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SUMMARY RECORD OF THE 7th MEETING

Chairman: Mr. FERRARI-BRAVO (Italy)

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The meeting was called to order at 3.30 p.m.

TRIBUTE TO THE MEMORY OF HIS HOLINESS POPE JOHN PAUL I

1. The CHAIRMAN, referring to the untimely death of His Holiness Pope John Paul I, conveyed his condolences to the delegation of the Holy See on behalf of the Sixth Committee.

2. On the proposal of the Chairman, the members of the Committee observed a minute of silence in tribute to the memory of His Holiness Pope John Paul I.

AGENDA ITEM 115: REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS ELEVENTH SESSION (continued) (A/33/17, A/33/177)

3. The CHAIRMAN drew the attention of the members of the Committee to the note by the Secretary-General relating to the United Nations Conference on the Carriage of Goods by Sea (A/C.6/33/L.2) and the note by the Secretary-General relating to the transmission of the report of UNCITRAL to the Trade and Development Board (A/C.6/33/L.3).

4. Mr. BUBEM (Byelorussian Soviet Socialist Republic) observed that there was a close relationship and interdependence between détente and the consolidation of peace, on the one hand, and the development of multilateral relations among States, on the other. In that process, détente had a favourable impact on equitable trade relations and strengthened mutual trust among all peoples.

5. The report of UNCITRAL made it possible to appreciate the important achievements of its eleventh session, during which UNCITRAL had remained faithful to the principle of adopting its decisions by consensus.

6. His delegation felt that the decision to integrate the rules governing the formation of contracts for the international sale of goods and those governing the obligations of the contracting parties in a single text had been well-founded. It also supported the decision to circulate the texts prepared to Governments and interested international organizations for their proposals and suggestions.

7. With regard to the future programme of work of UNCITRAL, his delegation had already made its comments, which were contained in the compilation prepared by the Secretariat (A/CN.9/149). UNCITRAL should, above all, complete its consideration of the items on its original programme of work, a task which would be made easier by the fact that the programme consisted of specific, concrete questions. The new programme should avoid duplicating any efforts of other organizations through co-ordination of activities, as called for by General Assembly resolution 2205 (XXI). It should give due attention to fundamental items, especially the need to study the legal implications of the new international economic order and the elimination of discrimination in trade relations.

8. With respect to training and assistance in the field of international trade law, the Byelorussian SSR, without underestimating the importance of such matters,

(Mr. Buben, Byelorussian SSR)

felt that the symposia organized by UNCITRAL should be financed by voluntary contributions from States, and saw no reason why voluntary contributions made to the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law should not be earmarked for those symposia.

9. Mr. KUMI (Ghana) expressed his appreciation of the constructive role UNCITRAL was playing in the development of a uniform international trade law acceptable to countries with different economic, social and legal systems. The draft Convention on Contracts for the International Sale of Goods was a solid basis for work on the approval of a third UNCITRAL convention. Although his delegation had certain reservations concerning the text, which it would put forward at the conference to be convened for its consideration, it approved of the draft as a whole and, in particular, of the technique of integrating the substantive rules on the obligations of the parties with the rules relating to the formation of contracts.

10. The inclusion of the legal implications of the new international economic order in the new programme of work of the Commission demonstrated the latter's sensitivity to the aspirations of the world community. Ghana, as a member State of the Asian-African Legal Consultative Committee, looked forward to close collaboration between that Committee and UNCITRAL, and hoped that the latter would continue to give due attention to the problems of developing countries.

11. With regard to the impact of the proposed transfer of UNCITRAL's secretariat to Vienna on the quality of the Commission's work, his delegation was impressed by the concerns expressed in the Commission's report. It was not in favour of setting a date for the transfer so long as unknown factors remained, such as what the Austrian Government proposed to do, or what the Secretary-General had to say about the inadequacy of library facilities.

12. He urged UNCITRAL to pursue its activities relating to training and assistance in the field of international trade law. It was a great pity that the second UNCITRAL symposium had been cancelled owing to lack of funds. The Sixth Committee should give serious consideration to the possibility of recommending that UNCITRAL symposia should be financed from the regular budget of the United Nations, and other States should follow the example of Belgium in offering annual fellowships in that field.

13. Mr. ALSAMMAK (Kuwait) said Kuwait welcomed the results achieved at the United Nations Conference on the Carriage of Goods by Sea at Hamburg in March 1978 and was carefully considering the decision to be taken as to its possible accession to the Convention on the Carriage of Goods by Sea.

14. His delegation felt that the draft Convention on Contracts for the International Sale of Goods warranted further study, particularly parts II and III, referring to formation of the contract and to sales of goods, since there were some imprecise provisions and overlapping rules. He supported the proposal of UNCITRAL for the convening of a diplomatic conference to adopt the text. The conference should last for six weeks if necessary.

/...

