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at 10 a.m.
New York

SUMMARY RECORD OF THE 3rd MEETING

Chairman: Mr. AZZAROUK (Libyan Arab Jamahiriya)

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The meeting was called to order at 10.15 a.m.

ELECTION OF THE RAPPORTEUR

1. Mr. CULLEN (Argentina), speaking on behalf of the Latin American Group, nominated Mr. Kenneth McKenzie (Trinidad and Tobago) for the position of Rapporteur.
2. Mr. McKenzie (Trinidad and Tobago) was elected Rapporteur by acclamation.

ORGANIZATION OF WORK (A/C.6/42/1; A/C.6/42/L.1)

3. The CHAIRMAN suggested that the Committee should re-establish an open-ended working group to review the complete draft Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, in accordance with General Assembly decision 41/418, and the Sub-Committee on Good-Neighbourliness in accordance with the Assembly resolution 41/84. He also suggested that Mr. Treves (Italy) should be reappointed as Chairman of the working group. If there was no objection, he would take it that his suggestions were approved.

4. It was so decided.

5. The CHAIRMAN said that the chairmanship of the Sub-Committee on Good-Neighbourliness would be dealt with later.

6. He reminded members that the General Assembly had decided that no statement made in a Main Committee would be reproduced in extenso. He also reminded them of paragraph 13 (a) of General Assembly decision 34/401, under which a mandatory deadline - 1 December - was to be set for the submission to the Fifth Committee of any draft resolutions with financial implications. He said that he would not call meetings unless a sufficient number of speakers were on the list, but did intend to begin meetings on time. In that connection, he pointed out that the General Committee had recommended waiving the requirement of a quorum. Finally, he called on the members of the Committee to co-operate so that it could conclude its work no later than 27 November.

AGENDA ITEM 132: REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS TWENTIETH SESSION (A/42/17)

7. Mrs. PIAGGI (Chairman, United Nations Commission on International Trade Law), introducing the report of UNCITRAL on the work of its twentieth session (A/42/17), said that the session had been a landmark in United Nations efforts to harmonize and unify international trade law in two senses: first, it had coincided with the twentieth anniversary of UNCITRAL which, over the years, had consolidated its position as the leading legal body within the United Nations system concerned with international trade law, and, secondly, during the session UNCITRAL had completed its consideration of two very important drafts: the draft Convention on International Bills of Exchange and International Promissory Notes, and the draft

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of a Legal Guide on Drawing Up International Contracts for Construction of Industrial Works.

8. The purpose of the draft Convention was to resolve the problems that arose when a negotiable instrument used in an international lending or financing operation circulated in different countries where it was subject to different legislation. In order to do so, it would establish an autonomous, independent and self-sufficient régime governing the instruments used in international trade, which parties could invoke at their option and which would be reserved exclusively for international operations. The frequency with which negotiable instruments were used in international trade justified the 15 years that had been devoted to the project.

9. At its twentieth session, UNCITRAL had taken up, discussed and thoroughly reviewed every article, finalized the text in six languages and considered the best procedures to follow for its adoption at a convention and its opening for signature. At its nineteenth session it had expressed its intention of recommending the General Assembly to adopt the draft as a convention without altering its substance. Nevertheless, it had decided to seek assurance that the Sixth Committee would accept such a procedure before taking a final decision.

10. Although most delegations had recognized the considerable merits of the draft and believed that re-examination of its substance was not necessary, one delegation had explicitly reserved its position on the future of the draft Convention which, in its view, still had several shortcomings (see A/42/17, para. 305).

11. Regarding the procedure for the adoption of the text as a convention, the great majority of delegations would have preferred to recommend the General Assembly to adopt the draft in its current form and open it for signature, given the thorough scrutiny to which the draft had been subjected over many years, notably at the fifteenth session of the Working Group on International Negotiable Instruments and the nineteenth and twentieth sessions of UNCITRAL, and the considerable expense that holding a diplomatic conference would entail. Even so, UNCITRAL had decided, in the interest of consensus, to recommend to the General Assembly to consider the draft Convention with a view to its adoption or any other action it might wish to take (see A/42/17, para. 304) as it was, in any case, up to the General Assembly to decide what procedure to follow on the basis of the Sixth Committee's recommendation.

12. The 29 chapters of the Legal Guide dealt with the vast range of legal problems that arose during all the various stages of construction of industrial works, and proposed solutions that struck a fair balance between the interests of the parties. It would undoubtedly be extremely useful to all those concerned with drawing up contracts of that type, negotiators from developing countries in particular. To make the Guide easier to use, UNCITRAL had requested the Secretary-General to arrange for prompt publication in the six official languages of the United Nations, and to make it widely available. The necessary funds were already available in the budget. She drew the Committee's attention to the

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decision reproduced in paragraph 315 of the report (A/42/17), and in particular to the invitation to the General Assembly to recommend and promote the Guide. She reported that UNCITRAL had wished to express its gratitude to the Working Group on the New International Economic Order and its Chairman for the excellent results they had produced, and was glad to report that there had been close co-operation between delegations representing a wide variety of legal and economic systems during the elaboration of the Guide.

