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SUMMARY RECORD OF THE 21st MEETING

Chairman:

Mr. AFONSO

(Mozambique)

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The meeting was called to order at 10.10 a.m.

AGENDA ITEM 129: REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS TWENTY-FOURTH SESSION (continued)

Report of the Secretary-General on possible ways of assisting developing countries to attend meetings of the United Nations Commission on International Trade Law (A/46/349)

1. Mr. SANDOVAL (Ecuador), speaking also on behalf of Barbados, Bolivia, Colombia, Cuba, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Paraguay, Peru, the Dominican Republic, Trinidad and Tobago, Uruguay and Venezuela, expressed his appreciation to the Secretary-General for the useful report on the question (A/46/349).

2. In his view, to the extent that many developing countries were unable to take part in the work of the United Nations Commission on International Trade Law (UNCITRAL), the Commission would have serious difficulties in complying fully with its mandate. If the current trend continued, with limited participation by those countries, it would have to be recognized that the documents produced merely reflected the points of view of certain regional groups which had their own interests; such a situation would conflict with the concept of universality which should govern the Commission's work. Both the Secretary-General, in his report, and the Chairman of UNCITRAL, in introducing the report on the work of the Commission's twenty-fourth session (A/46/17), had recognized the existence of the problem and the necessity of attempting to overcome it, explaining that the limited participation by the developing countries was not due to any lack of interest but rather to financial constraints.

3. Some corrective measures were suggested in the report of the Secretary-General, such as the provision of assistance solely to least developed countries. That proposal would not fully solve the problem, as it would favour a small number of States and would be of little benefit to the majority of Latin American and Caribbean countries. With regard to other ideas contained in the report, it would at least be necessary to pay travel expenses for one representative of each of the developing countries that were members of the Commission and, instead of limiting participation to some of the meetings of the working groups, to consider reducing costs through administrative measures, such as holding several sessions of the working groups consecutively or in one place.

4. Lastly, he summarized his views as follows: (a) assistance should be provided to all the developing countries that were members of UNICTRAL; (b) travel expenses, at least, should be paid for one representative of each developing country, who should participate in all the meetings of the Commission and of its working groups; (c) consideration should be given to the possibility of economizing by holding meetings in one place; and

(Mr. Sandoval, Ecuador)

(d) consideration should be given to the possibility of holding consecutive meetings of the working groups in order to minimize travel by experts.

5. Mr. BEKELE (Ethiopia), speaking on behalf of the Group of African States, drew attention to General Assembly resolution 2205 (XXI) by which UNCITRAL had been established, and to paragraph 9, stating that, in its work, the Commission should bear in mind the interests of all peoples, and particularly those of developing countries. In order to achieve that objective, it was essential that developing countries should be adequately represented in all the deliberations of the Commission. It was obvious that the limited participation of those countries in the elaboration of conventions and of other international legal instruments would hamper their subsequent adoption and application.

6. The report of the Secretary-General stated that the participation of experts from developing countries had been low and not always consistent (A/46/349, para. 8). It should be recognized that the nature of the Commission's work required the services of experts and that the developing countries must be financially assisted so that they could send representatives to all the meetings of UNCITRAL. That need had been recognized both by the Secretary-General in his report and by the Chairman of UNCITRAL in introducing the Commission's report. With regard to the type and the number of meetings, the Group of African States believed that it would be desirable to have representation at all meetings of the Commission and of its working groups, as they were of equal importance.

7. While aware that final decisions on budgetary matters were the prerogative of the Fifth Committee and not of the Sixth Committee, the Group of African States none the less believed that it was appropriate for the Sixth Committee to make a positive recommendation on the question under discussion and to include it in the resolution dealing with the UNCITRAL report.

8. Mrs. NAZIHAH MOHAMMED RUS (Malaysia) said that her delegation fully supported the proposal contained in the report of the Secretary-General (A/46/349) to assist developing countries that were members of the Commission so that they could participate actively in its work. In reality, all countries were dependent on international trade as part of their economic activity. Hence in 1966, the United Nations had entrusted UNCITRAL with the progressive harmonization and unification of international trade law, bearing in mind the interests of all peoples, and particularly those of developing countries, in the extensive development of international trade.

