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

Report of the Sixth Committee

Rapporteur: Miss Salwa Gabriel BERBERI (Sudan)

1. At its 4th plenary meeting, on 24 September 1982, the General Assembly decided to include in the agenda of its thirty-seventh session the item entitled "Report of the United Nations Commission on International Trade Law on the work of its fifteenth session" and to allocate it to the Sixth Committee.
2. The Sixth Committee considered this item at its 3rd to 8th meetings, from 28 September to 4 October, and at its 43rd meeting, on 11 November 1982. The summary records of those meetings (A/C.6/37/SR.3-8 and 43) contain the views of representatives who spoke during the consideration of this item.
3. At the 3rd meeting, on 28 September, the Chairman of the United Nations Commission on International Trade Law at its fifteenth session introduced its report on the work of that session. 1/

1/ Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 17 (A/37/17 and Corr.1 - E only). The presentation of the report was pursuant to a decision by the Sixth Committee at its 1,096th meeting, on 13 December 1968 (See Official Records of the General Assembly, Twenty-third Session, Annexes, agenda item 88, document A/7408, para. 3).

4. In addition to this report, the Committee had before it in connection with the item a note by the Secretary-General (A/C.6/37/L.6) relating to the consideration of the report by the Trade and Development Board of the United Nations Conference on Trade and Development.

5. At the 43rd meeting, on 11 November, the representative of Austria introduced a draft resolution (A/C.6/37/L.7) sponsored by Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, Egypt, Finland, France, Germany, Federal Republic of Greece, India, Italy, Jamaica, Japan, Kenya, Morocco, the Netherlands, Nigeria, the Philippines, Senegal, Singapore, Spain, Sweden, Thailand, Trinidad and Tobago, Turkey and Yugoslavia, later joined by Cyprus and Ghana, as well as a draft resolution (A/C.6/37/L.8) sponsored by Australia, Austria, Chile, Egypt, Finland, France, Germany, Federal Republic of Greece, Japan, Kenya, the Netherlands, Nigeria, the Philippines, Singapore, Sweden and Thailand, later joined by Cyprus.

6. The representative of Hungary spoke on behalf of a number of delegations in explanation of their positions and requested that draft resolution A/C.6/37/L.7 be adopted without a vote. The representative of the United Kingdom of Great Britain and Northern Ireland made a statement in the light of the statement made by the representative of Hungary.

7. At the same meeting, the Committee adopted draft resolution A/C.6/37/L.7 without a vote (see para. 9, draft resolution I) and draft resolution A/C.6/37/L.8 by consensus (see para. 9, draft resolution II).

8. The representative of Cuba spoke in explanation of her country's position.

RECOMMENDATIONS OF THE SIXTH COMMITTEE

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

DRAFT RESOLUTION I

Report of the United Nations Commission on International Trade Law on the work of its fifteenth session

The General Assembly,

Having considered the report of the United Nations Commission on International Trade Law on the work of its fifteenth session, 2/

Recalling that the object of the United Nations Commission on International Trade Law is the promotion of the progressive harmonization and unification of international trade law,

2/ Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 17 (A/37/17 and Corr.1 - E only).

Recalling, in this regard, its resolutions 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, 3108 (XXVIII) of 12 December 1973, by which it increased the membership of the Commission, 36/32 of 13 November 1981, by which the importance of the participation of observers from all States and interested international organizations at sessions of the Commission and its Working Groups was affirmed, and 34/142 of 17 December 1979, by which the co-ordinating function of the Commission in the field of international trade law was emphasized, as well as 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, equity and common interests 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 social and legal systems in harmonizing the rules of international trade law,

Bearing in mind its resolution 36/111 of 10 December 1981 concerning the draft articles on most-favoured-nation clauses,

Stressing the usefulness and importance of sponsoring symposia and seminars, including those organized on a regional basis, for promoting better knowledge and understanding of international trade law and, especially, for the training of lawyers from developing countries in this field,

1. Takes note with appreciation of the report of the United Nations Commission on International Trade Law on the work of its fifteenth 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. Calls upon the United Nations Commission on International Trade Law, in particular its Working Group on the New International Economic Order, to continue to take account of the relevant provisions of the resolutions concerning the new international economic order, as adopted by the General Assembly at its sixth and seventh special sessions;
4. Takes note with appreciation of the completion by the United Nations Commission on International Trade Law, through its Working Group on the New International Economic Order, of the examination of studies of clauses in contracts for the supply and construction of large industrial works, preparatory to the

commencement of work on drafting a legal guide identifying the legal issues involved in such contracts and suggesting possible solutions to assist parties, in particular from developing countries, in their negotiations; 3/

