

them had other occupations in their own countries and that, in the case of some member States, they often served with more than one working group. Increasing the frequency of sessions depended not only on the time that members of a working group were able to devote to its work but also on financial considerations. The Commission itself was concerned about its working methods and their implementation. At its fifth session, the representative of Spain had introduced a proposal designed to improve working methods, and certain of his suggestions had been adopted. However, the question of time remained.

42. As a representative on the Commission since its inception, he could say that it had worked hard and skilfully and that its achievements were important. In order to succeed, the Commission would need the continuing support, not only of its own members but

also of States that were not members. One way they could express such support would be by participating in the international conference of plenipotentiaries to be held in New York, possibly in 1974, to conclude a convention on prescription (limitation) in the international sale of goods, and by speedily ratifying the convention. It was to be hoped that the affirmative and flexible approach of the members of the Commission in accepting compromises that necessitated departures from the rules of their own legal systems would also be the hallmark of that conference. If the same spirit of dedication to a common goal prevailed at the conference, it would be an unmistakable indication that the promotion of the unification and harmonization of international trade law in the United Nations was a precious reality.

The meeting rose at 5.10 p.m.

1426th meeting

Tuesday, 30 October 1973, at 3.25 p.m.

Chairman: Mr. Sergio GONZÁLEZ GÁLVEZ (Mexico).

A/C.6/SR.1426

In the absence of the Chairman, Mr. Shitta-Bey (Nigeria), Vice-Chairman, took the Chair.

AGENDA ITEM 91

International conference of plenipotentiaries on the representation of States in their relations with international organizations (*continued*) (A/9167)

1. Mr. VEROSTA (Austria) confirmed what his delegation had stated in the two previous sessions concerning the venue of the International conference of plenipotentiaries on the representation of States in their relations with international organizations, namely that the Austrian Government was prepared to act as host to the conference on the same conditions as it had done in the case of the United Nations Conference on Diplomatic Intercourse and Immunities, the United Nations Conference on Consular Relations and the United Nations Conference on the Law of Treaties. His Government would appreciate it if the conference was held in Vienna, thus forming another link in the series of conferences on related topics.

2. Mr. KOLESNIK (Union of Soviet Socialist Republics) commended the very sound quality of the memorandum by the Secretary-General contained in document A/9167. The document gave a clear picture of the accumulated experience of the Secretariat with regard to conferences in the field of codification of international law. His delegation felt that the ideas contained in the memorandum deserved careful study. It was obviously necessary to utilize experience gained from earlier conferences working on the basis of drafts prepared by the International Law Commission and concerned primarily with the codification of existing norms of international law. He endorsed the conclusion, in paragraph 4 of document A/9167, concerning the conferences whose experience seemed likely to

be the most useful in planning for a conference of the kind now under consideration.

3. A number of delegations had made concrete proposals concerning such questions as the duration, timetable and venue of the conference. He drew attention to paragraph 1 of General Assembly resolution 2966 (XXVII), whereby the General Assembly decided that an international conference of plenipotentiaries should be "convened as soon as practicable to consider the draft articles on the representation of States in their relations with international organizations and to embody the results of its work in an international convention and such other instruments" as it might deem appropriate. His delegation considered that proposals to hold the conference in 1975 or 1976 would entail a departure from that resolution. The conference had been thoroughly prepared for and had an excellent working foundation in the draft articles formulated by the Commission,¹ which had been frequently discussed in the Sixth Committee, and on which Governments had made oral and written comments. His delegation felt that there was no justification for delaying the conference and it was in favour of convening it in 1974.

4. His present statement might seem to conflict with the views expressed by his delegation at earlier sessions, when it had spoken in favour of preparing the convention in the Sixth Committee—a procedure that was currently being followed in the case of the convention on the protection of diplomatic agents. However, since that proposal had not been adopted, he felt that in the circumstances, and taking into consideration General Assembly resolution 2966 (XXVII), the conference should be held in 1974.

¹ See *Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 10, chap. II, sect. D.*

5. The convening of the Third Conference on the Law of the Sea should not be regarded as an obstacle to the convening of other conferences on matters of international law in 1974. Codification work in the field of the representation of States in their relations with international organizations should proceed independently of other conferences held under United Nations auspices.

6. The memorandum by the Secretary-General contained a full statement of the expenses that the holding of the conference would entail. Because of the financial implications, his delegation considered that it would be wisest to hold the conference at the United Nations Office at Geneva, or at one of the other places already referred to. In view of the experience acquired in the convening of codification conferences, the Committee might consider Vienna as a possible venue. He expressed warm appreciation to the Austrian representative for his confirmation of his Government's invitation to hold the conference at Vienna. The tradition established by the conferences held so far at Vienna gave grounds for hoping that the envisaged conference would be crowned with the same success as the Conferences on Diplomatic Intercourse and Immunities, on Consular Relations and on the Law of Treaties.

