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REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL
TRADE LAW ON THE WORK OF ITS EIGHTH SESSION

Report of the Sixth Committee

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I. INTRODUCTION

1. At its 2353rd plenary meeting, on 19 September 1975, the General Assembly decided to include the item entitled "Report of the United Nations Commission on International Trade Law on the work of its eighth session" 1/ in the agenda of its thirtieth session and allocated it to the Sixth Committee for consideration and report.
2. The Sixth Committee considered this item at its 1527th to 1533rd meetings, from 30 September to 7 October, and at its 1574th and 1575th meetings, on 25 and 26 November 1975.
3. At the 1527th meeting, on 30 September, Mr. Roland Loewe (Austria), Chairman of the United Nations Commission on International Trade Law at its eighth session, introduced the Commission's report on the work of that session. 2/ The Sixth Committee also had before it a note by the Secretary-General (A/C.6/L.1016), setting forth the comments on the Commission's report by the Trade and Development Board of the United Nations Conference on Trade and Development.
4. At the 1575th meeting, on 26 November, the Rapporteur of the Sixth Committee raised the question whether the Committee wished to include in its report to the General Assembly on this item a summary of the main trends that emerged during the debate on the Commission's report. After referring to General Assembly resolution 2292 (XXII) of 8 December 1967 concerning publications and documentation of the United Nations, the Rapporteur informed the Committee of the financial implications of the question. At the same meeting, the Sixth Committee decided that, in view of the nature of the subject-matter, the report on agenda item 110 should include a summary of the main trends of opinion that were expressed during the debate.

II. PROPOSAL

5. At the 1574th meeting, on 25 November, the representative of Egypt introduced a draft resolution (A/C.6/L.1021) on behalf of Afghanistan, Algeria, Argentina, Bulgaria, Czechoslovakia, Dahomey, Democratic Yemen, Egypt, Gabon, Greece, Guyana, Hungary, India, Iran, Jordan, Lesotho, Mali, Mexico, the Philippines, Romania, Senegal, the Syrian Arab Republic, Yugoslavia and Zaire, later joined by Ghana and Nigeria (for the text, see para. 44 below).

1/ Official Records of the General Assembly, Thirtieth Session, Supplement No. 17 (A/10017).

2/ This presentation was pursuant to a decision by the Sixth Committee at its 1096th meeting, on 13 December 1968 (see Official Records of the General Assembly, Twenty-third Session, Annexes, agenda item 88, document A/7408, para. 3). At its 1527th meeting, the Sixth Committee decided, after being advised of the financial implications by its Secretary, to have reproduced in extenso this statement by the Chairman of the United Nations Commission on International Trade Law; the text of Dr. Loewe's statement is found in document A/C.6/L.1017.

III. DEBATE

6. The main trends of opinion expressed in the Sixth Committee on the report of the United Nations Commission on International Trade Law on the work of its eighth session ^{3/} are summarized in sections A to J below. Sections A and B deal with general observations on the role and functions of the Commission and on its working methods. The succeeding sections are concerned with the specific topics discussed at the eighth session of the Commission and are set out under the following headings: international sale of goods (sect. C), international payments (sect. D), international legislation on shipping (sect. E), international commercial arbitration (sect. F), multinational enterprises (sect. G), liability for damage caused by products intended for or involved in international trade (sect. H), training and assistance in the field of international trade law (sect. I) and future work (sect. J).

A. General observations

7. Many representatives stressed the importance of the Commission's work, since the unification, harmonization and progressive development of international trade law would serve to promote the development of equitable commercial and economic relations between developing and developed countries and between countries with different social and economic systems. Several representatives noted that the establishment of uniform rules and practices for international trade that were universally acceptable and the removal of obstacles of a legal nature were certain to contribute to the growth of international trade.

8. Most representatives commended the Commission and its Working Groups on the progress of their work since the seventh session of the Commission. It was generally observed that the work of drafting new uniform rules, which were to be applicable world-wide, entailed great technical complexity since full account had to be taken of the different social, economic and legal systems of the world and of existing international trade practices.

9. Representatives of developing countries stated that it was essential that the Commission continue to promote international trade through the development of uniform laws that reflect the need of those countries for a fair and equitable share in the benefits of such trade. Several representatives noted that the Commission in its future work should take account of the General Assembly resolutions regarding the establishment of a new economic order.

^{3/} Official Records of the General Assembly, Thirtieth Session, Supplement No. 17 (A/10017).

