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ASSEMBLY**

TWENTY-SIXTH SESSION

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**SIXTH COMMITTEE, 1249th  
MEETING**

Thursday, 30 September 1971,  
at 11.10 a.m.

**NEW YORK**

*Chairman:* Mr. Zenon ROSSIDES (Cyprus).

**AGENDA ITEM 87**

**Report of the United Nations Commission on International  
Trade Law on the work of its fourth session (continued)  
(A/8417, A/C.6/L.820)**

1. Mr. KLAFKOWSKI (Poland) said that the report of the Commission (A/8417) provided a good indication of the serious study and effective work being done in the field of international trade law, in which the Commission had played an increasingly important role. The report was organized in a logical fashion, despite the difficulty of bringing together in a single document such a diversity of subjects and texts. His delegation was happy to be able to participate directly in the Commission's work following its election to membership at the twenty-fifth session of the General Assembly.

2. The problems that had been chosen for consideration by the Commission were appropriate in view of the demands of international economic relations. What was essential at that stage was to expedite its work.

3. His delegation endorsed the decision of the Commission (*ibid.*, para. 19) to give priority consideration to the subject of bills of lading. The progress of its work in that regard would depend on its having at its disposal certain documents prepared by the UNCTAD Working Group on International Shipping Legislation which contained an economic analysis and made suggestions regarding a new programme on the subject of bills of lading.

4. With regard to international payments, his delegation noted with satisfaction that the Commission had decided (*ibid.*, para. 35) to work towards the preparation of uniform rules applicable to a special negotiable instrument for optional use in international transactions. His delegation was prepared to collaborate actively in that field of the Commission's work. The draft of rules with commentary which the Secretary-General was requested to prepare on the subject in paragraph 35 of the report would be most useful as a basis for the Commission's future work.

5. He also stressed the practical usefulness of standardized procedures and standard contract provisions employed with respect to letters of credit used to assure payment in international transactions. His delegation was happy to note that a revision of "Uniform Customs (1962)" was being undertaken and that work was being started on the unification of rules concerning performance, tender and repayment guarantees.

6. In general, his delegation endorsed the method of work adopted by the Commission with regard to questions concerning the international sale of goods, as well as the views presented in paragraphs 54-119 of the report, but it believed that further consideration should be given to the idea of improving the Commission's methods of work with a view to increasing its efficiency. Since general conditions of sale and standard contracts played such an important part in international trade, the work undertaken in that regard should be continued and expedited. The work of the Economic Commission for Europe was most valuable; its efforts towards universality and the preparation of "general" general conditions should be supported.

7. With regard to time-limits and limitations, his delegation noted with satisfaction the speed with which the Commission had prepared a preliminary draft of a uniform law on the matter.<sup>1</sup> In view of the confusion created in international trade by the existing differences in rules governing time-limits and limitations, it was most urgent to prepare uniform rules. It was to be hoped, therefore, that such rules would be completed by 1972.

8. His delegation wished to draw attention to a question which had been omitted from the report. The subject of international commercial arbitration was as vital as it was complex. The largest possible number of States Members of the United Nations should become parties to the arbitration conventions, particularly the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958. An appeal along such lines should be made by the General Assembly. The conventions on the recognition and execution of foreign arbitral sentences concluded under the auspices of the United Nations constituted a legal instrument guaranteeing the effectiveness of such arbitration. It was unfortunate that not all States were parties to those conventions because of certain discriminatory clauses which they contained.

9. Mr. OGISO (Japan) said that his delegation was gratified to note that the achievements of the Commission had far surpassed original expectations. At its fourth session, it had made considerable progress in its efforts concerning international legislation on shipping by adopting a new programme of work. His delegation fully supported the decision of the Commission to give priority for the time being to the subject of bills of lading. The nine topics within the subject of bills of lading mentioned in that decision were closely related to such matters as practices in shipping, including loading and discharge of goods, combined transport and insurance, and in dealing with them the Commission should give due attention to the possible effects they might have on those matters.

<sup>1</sup> See A/CN.9/50 and Corr.1, annex I.

10. His delegation considered that the size and composition of the new and enlarged Working Group on International Legislation on Shipping established by the Commission was reasonable from the viewpoint of efficiency, geographical distribution and the various economic interests involved. With the adoption of its new programme of work, the Commission had entered a new stage in the field of international legislation on shipping and his country was fully prepared to co-operate with other Members in that work.

11. In connexion with the efforts of the Working Group on Sales, which was examining the Uniform Law on the International Sale of Goods, the discussions reflected in paragraphs 57-91 of the report of the Commission had been very useful. Those questions, especially the definition of international sale of goods and the choice of applicable law, should be very carefully examined from the practical as well as the theoretical point of view. In view of the close relationship between the substance of the uniform rules on international sale of goods and the uniform rules on time-limits and limitations, it was desirable that they should have the same sphere of application.

12. His delegation hoped that the Commission would continue its preparatory work and studies on the subject of general conditions of sale and standard contracts. In its efforts for the unification of laws relative to those matters, the Commission should bear in mind the importance of trade practices, including those in commodity markets. General conditions were established on the basis of proved needs supported by years of trade practice; it was therefore important that a study should be made on how such practices had developed.