7. The Committee must also take a decision on the important question of participation in the conference. He noted with gratification that positive progress had been made in that area at the current session of the General Assembly. The USSR had always been in favour of universality of participation in any international conferences. The new trend towards universality would outlive obsolete doctrines in that field.

8. He hoped that the comments he had made would be duly reflected in the draft resolution that was being prepared on the subject of the conference. He hoped that the conference would be successful and would further contribute to the progressive development and codification of international law.

9. Mr. PERSSON (Sweden) said that the drafting of a convention on the representation of States in their relations with international organizations was not really a matter of extreme urgency. He therefore felt that it would be wiser to defer convening a conference for that purpose until 1976, for example. The reasons were practical ones. The draft articles prepared by the Commission followed closely the contents of the Convention on Special Missions. It might be some time before that Convention came into force, because there were not, as yet, sufficient ratifications. The postponement of the conference until 1976 would obviate the need to decide at the current session of the General Assembly which States should be invited to participate in the conference. That was a question which might become clearer by 1974 or 1975.

10. Mr. YANAI (Japan) commended the Secretary-General on the systematic and useful document on the organization of the plenipotentiary conference on the representation of States in their relations with international organizations. The background information and suggestions contained in that document provided a good basis for the Committee's consideration of and

decisions on the subject. He would comment on the details of the organization of work of the conference when a pertinent draft resolution was before the Committee.

11. With regard to the timing of the conference, as several of the previous speakers had rightly pointed out, a number of important diplomatic conferences were planned for 1974 in the field of international law—for example, the Conference on prescription (limitation) in the international sale of goods, the third Conference on the law of the sea and the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts. It would thus be difficult for many Governments and for the Secretariat to organize, and participate adequately in, another important plenipotentiary conference in 1974. His delegation therefore considered it highly desirable to convene the conference at a time later than 1974, for example, in 1975.

12. Mr. VAN BRUSSELEN (Belgium) said that the memorandum by the Secretary-General had his delegation's full support. However, the representative of Israel, at the previous meeting, had raised a very important point by proposing that the conference should have two main committees, and not one as suggested in the memorandum. His delegation subscribed to the reasoning behind the Israeli proposal and felt that the question should be considered most carefully.

13. His delegation was very glad to accept the Austrian Government's offer to act as host to the conference. As the Austrian representative had said, the forthcoming conference would be a further link in a chain of codification conferences. Vienna would be an ideal venue.

14. With regard to the date for the conference, his delegation would not object to convening it in 1975. He wondered, however, whether it might not be useful, before the Committee took any decision on the matter, for the Secretariat to inform members fully concerning the other conferences to be held at the same time under the auspices of the United Nations or other international organizations. He saw no reason why the Committee should not take an immediate decision concerning the date of the conference. His Government would be prepared to include in the draft resolution on the matter a reference to 1975 as the year for the conference, provided that the United Nations work programme permitted. However, from rumours and private conversations, it appeared that 1975 might not be the best possible year. The Committee should therefore perhaps think immediately in terms of 1976. But before it discussed the draft resolution the Committee should be fully informed of the facts.

15. With regard to the USSR representative's comments concerning the question of participation in the conference, his delegation did not feel that that question was an urgent one. However, no decision should be taken concerning it until the date had been decided upon. That would be in the best interests of participants and of the work of the conference itself.

16. Mrs. ULYANOVA (Ukrainian Soviet Socialist Republic) expressed appreciation of the memorandum

by the Secretary-General. That document contained a precise and well thought out set of recommendations, based on past United Nations experience in the convening of international conferences.

17. At the twenty-sixth session of the General Assembly, her delegation had commended the Commission's efforts in preparing draft articles on the item under consideration and had stressed its great importance for the development of international co-operation.

18. At the present juncture, she would merely touch on the procedural questions involved in the speedy convening of the conference. Her delegation was disturbed by the proposals that the conference should be delayed. It had been generally acknowledged in the Committee, at the twenty-sixth and twenty-seventh sessions of the General Assembly, that the draft articles prepared by the Commission were an appropriate foundation for the preparation of a draft convention. It was therefore logical to follow the majority view expressed in General Assembly resolution 2966 (XXVII) that an international conference should be convened as soon as possible. Some delegations were in favour of deferring the conference for two more years. However, the Commission had been considering the question of the representation of States in their relations with international organizations for nine years, and two years had already elapsed since it had submitted final draft articles to the General Assembly. A further delay of two years, which would occur if the conference was postponed until 1976, would mean that five years would have elapsed between the completion of the Commission's work on the draft articles and the convening of the conference. Her delegation was therefore in favour of holding the conference in 1974 and would be unable to agree to any proposal to convene it in 1976.

19. Reference had been made at the previous meeting to considerations relating to United Nations budgetary expenditures for the next few years. In view of the financial implications, the venue and circumstances of the conference should be given careful consideration, and expenses should be kept to a reasonable level. In that connexion, she expressed appreciation to the Austrian delegation for confirming its Government's invitation. Austria had thereby indicated that the conference could be held at Vienna, even as early as 1974.