13. With regard to the status of the conventions which were the outcome of the work of UNCITRAL, it was encouraging to learn that the United Nations Sales Convention would enter into force on 1 January 1988, that additional States would deposit their instruments of ratification or accession during the current year, and that still others were making progress towards ratification or accession. It could reasonably be foreseen that that process would result in real standardization of the law on the international sale of goods. There had also been positive developments with respect to the United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules), and it was probable that the nine ratifications or accessions which were still required for its entry into force would soon be obtained. The Commission had taken note with satisfaction of the growing number of jurisdictions which had been enacted or were drafting legislation based on the UNCITRAL Model Law on International Commercial Arbitration. Recognizing that international trade law would not be truly standardized unless the conventions it produced were accepted by the majority of States, the Commission had recommended to the General Assembly to adopt a resolution (A/42/17, para. 332) in which the Assembly would request those States which had not yet done so to consider becoming parties to those conventions.

14. In view of the time spent on consideration of the draft Convention on International Bills of Exchange and International Promissory Notes and the draft Legal Guide, it had not been possible to give thorough consideration to the future direction of the Commission's work, as would have been logical on the occasion of its twentieth anniversary. Nevertheless, short- and medium-term plans and training and assistance activities had been reviewed, and analysis of those activities should be continued at the next session, in the course of which the Commission would consider its future programme of work and its methods of work. While it was true that the formulation of legal texts was - and must continue to be - of cardinal importance, the efforts aimed at promoting their dissemination, adoption and use were just as necessary, as was the stimulation of training and assistance activities, whose usefulness, primarily for the developing countries, could no longer be questioned. Despite the Organization's current financial crisis, the greatest possible efforts must be made to promote the two last-mentioned aspects of the work of the Commission.

15. Undoubtedly, the Commission's efficient operation and its excellent reputation were in large part due to the high quality of work of its secretariat. The legal surveys, studies, reports and projects which it required were not carried out by special rapporteurs, as was the case in other bodies, but by the secretariat staff itself. It was therefore disturbing that 35 per cent of the secretariat posts

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remained vacant, and it was to be hoped that the competent bodies of the Organization would approve the recruitment of the personnel needed to fill all the posts; that was an essential condition if the Commission was to be able to carry out efficiently its task of harmonizing and standardizing international trade law. The Commission was grateful to the members of the secretariat staff, in particular to those who had contributed to the preparation of the draft Convention on International Bills of Exchange and International Promissory Notes and the draft Legal Guide.

16. Finally, she expressed her conviction that the Sixth Committee would provide the Commission with valuable guidelines, not only in the resolutions which the General Assembly would adopt on the recommendation of the Sixth Committee, but also in its debates, which would be reflected in the summary records and in the report to the Assembly. The members of the Sixth Committee could be assured that their comments would be heard.

17. Mrs. TRAHAN (Canada) said that the election of a woman as Chairman of the Commission was without precedent. She congratulated Mrs. Piaggi on the competence with which she had carried out her task, and hoped that other women would be called on to preside over the work of the Commission.

18. Canada had noted with great satisfaction the adoption of the draft Convention on International Bills of Exchange and International Promissory Notes and the draft Legal Guide on Drawing Up International Contracts for Construction of Industrial Works.

19. Canada was pleased to have taken part, in its capacity as observer, in the work which had led to the adoption of the above-mentioned draft Convention, which would certainly rank among the Commission's most important achievements. The active participation of observers in the work and the duration of the work had made it possible for any States wishing to do so to take part in the formulation of the draft and hence to ensure adequate representation of the principal legal systems. The text finally adopted was the outcome of the work of the greatest world experts in the field and was the best possible compromise aimed at further standardizing that area of international trade law. It was therefore questionable whether the final text could be improved through the holding of further deliberations, such as a diplomatic conference. The final text should be submitted to States for signature and ratification so that the international trade community could benefit as soon as possible from that new legal instrument.

20. The Legal Guide was an additional credit to the Commission, and Canada was pleased to have been closely involved in its drafting from the beginning. A special session would be devoted to the Guide within the framework of the symposium on international trade law organized every year in Canada, and an orientation meeting would be held with lawyers specializing in that field.

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21. All countries, in particular the developing countries, attached great importance to training and assistance in the field of international trade law. The Commission should give high priority to such activities and should recruit competent and qualified persons to carry them out. The Commission should also organize training symposia, and Canada would consider taking part in them either by making contributions or through the participation of an expert. Canada hoped that other countries would follow its example.

22. Canada was pleased to learn that the Vienna Sales Convention would enter into force on 1 January 1988. Recognizing the efficiency of the Commission and aware of the importance of its work for the advancement of international trade law, Canada would continue to be closely involved in that work.

23. Mr. FRANCIS (Jamaica), speaking under rule 110 of the rules of procedure of the General Assembly in his capacity as Chairman of the previous session, congratulated, on his own behalf and on behalf of the Committee, the new Chairman and the other officers on their election.

The meeting rose at 11.15 a.m.