13. The Commission's greatest accomplishment so far had been made in the field of time-limits and limitations in the international sale of goods. The preliminary draft of a uniform law, submitted by the Working Group on Time-limits and Limitations (Prescription), represented a compromise among different legal systems of the world and could serve as an example for the future legislative work of the Commission.

14. His delegation welcomed the publication of the first volume of the *Yearbook of the United Nations Commission on International Trade Law, 1968-1970* and the *Register of Texts of Conventions and Other Instruments concerning International Trade*, which had already proved most useful in his country, and it hoped the publications would be continued.

15. The unification of laws in the field of private law involved greater difficulties than the codification of international law, since it was necessary to take into consideration rules and practices which differed from country to country and from region to region. Every effort had to be made to accommodate the different national laws. The French proposal for the establishment of a union for *jus commune* (*ibid.*, paras. 146-147) represented one approach to the problem of promoting wider acceptance of uniform rules in the field of international trade law. While his delegation fully appreciated the French delegation's objective, it noted that certain difficulties with respect to constitutional practices had been pointed out in the Commission and that

doubts had been expressed as to the feasibility of the proposal. Governments of member States of the Commission should be allowed ample time to study the French proposal before they indicated their views on it. His delegation therefore supported the Commission's decision (*ibid.*, para. 155) to invite its members to submit their replies to its inquiry before 1 October 1972. His Government would submit its reply by that date.

16. Mr. KLEPATSKY (Byelorussian Soviet Socialist Republic) recalled that in pursuance of General Assembly resolution 2635 (XXV), the Commission at its fourth session had studied the priority questions of international legislation on shipping, international payments and the international sale of goods. As indicated in paragraph 11 of its report, the Commission had had before it the report of its Working Group on International Legislation on Shipping, the working paper prepared by the Secretariat, the report of the UNCTAD secretariat on bills of lading and the report of the UNCTAD Working Group on International Shipping Legislation, which all set forth recommendations for the Commission and drew attention to the complex question of bills of lading, which had been discussed at length by the Commission. It had recognized the need for closer co-operation between the committees and working groups of the Commission and UNCTAD dealing with those matters. His delegation considered that the Commission should make a close and comprehensive study of existing practices and international rules of law relating to bills of lading, and work towards a unification of those rules.

17. In discussing the question of international payments, the Commission had continued its consideration of measures for the harmonization and unification of the law of negotiable instruments. It had collected and studied information on the work of banking and trade institutions and on problems encountered and suggestions made by Governments.<sup>2</sup> His delegation thought that the Commission should bear in mind the differences in form and content of negotiable instruments in various countries. In working out uniform rules it should be remembered that such rules should apply only to negotiable instruments for international payments and should not affect national laws or practices relating to internal transactions and transactions with another country which had voluntarily agreed to the application of those laws. In work on a special international instrument, special attention should be paid to a careful analysis of present-day practices, to further consultation with the international organizations concerned and to ensuring that any draft uniform rules were universal.

18. Care should also be taken in drafting uniform laws on letters of credit and guarantees. Representatives of various countries had considered that "Uniform Customs (1962)" could not be adopted in their present form, but required further revision and unification with due regard being paid to present-day trade practices and new methods used in international trade. He regretted that the ICC had not implemented the decision taken at the third session of the Commission on a revision of "Uniform Customs (1962)" and that it had not even been able to collaborate with the Commission.

<sup>2</sup> A/CN.9/38/Add.1 and A/CN.9/48.

19. The Commission had considered the sphere of application of ULIS. Various representatives had previously suggested that the uniform rules of the Hague Convention should become part of a convention on uniform rules relating to the international sale of goods, while others had suggested drafting a new text for ULIS. His delegation considered that it would be preferable to draft a new text which would take into account the interests of all countries and which would be flexible, clear and simple to apply. The rules should not override the rules for the sale of goods already in use in various countries but should be applied only where both sides agreed to apply them. His delegation did not think that the formation of the contract should be specified in the Uniform Law, and where countries so desired, the contract should be in writing. In view of the fact that many problems remained unresolved and there were various different approaches to the subject, he considered that the question of the international sale of goods required further study.

20. The Commission had before it a preliminary draft of a Uniform Law on Prescription (Limitation) in the International Sale of Goods. His delegation was in favour of a three-year limitation.

21. The fourth session of the Commission had also considered the question of training and assistance in international trade law, publication of the *Yearbook* of the Commission and various other matters. It was encouraging

to note the co-operation shown at the fourth session and the interest of States in the legal problems of international trade. There were therefore grounds for hoping that the Commission would be able to achieve a unification of rules in the field of international trade law. His delegation welcomed that development, and the twenty-fourth session of the Communist Party of the Soviet Union had advocated the development of foreign trade with all countries, without discrimination, on the basis of equality and respect for mutual interests. He also emphasized, however, that the Commission was establishing too many working groups instead of co-ordinating its work with the work of various United Nations bodies and committees which also dealt with foreign trade. He believed that the Commission should concentrate on the work it was doing before including any new items on its programme. He recommended a critical attitude to excessive publication, in view of the fact that publishing the Commission's *Yearbook* involved additional financial expenditure and took time and effort which could more usefully be devoted to drafting international trade laws, new conventions and uniform rules, and gathering and disseminating information on the trade laws of various countries and international bodies. The Commission should promote trade and economic co-operation between States on the basis of equality and respect for mutual interests and eliminate discrimination and other barriers to trade.

*The meeting rose at 11.50 a.m.*