20. The question of participation in the conference was of extreme importance. Her delegation felt, in accordance with the principle of universality and recent trends in the development of international law, that international conferences should be open to all States. Recent events had shown that the principle of universality was becoming increasingly established in international relations. The Sixth Committee should keep pace with that development and ensure the progressive development of international law.

21. With regard to the question of the participation of international organizations in the conference, she considered that there was no reason to invite them as full participants on an equal footing with States. It was recognized in international law that the legal nature of international organizations was quite different

from that of States. That had been made clear at the time of the Conference on the Law of Treaties at Vienna, and the Convention arising out of that Conference had clearly shown the distinction to be drawn between the two categories of entity. While it was important to hear the views of international organizations on the subject, that could, on sound precedent, be achieved by inviting them to participate as observers and to submit written comments at various stages in the work on the convention.

22. Mr. BAILEY (Australia) expressed appreciation of the helpful guidelines provided in document A/9167, which would form a feasible basis for the organization of the conference. The topic of the representation of States in their relations with international organizations was one that could best be dealt with by a diplomatic conference, and his delegation would support any reasonable proposals concerning the organization thereof.

23. He expressed appreciation and warm acceptance of the Austrian invitation to hold the conference at Vienna, which would be a most suitable venue. With regard to the question of the date, several conferences were to be held in 1974, and some might need to have a second session in 1975; accordingly, his delegation would not wish to set any definite date earlier than 1976.

24. As an initial reaction, he felt that it would be impractical if, because of the work methods chosen for the conference, it was obliged to hold a second session. The memorandum by the Secretary-General indicated that that was not a remote possibility. The Israeli suggestion that the work of the conference should be divided between two main committees therefore had some merit. He appreciated that, as was stated in the memorandum, there was an intimate connexion between the various draft articles, so that a division of labour would be hard. However, the means of adopting such procedure should be given careful consideration.

25. Mr. KARASSIMEONOV (Bulgaria) commended the Secretary-General on the memorandum contained in document A/9167, which provided an excellent basis for a decision by the Committee on the methods of work of the projected conference.

26. He had been somewhat surprised to hear several speakers advocate the postponement of the conference beyond 1974. A number of delegations had pointed out that two years had already elapsed since the Commission had submitted final draft articles on the topic to the General Assembly. To justify further delay, it had been argued that a number of important legal conferences were already planned for 1974. His delegation, however, saw no reason why the conference on the representation of States in their relations with international organizations could not also be held in 1974. It would be necessary to postpone the conference for a very long time indeed if the above-mentioned argument was accepted, for it appeared that of the three major legal conferences scheduled for 1974 at least two would require a second session, probably in 1975.

27. With regard to the venue, his Government would be happy to accept the Austrian Government's offer to host the conference in Vienna.

28. On the question of participation, he stressed the importance his Government attached to the principle of universality, which had been further strengthened by decisions taken at the current session of the General Assembly. Accordingly, in its view the conference should be open to participation by all States. As for international organizations, he agreed that they should participate in the conference, possibly in observer capacity; but in no event should they be regarded as participating on a footing of equality with sovereign States.

29. Mr. SAM (Ghana) said that, in the light of resolution 2966 (XXVII) adopted the previous year by the General Assembly, the only issues that now remained to be settled were of a procedural nature—the time and place of the conference, the participants and the methods of work. Of those issues the principal one seemed to be the question of timing. Since three important legal conferences had already been scheduled for 1974, it might be wise to accept the Belgian suggestion that, before taking a decision on the matter, the Secretariat should inform the Committee as fully as possible concerning the conferences already planned for 1974. That information would be of great help to the Committee in deciding on an appropriate date for the projected conference. It would be unwise to take a hasty decision. Account should also be taken of the fact that many countries, including his own, customarily sent only their minister of justice to represent them at such conferences. Considering the very heavy domestic demands on that official, it was questionable whether he would be able to spare the time necessary to attend four important conferences in one year.

30. With regard to the venue, he was grateful to the Government of Austria for its invitation to host the conference and was confident that Vienna would provide an atmosphere propitious to the success of the conference.

31. While his delegation had always supported the principle of universality, it would prefer not to enter into details regarding the question of participation in the conference until a specific proposal on that subject was submitted to the Committee.

32. Mr. NJENGA (Kenya) commended the Secretary-General on document A/9167, which afforded a complete and comprehensive treatment of the subject. He was also grateful to the Austrian Government for offering to act as host to the conference at Vienna which—having already served as the site of the Conference on Diplomatic Intercourse and Immunities, the Conference on Consular Relations and the Conference on the Law of Treaties—would be a most fitting venue for the projected conference.