9. Since its establishment, UNCITRAL had made commendable contributions in fulfilling its mandate. However, it was unclear whether the developing countries had participated fully in the elaboration of legal instruments or whether, as indicated in document A/46/349, their participation had been low and not always consistent. According to the report, the relatively low incidence of participation had not been due to any lack of interest on the

(Mrs. Nazihah Mohammed Rus, Malaysia)

part of developing countries but rather to financial constraints. There was, therefore, a valid reason to support the proposal to assist those countries.

10. While financial constraints might be a dominant reason for the low incidence of participation, the lack of experts in trade law might also be a contributing factor. In that connection, Malaysia proposed that the United Nations Institute for Training and Research (UNITAR) should conduct training programmes tailored to the needs of developing countries. The multitude of activities under the purview of international trade required greater harmonization and coordination by all countries, developed and developing alike. UNITAR could play an important role by organizing programmes and seminars at the regional level, for example, which would enable participants from the developing countries to become more familiar with international trade law. Furthermore, such programmes would make an important contribution to the United Nations Decade of International Law.

11. Mr. WOOD (United Kingdom) said that he had listened to the previous statements with a great deal of interest and had agreed with them to a large extent. He believed that all States members of the Commission, and in particular the developing countries, should be represented at its meetings. He shared the view of the delegation of Ecuador that, if the Commission was not fully representative and if the current trend continued, there was a risk that conventions would be adopted which did not take into account the general interest. Fortunately, that did not appear to have happened to date.

12. The United Kingdom delegation believed that all aspects of the question should be explored. Perhaps there were non-financial means of assisting the developing countries. For example, as other speakers had suggested, consideration could be given to ways of rationalizing the Commission's meeting schedule with a view to minimizing its financial implications, which affected all States in general.

13. With regard to the ideas set out in the report of the Secretary-General (A/46/349), he wished to make the following three comments. First, as the Ethiopian delegation had recognized, budgetary matters came under the jurisdiction of other bodies. Thus, the General Assembly, in its resolution 45/248 B, had recently underscored the special role of the Fifth Committee in that area. Secondly, he drew the Committee's attention to document A/46/349, paragraph 16, which specifically referred to the provisions of that resolution concerning arrangements in regard to the payment of subsistence allowance and the standard of air travel by representatives of Member States in their official capacity and their review by the General Assembly at the current session. Lastly, he said that, while all States recognized the importance of the issue and wished to cooperate with UNCITRAL to the extent possible, the question could not be dealt with in isolation. The United Nations had a general financial policy, as reflected in the above-mentioned resolution 45/248 B, which was still applicable to the specific question under discussion.

(Mr. Wood, United Kingdom)

14. An immediate and practical step would be to remit to the Fifth Committee, either directly or through the secretariat, both the report of the Secretary-General (A/46/349) and a complete summary of the current debate in order to ensure that the matter was considered in a timely manner by the competent bodies. The Committee could then resume its consideration of the matter at a later stage.

15. In conclusion, he made the following observations, which he said should be considered as preliminary at the current stage: (a) it would be difficult to resolve the problem with resources from the regular budget of the United Nations; (b) if a solution were to be found, it would probably cover only the least developed countries, in conformity with the usual practice; (c) his delegation did not support the idea of establishing a fixed number of States from each of the regional groups; (d) consideration should be given to the idea of establishing a trust fund for the purpose, despite the risk of encouraging the proliferation of funds of that nature. Moreover, there could be other funds, trust or otherwise and within or outside the United Nations system, to which recourse could be had. In that connection, the International Trade Centre UNCTAD-GATT, whose headquarters were in Geneva, had several funds which could perhaps be used for that purpose.