B. Working methods of the United Nations
Commission on International Trade Law

10. Most representatives commented favourably on the flexible working methods utilized by the Commission since its inception. The Commission was urged to continue its fruitful collaboration with other United Nations bodies, as well as intergovernmental organizations and international and regional non-governmental organizations which were engaged in work on topics of concern to the Commission. Specific reference was made to the background studies and drafts prepared by the Commission's secretariat, in consultation with interested international organizations and commercial institutions wherever appropriate, and to the use of Working Groups in which the expertise of representatives on the Commission was effectively utilized.

11. With regard to the Commission's programme of work, many representatives expressed their support for the order of priorities and the target dates for the completion of work on specific subjects that had been set by the Commission.

12. Several representatives expressed agreement with the procedure of the Commission to transmit draft legal texts prepared by its Working Groups to Governments and to interested international organizations for comments, prior to the time the Commission considered such texts. It was stressed that this procedure ensured that the uniform rules approved by the Commission would find wide acceptance.

13. Several representatives expressed their support for the practice of the Commission and its Working Groups to proceed by consensus. It was stated that the process of reaching decisions by consensus ensured that the uniform laws derived from the work of the Commission would be acceptable to all States.

14. There was general agreement that it was the task of the Commission to review periodically its work programme and to establish its own working methods.

C. International sale of goods

15. Representatives stressed the importance of unified rules governing the international sale of goods and expressed their satisfaction with the progress achieved by the Commission's Working Group on the International Sale of Goods in revising the 1964 Hague Uniform Law on the International Sale of Goods (ULIS). There was general approval of the decision by the Working Group to structure the revised ULIS in the form of a draft convention on the international sale of goods rather than a uniform law annexed to a convention, in order to minimize possible reservations.

16. It was noted that, upon completion of its work on the convention on the international sale of goods, the Working Group would commence consideration of uniform rules on the formation and validity of contracts for the international sale of goods. Most representatives suggested that the Working Group should draft

a separate convention on the formation and validity of international sales contracts rather than expand the scope of the draft convention on the international sale of goods to cover these matters. Some representatives expressed the view that adoption of the convention on the international sale of goods and of the convention on the formation and validity of contracts for the international sale of goods should be considered by the same conference of plenipotentiaries.

17. Most representatives who spoke on the subject approved the decision of the Commission to establish a study group to explore the practical need for developing general conditions of sale and standard contracts applicable to a wide range of commodities. Some representatives noted their reservations regarding the utility of continued work by the Commission in this area.

18. Several representatives stressed the necessity of ascertaining that the various international conventions and general conditions of sale being developed by the Commission in the field of the international sale of goods were fully complementary to and in harmony with each other.

D. International payments

19. Many representatives noted with satisfaction the progress made by the Commission's Working Group on International Negotiable Instruments in its work of drafting a uniform law on international bills of exchange and international promissory notes. They stressed the importance of continued close collaboration by the Working Group with banking and trade institutions and with international organizations active in this field.

20. Several representatives expressed their support for the continuation of work by the Working Group and the Secretariat aimed at determining the feasibility of preparing uniform rules applicable to international cheques.

21. Many representatives commented favourably on the collaboration between the Commission and the International Chamber of Commerce, particularly with regard to documentary credits and contract guarantees.

22. Several representatives noted that the Commission at its eighth session considered the topic of "security interests in goods" on the basis of a study prepared by a consultant to the Secretariat. These representatives approved the decision by the Commission to request the Secretary-General "to complete the 'study on security interests' by including the law of additional countries, in particular of the socialist States of Eastern Europe".

E. International legislation on shipping

23. All representatives stressed the importance of the Commission's work of revising the existing rules governing the liability of carriers of goods by sea and supported the replacement of the 1924 Brussels Convention on Bills of Lading

and the 1968 Brussels Protocol thereto by a new international convention that would take fully into account the technological developments in maritime transport and the interests of developing countries. They commended the Working Group on International Legislation on Shipping on the completion of the draft convention on the carriage of goods by sea.

24. It was noted that the draft convention on the carriage of goods by sea had been circulated to Governments and to interested international organizations and the hope was expressed that a large number of them would submit their comments prior to the time the Commission commenced consideration of the draft convention.

25. There was general agreement with the Commission's decision to devote the major part of its ninth session in 1976 to a detailed, article-by-article examination of the draft convention on the carriage of goods by sea, with a view toward submitting the final text to a conference of plenipotentiaries for adoption as expeditiously as possible.