33. Concerning the time when the conference should be held, he drew attention to paragraph 1 of General Assembly resolution 2966 (XXVII), which stated that the conference should be convened “as soon as practicable”. The question therefore was whether it would be practicable to hold the conference in 1974. In that connexion, he pointed out that the three major legal conferences already scheduled for that year would take up a total of 19 weeks; the addition of the nine weeks’ estimated duration of the projected conference

would bring the total to 28 weeks, or seven months of conference time. With the three months required for the session of the General Assembly, that would leave only two months of the year free for the hard-pressed legal experts of the developing countries who were required to attend such conferences, and would place a severe strain on the meagre reserves of expert personnel in those countries. If the conference was held in 1974, many of the developing countries might therefore be unable to be represented. It would be advisable, in his view, to place the question of the timing of the conference on the agenda for the twenty-ninth session of the General Assembly, which could then decide whether or not it would be appropriate to hold the conference in 1975.

34. On the question of participation, his delegation would support a formula that would enable all States to be represented. International organizations should also be represented, but not on a footing of equality with States. They should be invited to participate without the right to vote.

35. Mr. BHATTY (Pakistan) expressed appreciation to the Secretary-General for the preparation of document A/9167 and noted that the most controversial question now under discussion appeared to be the timing of the conference. He fully shared the misgivings of those who had drawn attention to the limited number of legal experts available to the developing countries. As three major conferences were already scheduled for 1974, his country would find it difficult to arrange for suitable and effective representation if a fourth conference were added to the calendar. The conference should certainly be held as soon as practicable, but it would be useful to ask the Secretariat, as the representative of Belgium had suggested, what the earliest suitable date for the conference would be. On the basis of the information currently available, it appeared that it would not be feasible to hold the conference before 1975.

36. On the question of participation, his delegation took a very flexible approach. It was, of course, necessary for the international organizations concerned to be represented at the conference.

37. It was important that the conference should complete its work in one session so as to keep the costs as low as possible, in accordance with the wish expressed by the General Assembly in paragraph 3 of resolution 2966 (XXVII). To that end, the conference’s work should be organized with a view to achieving maximum productivity. It might be appropriate, in that connexion, to make greater use of the procedures for consultation among regional groups at the conference. If it was necessary for each of the States represented at the conference to express its views in detail on every draft article, the conference could last a very long time.

38. His delegation appreciated the Austrian offer to act as host to the conference and considered that it would be fitting for the cycle of codification conferences which had begun in Vienna to be completed there.

39. Mr. ESSONGUE (Gabon) expressed gratitude to the Secretary-General for his excellent memorandum

and to the Government of Austria for its offer to act as host to the conference. On the question of timing, his delegation thought it preferable not to take a decision until the Secretariat could consider how the projected conference might best be fitted into the existing calendar.

40. The CHAIRMAN said that, as there were no further speakers, it would appear that the Committee had concluded its general discussion on the item. He hoped that before the end of the week a draft resolution would be submitted, on the basis of which the Committee could continue its discussion.

AGENDA ITEM 92

Report of the United Nations Commission on International Trade Law on the work of its sixth session (*continued*) (A/9017, A/C.6/L.901)

41. Mr. JELENIK (Hungary) congratulated the Vice-Chairman of the United Nations Commission on International Trade Law on his introduction of its report (A/9017). He recalled that his delegation had launched the proposal which had led to the establishment of that Commission and had taken an active part in the work of the first six sessions. His delegation fully agreed with the General Assembly's observation in resolution 2205 (XXI), pursuant to which the Commission had been established, that "divergencies arising from the laws of different States in matters relating to international trade constitute one of the obstacles to the development of world trade", which—as the resolution stated—was "an important factor in the promotion of friendly relations and, consequently, in the maintenance of peace and security".

42. As the terms of office of half of the members of the Commission were to expire at the end of 1973, it was appropriate to review not only the results obtained at the last session of the Commission but also the work of its earlier sessions, so that with its new membership it could continue to work as efficiently as possible, having regard to its past achievements and shortcomings.

43. During its first six years, the Commission had accomplished a great deal of commendable work, but it might be possible to improve its work still further and to accelerate the production of results. After an initial spate of activity in the first two or three years, the Commission had slackened its pace and progress had become very slow in certain fields, such as the international sale of goods.

44. The most striking aspect of the Commission's work was the large number of topics with which it was concerned, all of them extremely complex and requiring a great amount of preparatory work and detailed analysis not only by the Commission and the pertinent working groups, but also by the Secretariat. It would be necessary to decide whether the Commission should deal with a large number of topics, in which case progress would inevitably be slow, or whether it should concentrate on a smaller number and achieve quicker results. His delegation felt that the latter method was the most appropriate. If the Commission were to extend its work on unification in any particular field over too long a period of time, the rules

it wished to unify would in the meantime be changed. That would lead to uncertainty as to the acceptance of the unification effort, as had been the case with the Conventions relating to a Uniform Law on the International Sale of Goods (ULIS) and a Uniform Law on the Formation of Contracts for the International Sale of Goods, signed at The Hague in 1964, which had not actually entered into force when the Commission had begun its work, although both had now received the requisite number of ratifications and had entered into force. Thus the text being prepared by the Commission was no longer in competition with another draft but with an international convention that was actually in force. It was not very likely, therefore, that the Commission's text would be used in preference to another one until it had been tried out in practice.

