

United Nations  
**GENERAL  
ASSEMBLY**

TWENTY-SIXTH SESSION

Official Records



**SIXTH COMMITTEE, 1267th  
MEETING**

Monday, 25 October 1971,  
at 3.25 p.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 (concluded)  
(A/8417, A/C.6/L.820, A/C.6/L.823, A/C.6/L.824)**

1. Mr. SINGH (India), recalling that he had taken part in the consultations which had led up to the preparation of draft resolution A/C.6/L.823, said he felt he ought to mention the difficulties that the draft, of which his delegation was one of the sponsors, had created for certain delegations. Two amendments had been suggested. The first consisted in modifying the end of the fourth preambular paragraph to read as follows: "on a basis of justice and equality and, thereby, to their well-being", while the second involved the elimination of any mention of "working groups" in operative paragraph 2 (e). The former proposal had been withdrawn because the delegations participating in the negotiations on the draft resolution had agreed to interpret the word "equality" as including the notion of "equity". Such an interpretation was consistent with State practice, for instance in regard to fiscal policies. Taxing the rich more heavily than the poor was not incompatible with the principle of equality, since equality was possible only among equals. When inequality existed in practice between members of the same community, equality was a mere word without the addition of equity. Withdrawal of the first proposal had led to withdrawal of the second, thereby opening the way to an agreement on the draft resolution as submitted.

2. A drafting change should be noted in the French version of paragraph 2 (e), which should read: "*De continuer, en utilisant des groupes de travail . . .*".

3. Finally, the Secretariat had requested that the words "and the Secretariat" in operative paragraph 1 should be deleted.

4. Mr. SLOAN (Director, General Legal Division), replying to a question raised at the previous meeting by the USSR delegation concerning the comparative costs of the Commission in 1971 and 1972, said that the estimated expenditure for meetings of the Commission and its working groups for 1972 (\$US43,000, which includes the two meetings in Geneva) was lower than for 1971 (\$US96,000). The total expenditure for 1972 would also be lower than the total cost for 1971.

5. Mr. SUCHARITKUL (Thailand) said that his delegation supported the draft resolution, including the drafting

changes indicated by the representative of India. The preamble, and in particular the fourth paragraph, reflected the feelings of the world community during the period of transition, reconciliation and co-operation it was currently going through. In that spirit, it was natural for the General Assembly, after noting the obstacles standing in the way of the development of international trade, to attempt to remove them. Their elimination, moreover, would merely do justice in retrospect to the developing countries. The system of preferences adopted by the European Community in favour of those countries was a first step in that direction. Thailand had been subject to a system of preferences in reverse which, while working to the advantage of the more advanced countries, had thereby retarded its national economic development. As his country had demonstrated by extending its trade relations to new countries, regardless of their stage of development or political systems, Thailand was in favour of universality in trade relations. But to achieve that, it was important to smooth out all legal obstacles, and it was there that the Commission had a major role to play.

6. Mr. KOLESNIK (Union of Soviet Socialist Republics) stated that the provisional summary record of the 1252nd meeting, held on 5 October 1971, had been circulated in Russian on 20 October only, and that the summary of his own statement was inaccurate. He asked that steps be taken to prevent a repetition of those circumstances.

7. Turning to draft resolution A/C.6/L.823, he pointed out that, just as it was the legislator's duty to define the scope of the law, so it was the task of the deliberative organs of the United Nations to define the scope of the resolutions they adopted. Yet the note by the Secretary-General on the administrative and financial implications (A/C.6/L.824) not only took it for granted that the draft resolution would be adopted, including paragraph 2 (e), but proceeded on the assumption that the convening of the intersessional working groups at Geneva was a logical consequence of the draft. That was the assumption on which Mr. Sloan, the Director, General Legal Division, had based his statement that the general expenditure for 1972 would amount to \$43,000. The Soviet delegation considered that no provision in the draft resolution justified such expenditure. The General Assembly might well "note with appreciation" the report of the Commission in operative paragraph 1, but that was not the same as approving it. Moreover, paragraph 2 (e) stressed the need to enhance the Commission's efficiency; in other words to obtain better results at less cost. The same applied to General Assembly resolution 2205 (XXI) mentioned in document A/C.6/L.824: it contained not a single reference to meetings of the working groups, and consequently the holding of intersessional meetings of the working groups at

