on international trade law.

62. Mr. KOLESNIK (Union of Soviet Socialist Republics) said that his country attached great importance to the development of trade relations between States for the benefit of all peoples. It was from that angle that it examined the work of UNCITRAL, whose task was to contribute to the unification of the rules of international trade. Trade links based on equitable relations and mutual benefit, the inadmissibility of discrimination and consideration of the interests of partners, were one of the bases for guaranteeing peaceful and neighbourly relations between States, which would further the process of détente and thus create an atmosphere of trust and mutual understanding between States.

63. With regard to the new international economic order, his delegation supported the struggle of developing countries for a restructuring of international economic relations on a just and democratic basis and advocated the adoption at the international level of recommendations designed to promote the elaboration of co-ordinated measures to eliminate protectionism and discrimination in international trade. UNCITRAL's consideration of the legal implications of the new international economic order should take due account of the legal bases of the mutual relations between States, since they had a bearing on international trade. The principles of non-discrimination, and most-favoured-nation status, the existence of just and democratic bases in inter-State relations and the inadmissibility of policies of hegemony and domination should be introduced into international economic relations.

64. UNCITRAL should co-ordinate its work with that of other international organizations, especially United Nations bodies. For that reason, its programme of work should be flexible and allow for corrections based on the results of the work of other organizations. In that regard, his delegation welcomed the draft resolution in paragraph 131 of UNCITRAL's report (A/34/17), which should state that UNCITRAL, in accordance with its mandate, should play a leading role with regard to co-ordination.

65. Concerning international commercial arbitration and conciliation, his delegation supported the UNCITRAL Conciliation Rules since conciliation constituted a method for settling disputes that was widely used and quicker and less expensive than arbitration or court proceedings. He expressed the hope that the Secretariat, taking account of the views expressed in UNCITRAL, would prepare a revised draft and send it to Governments and interested international organizations before the next session of UNCITRAL. The Conciliation Rules should be optional.

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(Mr. Kolesnik, USSR)

66. With regard to international trade contracts, his delegation supported UNCITRAL's decision to request the Secretary-General to continue the consideration of that question, taking into account the views expressed in UNCITRAL. Account should also be taken of the work done by other United Nations bodies in that field. His delegation also supported UNCITRAL's decision (A/34/17, para. 31) to request the Working Group on International Contract Practices to consider the feasibility of formulating uniform rules on liquidated damages and penalty clauses applicable to a wide range of international trade contracts. Regarding clauses protecting parties against the effects of currency fluctuations, the successful completion of UNCITRAL's study of that question would promote the stabilization of international trade and would give definite guarantees to States by protecting them against such fluctuations.

67. With regard to training and assistance in the field of international trade law, especially the holding of symposia, his delegation, while stressing the usefulness and importance of that work, nevertheless reiterated its position that the symposia in general and the 1981 symposium in particular should be financed through voluntary contributions from interested States, especially those whose policies had caused a disproportion in economic development and had led to underdevelopment and a lack of specialists in certain fields in developing countries.

68. His delegation felt that UNCITRAL should meet in Vienna, where its secretariat was situated. There was no real advantage to be gained by holding alternate sessions in New York, since that would only have financial implications which would further burden the United Nations budget which was already too large.

69. Mr. NIETO (Argentina) expressed the satisfaction of his delegation at the completion of the draft Convention on Contracts for the International Sale of Goods, which was one of UNCITRAL's major achievements. The decision to combine the draft Convention on the Formation of Contracts for the International Sale of Goods and the draft Convention on the International Sale of Goods had been a positive step. His delegation was pleased that the Conference on Contracts for the International Sale of Goods would be held in Vienna in 1980.

70. His delegation wished to stress the strictly juridical nature of UNCITRAL. In choosing new items and assigning priorities, UNCITRAL must take into account the legal aspects of each topic. The need to co-ordinate the work of UNCITRAL with that of other organizations dealing with matters pertaining to international trade law must be borne in mind in order to avoid duplication of effort. His delegation therefore noted with satisfaction UNCITRAL's request to the Secretary-General (A/34/17, para. 131) aimed at ensuring co-ordination of the work being done within the United Nations system.

71. His delegation endorsed the decision that sessions of the Working Groups should alternate between New York and Vienna. That decision would be useful from the financial standpoint, bearing in mind the efforts of the Austrian Government to provide the Secretariat with the necessary means for continuing its work at the customary level. In that regard, his delegation wished to stress the need to provide funds for the proper maintenance of the library.

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(Mr. Nieto, Argentina)

72. His delegation welcomed the efforts designed to determine the needs and legal implications of the new international economic order. Argentina, as a member of the Working Group on the New International Economic Order, was profoundly convinced that the new international economic order, in guaranteeing conditions favourable to developing countries, would also benefit all other countries. As a representative of a member State of the non-aligned movement, he pointed out that the recent Havana Conference of Heads of State and Government had stressed the need to strengthen the unity and negotiating capacity of the developing countries in order to achieve the desired changes in the international economic system. For that reason, new effective forms of negotiation designed to establish the new international economic order within an integrated and broad framework, taking due account of the fundamental rights and interests of all countries, should be sought.

73. With regard to the Working Group on International Negotiable Instruments, his delegation supported the idea of studying the possibility of broadening its work to include the preparation of uniform rules applicable to international cheques. Lastly, his delegation supported UNICITRAL's draft resolution on co-ordination in the field of international trade law (A/34/17, para. 131).

The meeting rose at 1 p.m.