45. That did not mean that the Commission should abandon its study of the Conventions of The Hague. He merely wished to stress that if the Commission's study continued at the same rate as in the past, it would fail in its objective, namely the creation of an international law of sale acceptable to all countries. His delegation therefore reiterated the proposal it had made at the twenty-seventh session (1332nd meeting) that the Commission should re-examine its work programme and establish priorities for the items on its agenda.

46. Another factor which slowed the progress of the Commission was its method of work, a matter that should be examined separately. While he realized that the Commission had itself taken up the question and had greatly improved its methods over the years, he felt it must find a way to expedite consideration of the more important items. He was aware of the limitations which made it impossible for the working groups to meet more often and for the Commission to hold longer sessions. He therefore suggested that the Commission should consider the possibility of appointing small preparatory committees, made up of four or five members at the most, who would represent the different legal and economic systems. They would be instructed to prepare the relevant drafts and commentaries and present them to the working groups. A further advantage of such small groups was that they would not require summary records and translation and other such services.

47. Another matter which must be considered was the need to study the problems of international trade in the light of established practice and not merely of the harmonization of written legislation which had been superseded by usage. Experts on international trade law spoke the same language throughout the world; yet difficulties often arose when a dispute was brought to court, because in some countries the written law had priority over the rules of international practice. The common language of international trade had been developed in practice. He wondered why it had taken so long to find that common language and put it in writing. The Commission should seek greater participation from practical experts. That did not mean that specialists in theory were not also required; both types should co-operate.

48. To sum up, his delegation felt it was essential for the Commission, at its next session, to re-examine its programme of work and decide on an order of priority for the items on its agenda; to take measures to speed up its work on those priority items by improving its method of work; and with the assistance of practical experts to pay more attention to solutions adopted in international trade practice and to base the provisions of the draft conventions in preparation on such practice.

49. Mr. GRASSHOF (Federal Republic of Germany) said that none of the organizations engaged in the unification of international trade law represented the legal and economic systems of the world as comprehensively as the Commission. In view of the difficulty of unifying so many different legal systems, its progress to date was truly admirable. The Federal Republic welcomed the fact that as a Member of the United Nations it would in future have more opportunity to contribute to the work of the Commission. It hoped to be able before long to take an active part in its work as a member of the Commission.

50. His Government believed there was an urgent need for unification of the rules governing the international sale of goods. For that reason it had recently ratified the Conventions of The Hague of 1964 on the sale of goods. It hoped that the Commission's work would make it possible for a larger number of States to accede to them.

51. With regard to the plan to draft a uniform law on international bills of exchange and international promissory notes, his Government had some doubts about the need for creating a new international negotiable instrument. It felt that promissory notes should be included in the draft, but that cheques should be disregarded. Care should be taken, moreover, to create a system that would not jeopardize the unification achieved so far within Europe by the Geneva Conventions of 1930 on bills of exchange and promissory notes.

52. With regard to the Commission's work on bills of lading, his Government took the view that the Brussels Protocol of 1968 had done away with many deficiencies of the International Convention for the Unification of certain Rules relating to Bills of Lading, signed at Brussels in 1924, and adapted it to the requirements of the times. That did not mean that further improvements were not feasible and necessary. In all such efforts, the special conditions and economic requirements of maritime trade should be borne in mind. It appeared to be desirable to co-ordinate the conventions on the transport of goods by the various means of transport.

53. His Government would not at present comment on the various proposals for a new convention on bills of lading. It considered the results achieved so far by the Working Group on International Legislation on Shipping to represent a well-balanced compromise between the different interests engaged in maritime trade.

54. His Government welcomed the results of the Commission's work on international commercial arbitration, which were in line with its general attitude on the matter. As a party to all important international con-

ventions on commercial arbitration, the Federal Republic strongly supported the Commission's recommendation to the General Assembly (see A/9017, para. 85) to invite all States to accede to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958. It also appreciated the Commission's invitation to the Economic Commission for Europe (*ibid.*) to draw the attention of States eligible to accede to the European Convention on International Commercial Arbitration of 1961 to its existence, and furthermore it would favour the same treatment in respect of the Agreement of 17 December 1962 on the Application of the European Convention on International Commercial Arbitration.

55. His Government did not object to consideration being given to the drafting of a model set of arbitration rules for use in *ad hoc* arbitration. It seemed more important, however, to secure by way of legislation the freedom of the parties and of the arbitration tribunal to decide on the procedure. The Federal Republic strongly supported the promotion of co-operation between arbitration organizations, and did not think it necessary to establish a new organization for that purpose.