5. Notes that the United Nations Commission on International Trade Law has adopted a recommended provision for a universal unit of account for expressing monetary amounts in international transport and liability conventions and two alternative recommended provisions for the adjustment of the limits of liability in such conventions; 4/

6. Notes with appreciation that the United Nations Commission on International Trade Law has approved recommended guidelines for arbitral institutions and other relevant bodies to assist them in adopting procedures for acting as appointing authority or for providing administrative services in cases to be conducted under the Commission's Arbitration Rules; 5/

7. Reaffirms the mandate of the United Nations Commission on International Trade Law as the core legal body within the United Nations system in the field of international trade law to co-ordinate legal activities in this field in order to avoid duplication of efforts and to promote efficiency, consistency and coherence in the unification and harmonization of international trade law, and, in this connection:

(a) Recommends that the United Nations Commission on International Trade Law should continue to maintain close co-operation with the other international organs and organizations active in the field of international trade law, in particular, the United Nations Conference on Trade and Development, the International Law Commission, the United Nations Industrial Development Organization and the Commission on Transnational Corporations;

(b) Reaffirms the importance of the participation of observers from all States and interested international organizations at sessions of the United Nations Commission on International Trade Law and its Working Groups;

8. Reaffirms the importance of bringing into effect the conventions emanating from the work of the United Nations Commission on International Trade Law for the global unification and harmonization of international trade law;

9. Reaffirms also the importance, in particular for the developing countries, of the work of the United Nations Commission on International Trade Law

3/ Ibid., paras. 90-97.

4/ Ibid., paras. 51-63; see also draft resolution II below.

5/ Ibid., paras. 74-85.

concerned with training and assistance in the field of international trade law and the desirability for the Commission to sponsor symposia and seminars, in particular those organized on a regional basis, to promote training and assistance in the field of international trade law, and, in this connection:

(a) Welcomes the decision of the United Nations Commission on International Trade Law to continue to explore various possibilities of collaborating with other organizations and institutions in the organization of regional seminars and also to use those occasions for the promotion of legal texts emanating from the work of the Commission;

(b) Expresses its appreciation to those States that have made financial contributions to be used towards the financing of symposia and seminars and of other aspects of the training and assistance programme of the United Nations Commission on International Trade Law;

(c) Expresses its appreciation to those Governments and institutions that are arranging seminars or symposia in the field of international trade law, and endorses the request of the United Nations Commission on International Trade Law that its secretariat be supplied with copies of papers or proceedings in connection with these seminars or symposia in order to assist in the further planning of regional seminars;

(d) Invites Governments, relevant United Nations organs, organizations, institutions and individuals to assist the secretariat of the United Nations Commission on International Trade Law in financing and organizing symposia and seminars;

10. Recommends that the United Nations Commission on International Trade Law should continue its work on the topics included in its programme of work;

11. Reaffirms the importance of the programme of work of the United Nations Commission on International Trade Law;

12. Reaffirms also the importance of the increasing role of the International Trade Law Branch of the Office of Legal Affairs of the Secretariat as the substantive secretariat of the United Nations Commission on International Trade Law in assisting in the implementation of the work programme of the Commission;

13. Requests the Secretary-General to forward to the United Nations Commission on International Trade Law the records of the discussion at the thirty-seventh session of the General Assembly relating to the report of the Commission on the work of its fifteenth session.

DRAFT RESOLUTION II

Provisions for a unit of account and adjustment of limitations
of liability adopted by the United Nations Commission on
International Trade Law

The General Assembly,

Recognizing that many international transport and liability conventions of both a global and a regional character contain limitation of liability provisions, wherein the limitation of liability is expressed in a unit of account,

Noting that the amount fixed in such a convention as the limitation of liability may become seriously affected over time by changes in monetary values, thereby destroying the intended balance of the convention as adopted,

Believing that a preferred unit of account for many conventions, particularly for those of global application, should be the special drawing right as determined by the International Monetary Fund,

Being of the opinion that the conventions should, in any event, contain a provision which would facilitate the adjustment of the limit of liability to changes in monetary values,

Taking into consideration any preferential agreements between the States concerned,

Noting that the United Nations Commission on International Trade Law has adopted a provision for a universal unit of account for expressing monetary amounts in international transport and liability conventions and two alternative provisions for the adjustment of limits of liability in such conventions, 6/

1. Recommends that, in the preparation of future international conventions containing limitation of liability provisions or in the revision of existing conventions, the unit of account provision as adopted by the United Nations Commission on International Trade Law should be used;

2. Recommends further that in such conventions one of the two alternative provisions for adjustment of the limitation of liability as adopted by the United Nations Commission on International Trade Law should be used.

6/ Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 17 (A/37/17 and Corr.1 - E only), para. 63.