F. International commercial arbitration

26. Many representatives commented favourably on the Commission's undertaking to formulate a set of procedural rules for optional use in ad hoc arbitrations involving international trade (UNCITRAL Arbitration Rules). It was noted that arbitration was of increasing importance as a means for settling disputes arising from international trade transactions.

27. Several representatives spoke in favour of the position taken by most members of the Commission at its eighth session to the effect that the UNCITRAL arbitration rules should not extend to cover arbitrations administered by arbitral institutions. On the other hand, there was also support for the view that the rules should contain provisions dealing with such "administered" arbitration.

28. A number of representatives made observations regarding various provisions in the preliminary draft set of arbitration rules that was before the Commission at its eighth session and suggested possible modifications to be incorporated in the revised version of these rules.

G. Multinational enterprises

29. Many representatives noted that the Commission had an important role to play in the international legal regulation of the activities of multinational enterprises. It was also stated that the problems posed by multinational enterprises were primarily of an economic nature, and that the Commission was therefore not the proper forum to consider these problems.

30. Most representatives who spoke on this subject welcomed the decision of the Commission to maintain on its agenda the question of multinational enterprises, without at present adopting a definite work programme, and to inform the Commission

on Transnational Corporations, established by the Economic and Social Council, of UNCITRAL's readiness to undertake work of a legal nature on any issues that may be referred to it. These representatives stressed the need for close collaboration between UNCITRAL and the Commission on Transnational Corporations.

31. Some representatives expressed the view that UNCITRAL might itself initiate consideration of certain legal problems connected with the existence and activities of multinational enterprises, such as a definition of the term "multinational enterprises", or the protection of the rights of States over their natural resources.

H. Liability for damage caused by products intended
for or involved in international trade

32. Many representatives supported the Commission's decision to continue its work on this subject with a view towards determining the practicability of developing uniform rules that would be applied world-wide. It was noted that the Commission's endeavours reflected the growing concern for the protection of consumers and were likely to assist in the development of national legislation in this field.

33. Some representatives expressed reservations regarding the development of global rules in the area of liability for damages caused by products, and stated that only efforts at unification on the regional level held out prospects for success.

I. Training and assistance in the field
of international trade law

34. All representatives who spoke on the subject stressed the importance of the Commission's programme of training and assistance in the field of international trade law. There was general agreement that the symposium on the teaching of international trade law held in connexion with the Commission's eighth session had been successful, and the representatives expressed their support for the Commission's decision to hold another such symposium in 1977 in connexion with its tenth session.

35. Representatives expressed their appreciation to the Governments that had made voluntary contributions to meet the travel and subsistence expenses of participants from developing countries at the symposium and expressed the hope that similar voluntary contributions would be made in order to facilitate the holding of the 1977 symposium on international trade law.

36. Several representatives expressed their gratitude to the Governments that had offered fellowships to young lawyers from developing countries for academic and practical training in international trade law.

J. Future work

37. Most representatives expressed their support for the work programme and the order of priorities established by the Commission and commented favourably on the Commission's decision not to add any new topics to its work programme at this time.

38. There was general agreement with the agenda and arrangements for the ninth session of the Commission. Some representatives noted that the Commission should not extend the length of its future meetings and should continue to make the most expeditious use of the time available for its sessions.

39. Several representatives noted that in its future work the Commission should take account of the General Assembly resolutions regarding a new international economic order.

40. One representative stated that the Commission should consider the development of uniform rules governing the investment of capital in developing countries and the transfer of technology from developed countries to developing countries. It was also suggested that the Commission should endeavour to draft uniform rules on the formation and validity of contracts in general, with a view towards the eventual development of a code of international trade law.

IV. VOTING

41. At its 1575th meeting, on 26 November, the Sixth Committee proceeded to take action on the draft resolution before it (A/C.6/L.1021). The representative of the United States of America moved for a separate vote on operative paragraph 8 of the draft resolution. The motion was rejected by 67 votes to 24, with 12 abstentions.

42. The Committee adopted draft resolution A/C.6/L.1021 by a recorded vote of 98 to none, with 4 abstentions (see para. 44 below). The voting was as follows:

In favour: Afghanistan, Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belgium, Bolivia, Botswana, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Canada, Chad, Chile, China, Colombia, Congo, Cuba, Czechoslovakia, Democratic Yemen, Denmark, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Gabon, German Democratic Republic, Ghana, Greece, Guatemala, Guyana, Hungary, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Japan, Jordan, Kenya, Kuwait, Laos, Lesotho, Libyan Arab Republic, Madagascar, Malaysia, Mali, Mexico, Mongolia, Mozambique, Nepal, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Singapore, Spain, Sri Lanka, Sudan, Sweden, Syrian Arab Republic, Thailand, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Cameroon, United Republic of Tanzania, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, Zaire, Zambia.