Geneva was quite unjustified. In the light of the Secretary-General's warnings with regard to the Organization's financial situation, his delegation formally proposed that the Sixth Committee's report to the General Assembly should include a sentence to the effect that, after having examined document A/C.6/L.824, the Sixth Committee recommended that, for reasons of economy, the Commission should as a general rule convene its intersessional working groups at United Nations Headquarters in New York.

8. During the negotiations which had led up to the preparation of the draft resolution, he had asked the Secretariat a question concerning the financial implications of the text and had been informed that its adoption would not give rise to any additional expenditure; he had difficulty in reconciling that reply with document A/C.6/L.824. The expenditure of \$96,000 in 1971 was partly due to a heavy publications programme, which made a comparison with the 1972 estimates difficult.

9. Mr. TESLENKO (Secretariat) expressed regret for the delay in distribution of the Russian version of the summary record referred to by the USSR representative and for the errors in the summary of the Soviet delegation's statement. The remarks of the USSR representative would be passed on to the Office of Conference Services.

10. Mr. DELEAU (France) expressed surprise at the fact that the Soviet delegation saw fit to challenge the principle of alternation in deciding where meetings of the Commission and its working groups would be held. As his delegation had already emphasized (1266th meeting), the principle was a just one. Furthermore, his delegation firmly believed that the cost of holding meetings in New York was at least as high as at Geneva, and therefore could not see eye to eye with the USSR representative.

11. Mr. BETTAUER (United States of America) considered that the place in which the Commission's working group meetings were held was not a determining factor in the effectiveness of their work. In any case, his delegation was not aware of the existence of an agreement whereby intersessional working group meetings should be held alternately in New York and Geneva.

12. Given the financial crisis the United Nations was currently undergoing, his Government could not agree that the meetings of the Working Groups on the International Sale of Goods and on International Legislation on Shipping should be held at Geneva as envisaged in paragraphs 4 and 5 of document A/C.6/L.824; neither the decisions recorded in the Commission's report (A/8417) nor draft resolution A/C.6/L.823 required them to be held there. In his delegation's view, it was for the Fifth Committee to take a decision on the subject, in the light of the Organization's over-all financial position. He stressed that in agreeing to the draft resolution, his delegation neither accepted nor implied acceptance of paragraphs 4 and 5 of the note by the Secretary-General on the financial implications submitted pursuant to rule 154 of the rules of procedure.

13. Mr. KOLESNIK (Union of Soviet Socialist Republics) said he would not insist on his proposal being put to the vote if it was not generally acceptable to the Sixth

Committee. In that case, the Committee's report to the General Assembly might state that the adoption of draft resolution A/C.6/L.823 should not be regarded as also implying acceptance of the information given in document A/C.6/L.824. His own delegation did not regard itself as bound by that document and thought it was a matter for the Fifth Committee to decide where the Commission's working groups should meet.

14. Mr. FRANCIS (Jamaica) said it would be premature to pass any severe judgement on the results of the Commission's work at its present stage. The problems involved in the functioning of the Commission should not be regarded exclusively from the standpoint of their financial implications. Such an attitude might establish an unfortunate precedent for judging other United Nations bodies whose activities had not produced the desired results. His delegation doubted whether it was more economical for the meetings of the intersessional working groups of the Commission to be held in New York rather than at Geneva, and in any case it was for the Fifth Committee to take a decision on the matter.

15. Mr. GONZALEZ LAPEYRE (Uruguay) welcomed the concern for economy shown by the representative of the USSR, but he agreed with the Jamaican representative that the importance of the Commission's work should not be underestimated. In his view, the financial implications of the present system of alternating meetings should be worked out accurately, and consideration should also be given to the advantages to delegations of holding meetings at Geneva. Whatever decision was taken, it must guarantee the successful progress of the Commission's work.

