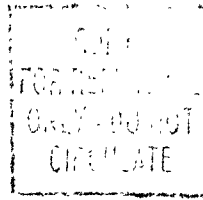


*United Nations*  
**GENERAL  
ASSEMBLY**  
THIRTY-NINTH SESSION  
*Official Records\**



SIXTH COMMITTEE  
6th meeting  
held on  
Friday 28 September 1984  
at 3 p.m.  
New York

SUMMARY RECORD OF THE 6th MEETING

Chairman: Mr. GOERNER (German Democratic Republic)

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The meeting was called to order at 3.10 p.m.

AGENDA ITEM 127: REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON ITS SEVENTEENTH SESSION (continued) (A/39/17)

1. Mr. OLWAEUS (Sweden), also speaking on behalf of Denmark, Finland, Iceland and Norway, said that the seventeenth session of UNCITRAL had been devoted mainly to consideration of the draft Convention on International Bills of Exchange and International Promissory Notes and of the draft Convention on International Cheques and UNCITRAL had decided that further work should be undertaken on the former draft Convention with a view to improving on it. Although doubts had been expressed as to whether further work in the field in question was justified, the delegations of the Nordic countries believed that it would be valuable to continue work on the two drafts, giving priority to consideration of the draft Convention on International Bills of Exchange and International Promissory Notes.

2. With regard to the other projects of UNCITRAL, the delegations of the Nordic countries attached great importance to the activities of the Working Group on International Contract Practices, which had completed its task of preparing a draft model law on international commercial arbitration, and envisaged that UNCITRAL would complete its work in that area at its following session by adopting the text of a model law. They also noted with satisfaction that the Working Group on the New International Economic Order was making progress in its work on a draft legal guide on drawing up contracts for industrial works. Furthermore, they wished to express their appreciation for the work carried out by the Secretariat on the preparation of a guide on the legal problems arising out of electronic funds transfers. They welcomed the decision taken by UNCITRAL to give priority to the question of the legal aspects of automatic data processing.

3. He wished to commend UNCITRAL and other relevant bodies for their co-operation and noted with satisfaction that UNCITRAL had recommended use of the Uniform Customs and Practice for Documentary Credits, which had been revised and adopted by the International Chamber of Commerce. He also attached great importance to the activities of the Working Group on International Contract Practices in the field of the liability of operators of international terminals, whose work was to be based on a draft Convention prepared by the International Institute for the Unification of Private Law (UNIDROIT).

4. The countries on whose behalf he was speaking were among those where the question of the ratification of the Sales Convention of 1980 was under serious consideration. In view of the number of ratifications foreseen, it was extremely likely that within a year the Convention would have been ratified by the number of states required for its entry into force.

5. Mr. NOLAN (Australia) said that on the issue of international negotiable instruments Australia shared the view held by most members of UNCITRAL that there was a need for a uniform scheme to regulate the law relating to such instruments. The Commission's two draft Conventions represented a reasonable compromise between the civil and common law approaches, and Australia looked forward to participating

(Mr. Nolan, Australia)

in the Working Group on International Negotiable Instruments when it met the following January. His country accepted the Commission's conclusion that work should be concentrated on the draft Convention on International Bills of Exchange and International Promissory Notes and that the adoption of a final decision on the draft Convention on International Cheques should be deferred.

6. Australia regarded the question of electronic funds transfers as one of major importance. With the introduction in Australia of automatic telling machines and electronic funds transfers, there was increasing pressure on the Government to introduce comprehensive domestic laws in that field, in which there were a number of pressing legal issues, particularly questions of when payments became final, liability for loss caused by delay or incorrect payment instructions and the evidentiary value of payment records kept in electronic form. The UNCITRAL legal guide was a valuable tool for consideration of the legal issues arising in Australia from electronic funds transfers, and Australia supported the continuation of the Secretariat's work in that connection.

7. With regard to international commercial arbitration, Australia supported the development of a model law consistent with the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the UNCITRAL Arbitration Rules. In many respects, the work carried out by the Working Group mirrored the Australian Commercial Arbitration Bill.

8. With regard to the liability of operators of international terminals, the co-operation and co-ordination between UNCITRAL and UNIDROIT was encouraging and Australia hoped to be represented at the session of the Working Group on International Contract Practices when it met at Vienna.