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Against: None.

Abstaining: Germany (Federal Republic of), Swaziland, ^{14/}United Kingdom of Great Britain and Northern Ireland, United States of America.

43. Statements in explanation of vote after the vote were made by the ^{14/}representatives of the United States of America, Germany (Federal Republic of), Paraguay, Swaziland, the Netherlands, Italy, Japan, the United Kingdom of Great Britain and Northern Ireland, Canada, Belgium, Chile and Turkey.

^{14/} At the conclusion of the vote, the representative of Swaziland stated that he had intended to vote in favour of the draft resolution.

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V. RECOMMENDATION OF THE SIXTH COMMITTEE

Sixth Committee recommends to the General Assembly the adoption of following draft resolution:

Report of the United Nations Commission on International Trade Law

The General Assembly,

Having considered the report of the United Nations Commission on International Trade Law on the work of its eighth session, 5/

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law and defined the object and terms of reference of the Commission, and its previous resolutions concerning the reports of the Commission on the work of its annual sessions,

Recalling also its resolutions 3201 (S-VI) and 3202 (S-VI) of 1 May 1974, 3281 (XXIX) of 12 December 1974 and 3362 (S-VII) of 16 September 1975,

Reaffirming its conviction that the progressive harmonization and unification of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the developing countries, would significantly contribute to universal economic co-operation among all States on a basis of equality and to the elimination of discrimination in international trade and, thereby, to the well-being of all peoples,

Having regard for the need to take into account the different legal systems in harmonizing the rules of international trade law,

Bearing in mind that the Trade and Development Board of the United Nations Conference on Trade and Development, at its fifteenth session, took note with appreciation of the report of the United Nations Commission on International Trade Law, 6/

1. Takes note with appreciation of the report of the United Nations Commission on International Trade Law on the work of its eighth session;

2. Commends the United Nations Commission on International Trade Law for the progress made in its work and for its efforts to enhance the efficiency of its working methods;

3. Notes with satisfaction that a draft convention on the carriage of goods by sea has been prepared by a working group of the United Nations Commission on

5/ Official Records of the General Assembly, Thirtieth Session, Supplement No. 17 (A/10017).

6/ A/10015 (Part III), para. 226.

International Trade Law and that this draft convention has been transmitted to Governments and interested international organizations for their comments;

4. Further notes with satisfaction that work on uniform rules governing the international sale of goods is nearing completion and that in the near future a draft convention on the international sale of goods will be transmitted to Governments and interested international organizations for their comments;

5. Approves the decision of the United Nations Commission on International Trade Law to maintain on its agenda the item concerning multinational enterprises and to keep that subject under review pending the identification by the Commission on Transnational Corporations of specific legal issues that would be susceptible of action by the United Nations Commission on International Trade Law;

6. Expresses its appreciation to the United Nations Commission on International Trade Law for the international symposium on the teaching of international trade law that was held in connexion with its eighth session:

7. Recommends that the United Nations Commission on International Trade Law should:

(a) Continue in its work to pay special attention to the topics to which it had decided to give priority, namely, the international sale of goods, international payments, international commercial arbitration and international legislation on shipping;

(b) Continue to consider the advisability of preparing uniform rules governing the liability for damage caused by products intended for or involved in international trade, in accordance with the decisions thereon adopted by the Commission at its eighth session;

(c) Continue its work on training and assistance in the field of international trade law, taking into account the special interests of the developing countries;

(d) Maintain close collaboration with the United Nations Conference on Trade and Development and continue to collaborate with international organizations active in the field of international trade law;

(e) Maintain liaison with the Commission on Transnational Corporations with regard to the consideration of legal problems that would be susceptible of action by it;

(f) Continue to give special consideration to the interests of developing countries and to bear in mind the special problems of land-locked countries;

(g) Keep its programme of work and working methods under review with the aim of further increasing the effectiveness of its work;

8. Calls upon the United Nations Commission on International Trade Law to take account of the relevant provisions of the resolutions of the sixth and seventh special sessions of the General Assembly that lay down the foundations of

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the new international economic order, bearing in mind the need for United Nations organs to participate in the implementation of those resolutions;

9. Requests the Secretary-General to forward to the United Nations Commission on International Trade Law the records of the discussions at the thirtieth session of the General Assembly on the Commission's report on the work of its eighth session.