16. Mr. GIANG (Viet Nam) welcomed the inclusion of item 129 in the agenda. The formation of a legal framework for international relations was of extreme importance for the promotion of international trade and UNCITRAL had made a significant contribution to the codification of international trade law. Broader participation in the work of UNCITRAL, not only on the part of representatives of Member States but also of observers from other countries, could speed up its work and ensure that the legal instruments elaborated by the Commission were universally recognized. The assistance, especially financial assistance provided by the United Nations to developing countries to enable them to attend the Commission's meetings was indispensable and important not only to the developing countries but also to the Commission itself. He therefore welcomed the report of the Secretary-General on the subject (A/46/349) and shared the view expressed by several countries in the Commission that the United Nations should provide financial assistance to the developing countries that were members of the Commission so that they could attend the Commission's meetings.

17. He also shared the opinion of other developing countries that the Commission should facilitate the participation of such countries in its work by increasing the number of its meetings and those of its working groups held in New York, so that delegates from the permanent missions of those countries could attend. The rationalization of the Commission's meetings would be easy to implement and would constitute concrete and effective assistance to developing countries. He therefore hoped that the proposal would be borne in mind by the Secretary-General and by the Commission.

18. Mr. ALVAREZ (Uruguay) said that the report of the Secretary-General (A/46/349) showed clearly that an extremely serious problem existed. It was a matter of deep concern that only the developed countries could send experts to the regular sessions of the Commission and particularly to meetings of its working groups. The non-attendance of experts from the developing countries was a serious shortcoming, since a significant contribution of legal thought was missing and a large majority of the States which would have to use trade law in their trading relations were absent. It would therefore be very helpful if assistance could be provided for that purpose to all developing countries that were members of the Commission, and not only to the least developed. Ideally, such assistance should cover all meetings of the Commission; nevertheless, in view of the financial considerations, he would support a solution which covered attendance at one or two meetings of the working groups, giving States the possibility of choosing, in accordance with their particular interests, the meeting which they would attend. Only travel expenses should be covered.

19. Mr. SCHARF (United States of America) expressed his sympathy regarding the problem of financing the travel of experts from developing countries to the Commission's meetings and recalled that the United States had made a voluntary contribution to facilitate the participation of such experts in an UNCITRAL seminar held in Lesotho in 1986. However, the issue raised complex budgetary questions and should therefore be considered in the context of other similar cases and of the budget as a whole, in the Fifth Committee. The United States neither supported nor opposed at the current stage any of the proposals contained in the report. It would have no difficulty in accepting a system of voluntary contributions, without excluding other possibilities and without prejudging the form of such a system. Paragraph 16 of the report of the Secretary-General (A/46/349) indicated that, in conformity with General Assembly resolution 45/248, those very questions would be considered by the Fifth Committee and by the Advisory Committee during the current session, and it would therefore be inappropriate for the Sixth Committee to adopt measures outside of that framework, particularly since observance of the appropriate procedure would entail no delay. He wished to propose that the Fifth Committee should be asked for guidance on the matter before any resolution was adopted.

20. Mr. WOOD (United Kingdom) proposed that the Secretary of the Committee should be requested to inform the organs responsible for the implementation of the resolution mentioned in paragraph 16 of the report of the Secretary-General (A/46/349) of the matter and of the opinions expressed at the meeting in order to ensure that when the subject was considered they would be aware of the problem and of the Committee's support for UNCITRAL as well as of the Committee's interest in ensuring that all members of UNCITRAL participated in its work.

21. Mr. HANAFI (Egypt) said that the subject was very important and that before instructions were given to any organ the matter should be submitted to the Fifth Committee. He also hoped that the Chairman would hold consultations before any decision was taken on the matter.

22. Mr. PIZA (Costa Rica) said that his delegation supported the statement made by the representative of Ecuador.

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23. The CHAIRMAN said that a consensus had been reached on the draft resolution on the item entitled "Development and strengthening of good-neighbourliness between States", which had been circulated as document A/C.6/46/L.5, and proposed that the Committee should take a decision on the draft at the beginning of the following meeting. If he heard no objection, he would take it that the Committee accepted his proposal.

24. It was so decided.

The meeting rose at 11.15 a.m.