9. Australia had consistently supported the work of UNCITRAL on the new international economic order and it endorsed the view that that work was of importance for the developing countries and called for a speeding-up of the work on the legal guide that was being carried out by the Working Group on the New International Economic Order.

10. In the context of the appeal made by UNCITRAL to Governments to contribute to the training and assistance scheme, annual international trade law seminars sponsored by the Federal Attorney-General's Department had been held in Australia since 1974 and, in association with the UNCITRAL secretariat and the Asian-African Legal Consultative Commission, an international trade law seminar for the region of Asia and the Pacific would be held in November 1984. That seminar would provide an opportunity to encourage UNCITRAL in its work on the progressive harmonization and unification of international trade law and to consider, in particular, problems arising from the 1978 United Nations Convention on the Carriage of Goods by Sea and the 1980 United Nations Convention on Contracts for the International Sale of Goods. The Commission's work in the areas of arbitration and the new international economic order would also be considered. In order to ensure the widest representation possible at the seminar, Australia would be providing financial assistance to experts in the field of international trade law who would otherwise be unable to attend.

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11. Mr. BAEV (Bulgaria) said that the development of international trade on the basis of equality and mutual advantage was of paramount importance for the strengthening of co-operation among States with different socio-economic systems and was conducive to the relaxation of international tensions and the promotion of world peace and security. In that context, he wished to draw attention to the appeal made by the States members of the Council for Mutual Economic Assistance in the Moscow Declaration of 14 June 1984 for the implementation of a programme of action to normalize international economic relations, guarantee economic security and build confidence in the area of inter-State relations. Bulgaria had always expressed its willingness to contribute to the promotion of international co-operation in the fields of commerce, industry, agriculture, science and technology and to the expansion of economic and trade ties between States.

12. Bulgaria valued the Commission's efforts to improve international trade payments systems. The draft Convention on International Bills of Exchange and International Promissory Notes and the draft Convention on International Cheques were useful for unifying the law of international payments and achieving a sound compromise between the Anglo-American legal system and civil law. Bulgaria therefore fully recognized the need to prepare texts in the form of multilateral treaties.

13. The drafting of a model law on international commercial arbitration was of major importance for the progressive development of international trade law. Problems relating to international commercial arbitration were of particular interest to Bulgaria, since the Bulgarian authorities were preparing an arbitration law. In his delegation's view, the model law drafted by UNCITRAL should determine the relationship between ordinary courts and arbitration tribunals and, in cases where there was a written agreement between the parties to a contract for an arbitral settlement of disputes, the ordinary courts should no longer be seized with the matter. Bulgaria would continue its active participation in the preparation of the draft model law on international commercial arbitration.

14. Also deserving of merit were the efforts of the Working Group on the New International Economic Order and, more particularly, its work on the preparation of a legal guide on drawing up contracts for industrial works. That was of special importance for Bulgaria in its position as an international contractor for large construction works abroad. The Government of Bulgaria supported the chapters in the guide dealing with the over-extension of risk and believed that it would be justified to make a distinction between the responsibility of the contractor and that of the sub-contractor.

15. With respect to the draft convention on the liability of operators of transport terminals, his delegation supported the view that that liability should be regulated by means of an international convention.

16. At its seventeenth session, UNCITRAL had also considered the question of the current activities of international organizations in the field of barter and barter-like transactions. His delegation attached great importance to that problem and, consequently, took a positive view of UNCITRAL's decision regarding its future work in that field.

17. Mr. VERENIKIN (Union of Soviet Socialist Republics) said that the Soviet Union believed that trade and economic relations, on the basis of equality, mutual benefit and non-discrimination, constituted one of the corner-stones of peaceful relations and good-neighbourliness between States. Nevertheless, recently, international economic relations had become the object of a policy of diktat and discrimination. Some Western States, in violation of the norms governing international relations, were blocking trade and the transfer of technology and credits, and were resorting to embargoes and sanctions against those countries that did not accept their diktat. As a result, the great majority of developing countries found themselves in a difficult situation. The socialist countries opposed such practices.