(Mr. Alsammak, Kuwait)

15. Kuwait also welcomed the favourable results achieved by the Working Group on International Negotiable Instruments, but felt that it should continue its work in order further to refine the draft Convention on International Bills of Exchange and International Promissory Notes.

16. With regard to the future programme of work of UNCITRAL, priority should be given to certain items of special importance and, consequently, Kuwait supported the programme described in paragraphs 67 and 68 of the report. With regard to the new international economic order, UNCITRAL should be guided by the documents adopted by the General Assembly at its sixth and seventh special sessions and should study the legal aspects of co-operation with regional bodies which had begun to analyse that question, such as the Asian-African Legal Consultative Committee and the Economic Commission of the League of Arab States, as well as other United Nations bodies. UNCITRAL should also co-operate as closely as possible with the Commission on Transnational Corporations.

17. With regard to the transfer of the International Trade Law Branch from New York to Vienna, care should be exercised to ensure that the work of UNCITRAL would not suffer. Kuwait was prepared to make a contribution to the specialized library of the secretariat in Vienna.

18. Mr. KIRSCH (Canada) said the efforts made by UNCITRAL over the years had begun to bear fruit, in some cases in the form of finished products, such as the 1974 Convention on the Limitation Period in International Sale of Goods, the UNCITRAL Arbitration Rules and the Hamburg Convention on the Carriage of Goods by Sea. In other cases the results were imminent, examples being the draft Convention on Contracts for the International Sale of Goods and the completion of the work on international negotiable instruments. Those results were evidence of the General Assembly's foresight in setting up the Commission and of the efforts of the States which were members of the Commission; Canada wished to express its gratitude to the latter and also to the International Trade Law Branch which had assisted them.

19. Among UNCITRAL's achievements at its eleventh session, the completion of the draft Convention on Contracts for the International Sale of Goods and the advanced stage of the work on the draft on international negotiable instruments were especially prominent; both matters were of great importance for the elimination of existing uncertainty in international trade law. Canada supported UNCITRAL's recommendation that a conference of plenipotentiaries should be convened to consider a draft convention relative to both the formation of contracts and other aspects of the international sale of goods and a protocol on the limitation period. In view of the expected duration of that conference, he felt it should be held in Geneva or New York in order to reduce costs and hoped that there would be no clash with the Hague Conference on Private International Law to be held in October 1980.

20. On the whole Canada approved of the new priorities established by the Commission in its programme of work, and in particular of the inclusion of topics such as contracts of barter, standard contract terms and product liability. It was significant that UNCITRAL had recognized the legal implications of the new

(Mr. Kirsch, Canada)

international economic order. His delegation hoped that the opinions of Governments on that matter, which had been invited at the suggestion of the observer for Canada, would be included in the report the Secretary-General was to submit to UNCITRAL at its twelfth session and would lead to concrete, harmonious and productive work.

21. Given the importance of the symposia on international trade law for the specialized training of jurists in that field, and their relatively reasonable cost, his delegation supported the suggestion of the Secretary-General (A/33/177) that the symposia should be funded out of the regular budget of the United Nations if voluntary contributions for the purpose proved insufficient.

22. There were three conditions which must be fulfilled if the quality of UNCITRAL's work was to be maintained. Firstly, the quality of research and support services provided by the International Trade Law Branch must be maintained, and that should be taken into account when administrative decisions were made and the necessary finance should be provided. Secondly, the work of the various international organizations specializing in international law, such as the Hague Conference, UNIDROIT and so on should be co-ordinated; his delegation was glad that UNCITRAL had recognized that necessity and it supported in particular the ideas contained in paragraphs 64 and 65 of UNCITRAL's report. Thirdly, UNCITRAL must continue to concentrate on concrete legal issues, and he hoped that the differences of opinion within the Commission related to legal questions and not to the political and economic philosophies of the different groups of States, since only as an essentially juridical body could UNCITRAL maintain the excellence of its work, of which its eleventh session had once again given proof.

23. Mr. EL BACCOUCH (Libyan Arab Jamahiriya) said his delegation appreciated the efforts made by UNCITRAL to harmonize the rules of international trade law and to promote just and fair trade relationships between developing and developed countries. In that context, he considered the draft Convention on Contracts for the International Sale of Goods an excellent basis for the work of the future diplomatic conference on the subject.

24. His delegation supported UNCITRAL's decision to adopt the programme of work contained in paragraph 67 of its report, and in particular the inclusion in that programme of consideration of the legal implications of the new international economic order. He hoped that, when considering that topic, UNCITRAL would take account of the resolutions of the sixth and seventh special sessions of the General Assembly, and other relevant resolutions. His delegation was in agreement with the general guidelines adopted by UNCITRAL for its work and hoped that the secretariat would prepare the necessary studies and reports to facilitate that work.

The meeting rose at 4.15 p.m.