56. His Government had taken note of the Commission's activities regarding training and assistance in the field of international trade law and was considering how it could best contribute to furthering those activities, particularly the proposed symposium on the role of universities and research centres in the teaching, dissemination and wider appreciation of international trade law.

57. The question of multinational enterprises was under careful examination by the Federal Republic. At the moment his delegation held the view that the problems of multinational enterprises arose not so much in the legal as in the economic sphere. If the subject was to be dealt with by the Commission, it should supplement the work of bodies such as the Economic and Social Council and the United Nations Conference on Trade and Development by working out corresponding provisions in the field of trade law.

58. The Federal Republic was keenly interested in the work of the Commission and the great importance it attached to the widest possible harmonization of commercial law. Essentially, it approved all the decisions of the Commission contained in the report on its sixth session. It shared the opinion that the Commission should devote itself in particular to those fields in which it was most likely to achieve useful results and welcomed its decision to deal further with the subject of accelerating ratifications of conventions on international trade law.

59. Mr. BUBEN (Byelorussian Soviet Socialist Republic) noted that the Commission's sixth session had taken place at a time when the trend towards international *détente* was gaining momentum, encouraged by the implementation of the Programme of Peace introduced at the Twenty-Fourth Congress of the Communist Party of the Soviet Union and by the efforts of all peace-loving forces. The improvement in the political situation had a direct influence on the development of international trade, which was itself a

powerful lever in the strengthening of co-operation among States. Since international trade was a most important aspect of the activity of a State, the means of regulating economic relations among States occupied an important position in the system of international law.

60. In its future work the Working Group on the International Sale of Goods should take into account the interests of all countries in order to make the new text of the Uniform Law on the International Sale of Goods (ULIS) sufficiently flexible and simple for practical use. It was necessary for ULIS to supplement the normal laws governing the sale of goods and it must be applied with the consent of all the parties in each specific case. In the event of conflict with the laws applied by States, priority must be given to the laws and customs of the contracting parties.

61. The Commission's work on the general conditions of the sale would contribute to the further legal regulation and simplification of trade relations. Its recommendations on the subject could serve as a broad basis for the preparation of individual treaties and the conclusion of agreements for the solution of specific treaty problems.

62. It must be borne in mind in future work on a uniform law on international bills of exchange that the law could be applied only to international bills of exchange and would not affect national laws and the practice of States relating to internal transactions. His delegation shared the view of those members of the Commission who had stressed the importance of the legal terminology of the draft uniform law and the need to strike a balance between fundamental systems of law relating to negotiable instruments in the final draft. The Commission should analyse the existing practice of countries, continue its consultations with the international organizations concerned and bear in mind that the uniform law must have a universal character.

63. In its revision of the "Uniform Customs and Practice for Documentary Credits"² the International Chamber of Commerce (ICC) should take account of contemporary trade practice and the views of the Governments and banking and trade institutions of countries not represented in the ICC. It was regrettable that the ICC was not making very rapid progress in its work and was not carrying out the Commission's recommendations.

64. His delegation endorsed the approach taken by the Working Group on International Legislation on Shipping described in paragraph 57 of the Commission's report. It supported the Commission's decision that as many States as possible should be encouraged to accede to the Convention on Foreign Arbitral Awards of 1958 and the European Convention of 1961 on the same subject.

65. The term "multinational enterprises" had been the subject of a long debate in the Commission. In his delegation's view the term should mean multinational enterprises which constituted a threat to the national sovereignty of the receiving country. As a

² See *Register of Texts of Conventions and Other Instruments Concerning International Trade Law*, vol. I. (United Nations publication, Sales No. E.71.V.3), p. 229.

means of preventing undesirable activities by such enterprises, all countries must be accorded the right to control the activities of multinational enterprises in their territory. The Commission should keep in mind the draft resolution submitted by the socialist countries at the twenty-seventh session of the General Assembly entitled "Statement by the United Nations on promoting the development of co-operation in economic, trade, scientific and technological matters on the basis of equality".³

66. His delegation considered that the establishment of a union for *jus commune* in matters of international trade, proposed by France,⁴ could hardly help to expedite the adoption of international instruments on the subject. In view of the Commission's heavy workload, it was doubtful whether the question should be included in the present programme of work.

67. The six years which had elapsed since the establishment of the Commission, on the initiative of Hungary, should be sufficient to enable it to assess the results of its work. It was now time to analyse the Commission's programme of work in order to ensure that in future it did not confine itself to consideration of specific problems of the regulation of international trade. It should do everything possible to encourage the development of trade and economic co-operation among States on the basis of the principles of peaceful coexistence, non-use of force in international relations, respect for State sovereignty, non-interference in the internal affairs of States, self-determination of peoples, equality of rights of States, mutual advantage, non-discrimination, and responsibility of States, and the principles of the development of trade and most-favoured-nation treatment. Guided by those principles the Commission could and must make its contribution to the normalization of international trade, the consolidation of mutually advantageous co-operation on the basis of equality, and the strengthening of the trend towards *détente*. It would thus contribute to the attainment of one of the noble purposes of the United Nations—the strengthening of peace throughout the world.