18. At the meeting held in Moscow from 12 to 14 June 1984, the member countries of the Council for Mutual Economic Assistance had condemned and rejected the policy of undermining international relations and had gone on record against that form of exploitation and intervention in the internal affairs of other States, which openly violated the general rules of international law, the principles of the United Nations Charter and the Final Act of the Conference on Security and Co-operation in Europe.

19. The Soviet Union believed that UNCITRAL must defend the generally recognized principles and rules of international trade law and must oppose discrimination in trade relations. Similarly, it must play a major role in defence of the progressive development of the rules of the new international economic order.

20. UNCITRAL had done useful work at its seventeenth session, particularly with respect to the draft Convention on International Bills of Exchange and International Promissory Notes and the draft Convention on International Cheques. It had also made useful efforts with respect to the draft model law on international commercial arbitration, on industrial contracts and on the liability of operators of transport terminals.

21. Despite the provisions of General Assembly resolutions 36/111 and 37/106, UNCITRAL had not progressed in its work on the draft articles on most-favoured-nation clauses. The work on that important instrument was of great significance for the elimination of discrimination and the development of just and mutually beneficial economic and trade relations.

22. Mr. DJORDJEVIC (Yugoslavia) said that UNCITRAL had taken the correct decision to continue its work on the draft Convention on International Bills of Exchange and International Promissory Notes. The number and significance of controversial issues raised in that connection showed that there could be no early completion of the work.

23. With respect to electronic funds transfers, his delegation believed that the draft chapters before UNCITRAL constituted an excellent beginning for the work in that field. In that connection, the formulation of uniform legal rules governing electronic funds transfers on the basis of general agreement had not yet begun, and was a task that should be completed as soon as possible.

(Mr. Djordjevic, Yugoslavia)

24. With respect to the draft model law on international commercial arbitration, he emphasized the need for States to submit their comments as soon as possible so that the eighteenth session could see the adoption of a generally acceptable instrument whose provisions could be utilized in the growing number of disputes in the field of international trade.

25. With regard to the question of the liability of operators of transport terminals, he believed that the UNIDROIT preliminary draft Convention was a valuable supplement to the rules already adopted in the 1978 United Nations Convention on the Carriage of Goods by Sea and the 1980 United Nations Convention on International Multimodal Transport of Goods. In that connection, the close co-operation with and the exchange of experiences gained within UNCTAD would be very useful for future work in that field.

26. His delegation supported the decision of the Working Group on the New International Economic Order to hold two sessions prior to the eighteenth session of UNCITRAL in order to study the draft legal guide on drawing up contracts for industrial works. That sphere of international trade was not adequately regulated and, consequently, the adoption of the legal guide would be of great importance, especially for developing countries. In that connection, it would be interesting to consider, for elaboration at a later stage, the legal aspects of joint ventures or consortia and contracts for industrial co-operation.

27. Regardless of the importance of the work of UNCITRAL in the elaboration of some international instruments in the field of international trade, it should not be forgotten that that work should be within the general trends of international economic relations. In that connection, it was important to maintain contacts and co-operation with other United Nations bodies and international organizations dealing with similar issues such as UNCTAD, UNITAR, the International Law Commission, the Hague Conference on Private International Law, the Asian-African Legal Consultative Committee and other organizations.

28. His delegation also believed that the activities of UNCITRAL in the field of training and research were particularly useful and the holding of regional seminars and conferences on issues dealt with by UNCITRAL should become regular practice. In that context, he wished to emphasize in particular the endeavours of the Asian-African Legal Consultative Committee.

29. Mr. OKELLO (Uganda) said that his delegation supported the decision to defer to a future date the consideration of the draft Convention on International Cheques until work had been completed on the draft Convention on International Bills of Exchange and International Promissory Notes. In view of the increasing use of negotiable instruments in international trade and especially in the financing of export transactions and lending transactions, UNCITRAL should spearhead the process of unifying the law in that area from the existing divergent systems which, for the most part, did not take into account the international character of negotiable instruments and their role in today's world trade. Furthermore, UNCITRAL should take into account the practical difficulties that seemed to arise out of the draft Convention on International Bills of Exchange and International Promissory Notes as

(Mr. Okello, Uganda)

it stood at present. The observations and conclusions reached at the most recent session of UNCITRAL would certainly be useful for that purpose but there should be some flexibility and, where necessary, the draft convention should be revised to accommodate any new problem that might arise.