16. Mr. ENGO (Cameroon) said that although financial considerations should not be the sole basis for a decision as to where the working groups should meet, the Organization's present financial straits necessitated a cautious approach. His delegation endorsed the suggestion made by the Uruguayan representative. The present system should be maintained if there were positive advantages in having the working groups meet away from Headquarters. It should be remembered that the system of alternating meetings was definitely beneficial to some delegations, enabling them to make substantial economies. At all events, any decision on the matter should be one which would ensure the maximum efficiency in the activities of the Commission.

17. Mr. SINGH (Chairman of the United Nations Commission on International Trade Law) said that, while the desire of the Soviet Union delegation to avoid unnecessary expense was perfectly understandable, in his view it was essential not to adopt too rigid a rule with regard to the meeting-place of the Commission's working groups. The main advantage of holding the meetings at Geneva was that Governments generally sent experts on international trade law to the sessions, whereas for the sessions in New York they tended to employ members of their permanent missions who, however competent they might be, were not as familiar with the subject as the experts.

18. Mr. SLOAN (Director, General Legal Division) said that in the first place the system of alternating meetings

had operated since the foundation of the Commission. It would be impossible to calculate the cost of future meetings of the working groups at Geneva until the building at present under construction at Geneva was finished and the question of a permanent meeting service staff for the Geneva Office was settled. The decision which the Committee was discussing had been taken by the Commission itself, which had pointed out that it would be particularly useful for its Working Group on International Legislation on Shipping to meet at Geneva, since the Joint Shipping Legislation Unit (UNCTAD secretariat/United Nations Office of Legal Affairs) was located there.

19. Mr. GONZALEZ LAPEYRE (Uruguay) said he was perfectly satisfied with the explanations given by Mr. Singh, and Mr. Sloan, and his delegation would support draft resolution A/C.6/L.823.

20. The CHAIRMAN said that, if there was no objection, he would take it that the Committee approved draft resolution A/C.6/L.823.

*The draft resolution was adopted without objection.*

21. Mr. DEBERGH (Belgium), explaining his vote in support of the resolution, said that in his opinion the text adopted by the Committee was concise and at the same time contained the necessary recommendations to guide the Commission in its future work. His delegation had refrained from sponsoring the draft because it had some misgivings about the fourth preambular paragraph; it found it somewhat at variance with the mandate conferred on the Commission by General Assembly resolution 2205 (XXI), in which the Assembly reaffirmed its conviction that divergencies arising from the laws of different States in matters relating to international trade constituted one of the obstacles to the development of world trade. In his delegation's view, the work which had preceded the establishment of the Commission, as described in the first volume of its *Yearbook*, showed clearly that the "legal

obstacles to the flow of international trade" referred to in the draft resolution were only an incidental, objective reason for the difficulties faced by developing countries. It should be borne in mind that most of those difficulties were due to factors such as the economic policies adopted by various countries and particular provisions of municipal public law and had nothing to do with differences between private law systems, which, by their very nature, could not institute preferential treatment.

22. Mr. FREELAND (United Kingdom), explaining his vote, said he had supported the draft resolution because he considered it a fair compromise between the various points of view expressed in the informal consultations among delegations.

23. His delegation shared the concern which had been expressed about the need to avoid unnecessary expense. It did not regard the adoption of the resolution as implying any decision with regard to the meeting-place of the intersessional working groups. The question should be examined more closely in the light of its administrative and financial implications. His vote in favour of the resolution should not be taken as prejudging the position his delegation might take in the Fifth Committee on the issues involved.

24. Mr. KOLESNIK (Union of Soviet Socialist Republics), explaining his vote, said that his delegation reserved its position with regard to the financial implications of the resolution, as stated in document A/C.6/L.824. His delegation's vote in favour of the resolution should not be considered as prejudging the position it would adopt on that point in the Fifth Committee.

25. The CHAIRMAN said that consideration of the report of the Commission on the work of its fourth session was completed.

*The meeting rose at 4.45 p.m.*