68. Mrs. SLÁMOVÁ (Czechoslovakia) said it was clear that effective legal regulation would help the development of international trade and economic relations between countries with different social and economic systems. The development of current international relations was marked by a trend towards *détente* and the creation of more favourable conditions for international economic co-operation between countries with different social systems. The purpose of that co-operation should be to assist the economic development of all countries, particularly the developing countries where the economic backwardness produced by the colonial system and various forms of neo-colonialism must be overcome. International trade must therefore be regulated on a basis of equal rights, respect for national sovereignty, and mutual advantage.

³ A/C.2/L.1253. For the text see *Official Records of the General Assembly, Twenty-seventh Session, Annexes*, agenda item 12, document A/8963, para. 38.

⁴ See *Yearbook of the United Nations Commission on International Trade Law*, vol. II: 1971 (United Nations publication, Sales No. E.72.V.4), p. 139.

Conditions were already ripe, provided those principles were observed, for a sharp upward trend in international trade in the near future and a wider application of the international division of labour. The importance of the Commission would be enhanced thereby, and that necessitated a more detailed assessment of its work.

69. In general, progress in work connected with the unification of laws governing the international sale of goods was satisfactory. She particularly welcomed the fact that the Diplomatic Conference was to be held in 1974 to consider the draft convention on prescription (limitation) in the international sale of goods prepared by the Commission⁵ which was the first real fruit of its work. Work on uniform rules governing the international sale of goods, on the other hand, had not progressed as far; further time would be needed to bring that work to a conclusion. There was an urgent need to co-ordinate the two sets of regulations to avoid legal loop-holes and contradictions.

70. Her delegation attached particular importance to the legal provisions governing negotiable instruments. There was a need to remove the duality of existing regulation arising from the simultaneous existence of the Geneva Convention on bills of exchange and promissory notes and Anglo-American law. Unification must also be extended to cover the laws governing international cheques, whose role must not be underestimated. She welcomed the "Uniform Customs and Practice for Documentary Credits", but suggested that the Commission might do well to study the usefulness of unifying the legal regulations governing documentary credits, since the latter were subject to special laws in only a few countries.

71. The question of new regulations governing the carriage of goods under bills of lading was particularly important for countries with a small merchant navy or without a merchant navy. Many of the developing and land-locked countries depended on foreign merchant navies. Some progress had been made, but it would be useful to give the matter more attention to allow new draft regulations to be drawn up speedily. In order to ensure the widest possible participation, it would be better to prepare a new convention than to amend the Brussels Convention of 1924 or the Brussels Protocol of 1968.

72. One very important factor in ensuring a sense of legal security in international trade was the settlement of any disputes that might arise. Arbitration had proved its usefulness in practice; her delegation would support efforts to persuade as many countries as possible to become parties to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 and the European Convention of 1961 on that subject. Czechoslovakia was a party to both.

73. Some consideration should be given to the future orientation of the Commission's work. The principle underlying the existing programme was to select areas subject to legal regulation and to regulate them by convention or uniform laws. That practice was also applied by other international organizations working

⁵ See *Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 17, para. 21.*

on the unification of laws. Although the process involved was very simple, and could produce results in a comparatively short time, there was a danger that the prevailing fragmentation of international trade regulations caused by differences between the legal systems of various countries might be perpetuated in the form of a large number of international conventions based on different principles. When the subjects of regulation were eventually defined, there might be considerable gaps that would make it difficult to settle problems associated with international trade. There was also the danger of wasteful legislation, because different questions would be regulated, frequently without any special reason, according to different principles. The difficulties outlined might hinder the emergence of a harmonious system of international trade law, whose main function should be to encourage a stronger sense of legal security in international trade relations. Consequently, it would be useful to consider, in addition to the existing programme, some general problems of international trade operations that were usually settled on the basis of civil or commercial codes. If that were done, general problems arising from individual types of international trade operation would be settled as special cases only when their nature so required.

74. Her delegation welcomed the fact that the Commission was examining its working methods. She suggested that the main burden of work should be shifted to working groups, which tended to be more efficient and to produce results more quickly when dealing with both individual cases and the general work of the Commission, which was to eliminate discrimination in international trade. An increase in the number of States represented on the Commission would facilitate the formation of the necessary number of working groups and the completion of its programme of work.

75. Mr. MEISSNER (German Democratic Republic) commended the Commission for its excellent report, and welcomed its efforts to unify the rules of international trade law.