30. With respect to electronic funds transfers, his delegation shared the view of UNCITRAL that at the current stage, before a common understanding had been reached, it would be premature to attempt to formulate uniform legal rules governing such transfers. He believed that the work of the Secretariat should continue, even though the study prepared so far provided UNCITRAL with sufficient material to begin the search for common international understanding on the subject. Consequently, he proposed that UNCITRAL should at its next session see how that necessary objective could best be achieved.

31. With regard to the report of the Working Group on International Contract Practices, which contained the text of the draft model law on international commercial arbitration, his delegation supported the decision of UNCITRAL to submit the draft to Governments for their comments.

32. With respect to the liability of operators of transport terminals, his delegation believed that the decision taken by UNCITRAL to assign the task of formulating uniform legal rules on that subject to its Working Group on International Contract Practices was reasonable in view of the satisfactory completion of work in the field of the carriage of goods by sea that had culminated in the 1978 Hamburg Rules. He also agreed that that Group should decide on its own method of work.

33. With respect to the new international economic order, he welcomed the preparation of the draft legal guide on drawing up contracts for industrial works and hoped that when completed it would be a balanced instrument which would meet the needs of all parties to industrial contracts, especially the developing countries. As a member of UNCITRAL, his delegation looked forward to participating in the work of the Commission and its Working Group and took the opportunity to encourage other members to do so, especially the developing countries, in order to ensure a more balanced participation in the work of UNCITRAL, particularly in that field. As to the future work of the Working Group on the New International Economic Order, he felt that the matter needed to be considered both by the Commission and by the Sixth Committee.

34. On the question of the co-ordination of work, his delegation welcomed the efforts to co-ordinate the activities of the Commission with those of other international bodies and felt that it would help to reduce the risk of duplication. In that connection, he took note of the Commission's decision with respect to the contribution of the International Chamber of Commerce in the field of uniform customs and practice for documentary credits.

35. With regard to training and assistance, his delegation renewed its support for the Commission's efforts to sponsor symposia and seminars, especially for the benefit of participants from developing countries. He thanked those countries

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(Mr. Okello, Uganda)

which had assisted the Commission in that area and expressed the hope that more of such symposiums and seminars would be held, especially in the African continent.

36. Mr. BERNAL (Mexico) said that he was particularly satisfied with the work of preparing a legal guide on drawing up contracts for industrial works, which posed difficult problems because of the lack of domestic legislation and international rules on a subject so broad and with so many possible fields of application. In the preparation of the guide, the aim should be not only a pragmatic analysis but also an analysis of progressive development, with precise legal wording. General principles had to be stated which the contracting parties must take into account both in drawing up and in carrying out contracts, one of which should be the understanding that the legal guide was part of the new international economic order. Hence, it could not be a simple reflection of current international usages but rather must be based on a better understanding and protection of the "buyer", which in most cases was a developing country. Other principles must include continued negotiation in the various phases of the execution of the contract and the reconciliation or amicable settlement of disputes rather than a legal solution. His delegation was of the opinion that the legal guide should recommend, in general, that the applicable law and jurisdiction should be those of the buyer, in other words, those of the country where the works or construction were being carried out.

37. As to the draft Convention on International Bills of Exchange and International Promissory Notes, his delegation agreed that its preparation should continue in the Working Group on International Negotiable Instruments. He also reiterated his position on articles 6 (a) and 7 (4) of the draft Convention, that instruments with a floating interest rate were incompatible with the legal principle that such instruments should have a definite face value, known in civil-law countries as the principle of literality. The practice of fluctuating interest rates was prejudicial to the debtor, since it imposed uncertain interest rates whose fluctuation and determination depended unilaterally on the holder or on a group of creditors. Therefore, that practice should not be consecrated as a legal rule in a multilateral treaty.

38. His delegation felt that a major achievement of UNCITRAL in 1984 had been the adoption by the Working Group on International Contractual Practices of the draft model law on international commercial arbitration, which would certainly be of great use for all the countries of the international community. They could either legislate on that basis or reform their legislation with a view to unifying the rules of international arbitration.