76. The unification of the rules of prescription (limitation) in the international sale of goods was of great practical interest. The draft convention worked out by the Commission provided a good working basis, although some articles required thorough discussion. His delegation would comment on the convening of a conference on prescription (limitation) when the Committee considered the corresponding item of its agenda.

77. His delegation welcomed the progress made by the Working Group on the International Sale of Goods and approved the establishment of a group of experts to prepare a final draft of general conditions of sale. That was a particularly important matter, since the general conditions of sale prepared under the auspices of the Economic Commission for Europe did not seem appropriate for trade between States having different socio-economic systems.

78. The proposal for the establishment of a union for *jus commune* was an interesting one, but the time was certainly not yet ripe for such a measure. It was doubtful whether such a settlement was compatible with the sovereignty of States.

79. His Government welcomed the projects aimed at unification in the field of international payments. It also welcomed the work of the Commission's Working Group on International Legislation on Shipping; it was in keeping with the requirements of the large-scale development and extension of international maritime transport. It therefore supported the Commission's decision that the Working Group should continue and complete its work expeditiously.

80. With regard to international commercial arbitration, the unification of the various arbitration rules seemed desirable. In that connexion, the progress

achieved in the preparation of uniform rules for the arbitration courts in the States members of the Council for Mutual Economic Assistance had to be taken into account. His delegation felt that the Commission should also take into consideration the Convention on the settlement by arbitration of disputes resulting from economic, scientific and technical co-operation signed by the member States of that Council in 1972.

81. He said that the German Democratic Republic was ready to co-operate in the unification of international trade law.

The meeting rose at 5.55 p.m.

1427th meeting

Wednesday, 31 October 1973, at 3.25 p.m.

Chairman: Mr. Sergio GONZÁLEZ GÁLVEZ (Mexico).

A/C.6/SR.1427

In the absence of the Chairman, Mr. Shitta-Bey (Nigeria), Vice-Chairman, took the Chair.

Replacement of the Rapporteur of the Committee

1. The CHAIRMAN informed the Committee that the Permanent Representative of the Central African Republic to the United Nations had informed the Secretary-General that Mr. Joseph Mande-Djapou, Rapporteur of the Sixth Committee, was seriously ill and had been replaced on the delegation by Mr. Simon Bozanga. If he heard no objection, he would take it that the Committee agreed that Mr. Bozanga should serve as Rapporteur in place of Mr. Mande-Djapou.

It was so decided.

AGENDA ITEM 92

Report of the United Nations Commission on International Trade Law on the work of its sixth session (continued) (A/9017, A/C.6/L.901)

2. Mr. JEANNEL (France) said it was essential that the usefulness of the work of the United Nations Commission on International Trade Law should be acknowledged by a large number of States representing different legal systems. Its recommendations must therefore represent compromises that would be acceptable to a large majority. The Secretariat could be of great assistance in that task.

3. He noted in the report of the Commission (A/9017) that it had not taken a substantive decision on the uniform rules governing the international sale of goods because the Working Group was still dealing with the matter and at its next session would examine articles 71 and 81 of the Uniform Law on the International Sale of Goods (ULIS) annexed to the Convention of The Hague of 1964,¹ on the basis of proposals it had submitted to the Commission at its fifth session. Those proposals should help to improve the text of ULIS and encourage more States to accede to it.

4. The Secretary-General had prepared a study for the Commission on the feasibility of developing general conditions of sale for a large number of products.² His delegation doubted whether it was advisable for the Commission to undertake such a project, which conflicted, or at least overlapped, with the work on ULIS and some of the general conditions drawn up by the United Nations regional economic commissions, particularly the Economic Commission for Europe. Furthermore, it was very difficult to draw up "global" or "uniform" general conditions that could be applied almost universally to any product.

5. Turning to the question of international payments, he pointed out that the existing conventions on the matter had been ratified by only a few States. The Secretary-General's inquiry had shown that the banking profession had organized itself quite adequately and that there was no pressing need for a new text. His delegation was opposed to the preparation of a new convention by the Commission and reiterated its reservations regarding the all-too-frequent practice of creating working groups to deal with problems under consideration by the Commission.

6. The draft Uniform Law on International Bills of Exchange (A/CN.9/67)³ contained an excessive number of concepts and terms taken from Anglo-Saxon law. If the final draft was to be applicable throughout the world, it must maintain a fair balance between the main legal systems. There was, however, a positive aspect to the work of the Commission on international payments: it had developed very satisfactory co-operative relations with various international organizations.

7. His delegation approved the Commission's decision (*ibid.*, para. 61) to continue its work of updating existing rules and practices on shipping, particularly the International Convention for the Unification of Certain

² A/CN.9/78.

³ See *Yearbook of the United Nations Commission on International Trade Law*, vol. III: 1972 (United Nations publication, Sales No. E.73.V.6), p. 145.

¹ See *Register of Texts of Conventions and Other Instruments Concerning International Trade Law*, vol. I (United Nations publication, Sales No. E.71.V.3), p. 39.