39. Mr. MAUNA (Indonesia) said that his delegation accepted the Commission's report on international payments and welcomed the decision to postpone work on the draft Convention on International Cheques until completion of the work on the draft Convention on International Bills of Exchange and International Promissory Notes. He also welcomed the decision to enlarge the composition of the Working Group on International Negotiable Instruments to enable it to represent better the interests and ideas of the various regions and principal legal systems of the world.



(Mr. Mauna, Indonesia)

40. On the question of electronic funds transfers, his delegation noted with satisfaction that there was general agreement in the Commission on the Secretary-General's report concerning guidelines on legal problems arising out of such transfers, which would be an excellent basis for the achievement of an international common understanding of the legal issues involved. In view of the fact that electronic transfer systems were used relatively less frequently in the developing than in the developed countries, and that the new technologies in use were at various stages of development in the different countries, he felt that the work undertaken by the Secretariat should be pursued cautiously. The formulation of uniform rules at the current stage would appear to be premature, and there would be a need first to achieve an international understanding of the problem areas involved.

41. Regarding the question of international commercial arbitration, his delegation welcomed the adoption of the draft text of a model law on international commercial arbitration by the Working Group on International Contract Practices at its seventh session, and supported the Commission's decision to transmit the draft to all Governments and interested international organizations for their comments. The model law sought to reach a reasonable balance between the interest of the parties to determine freely the procedure to be followed and the need for mandatory provisions ensuring fair proceedings. The model law offered the chance of disseminating the idea of arbitration as a means of solving trade disputes.

42. The work of UNCITRAL on the legal implications of the new international economic order and the draft legal guide were of immense importance to the developing countries. The legal guide should provide clear solutions, supported where necessary by illustrative provisions, which could be used by the parties as a basis for drafting contracts, and which would help in achieving a proper balance between the interests of the two parties to contracts for industrial works.

43. Lastly, his delegation expressed its appreciation for the efforts undertaken by the Secretariat in the field of training and assistance through the holding of several regional seminars in developing countries, and he hoped that the Commission would continue the sponsorship of symposia and seminars on international trade law in collaboration with other organizations.

44. Mr. MATHANJUKI (Kenya), referring to the question of the draft Convention on International Bills of Exchange and International Promissory Notes and the draft Convention on International Cheques, said that UNCITRAL had acted cautiously in deciding to concentrate its efforts on the draft Convention on International Bills of Exchange and International Promissory Notes; because of the practical ramifications of harmonization of the law in that field, it was necessary to proceed with the utmost caution so as not to create a situation of uncertainty in international payments.

45. With regard to articles 6 (a) and 7 (4), his delegation did not favour the proposal to allow, in the draft Convention, the issuance of instruments with floating interest rates. He felt that the acceptance of floating interest rates in

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(Mr. Mathanjuki, Kenya)

negotiable instruments would create uncertainty regarding the amount due at maturity and would weaken, rather than strengthen, the negotiability of such instruments. It would also jeopardize the position of the debtor, who might at maturity be required to pay more than would have been originally envisaged.

46. The existing text of article 72 contained serious lacunae and did not promote legal harmonization; on the contrary, it could lead to more disputes between parties to an instrument. The Convention should solve the problems created by current legal or trade practices; some countries could never do away with foreign exchange control in view of its effects on their economic well-being. His delegation felt that the Convention should clearly reflect that, when there were provisions requiring foreign-exchange control, parties might be restricted in the way they could express currency of payment; hence, where there were exchange-control regulations, the Convention should sanction their operation. His delegation hoped that, just as the draft Convention had resolved the implications of a forged endorsement under article 23, the Working Group could find a way of resolving the problem on article 72 as well.

47. His delegation was pleased that work on the draft model law on international commercial arbitration had been completed, and would comment on it in due course. It hoped that the Working Group on the New International Economic Order would submit a completed draft of the legal guide to the Commission by 1986. The Working Group should always bear in mind the objective of the guide, which was to assist developing countries in the technical task of drawing up contracts for industrial works and to ensure the fairness of such contracts. Lastly, his delegation thanked the Secretariat and the Governments which had organized symposia and seminars to publicize the work of UNCITRAL: it endorsed the views expressed in paragraph 141 of the report and expressed the hope that additional seminars would be held in developing countries, particularly in Africa.

48. Mr. AENA (Iraq) said that the Commission had made a wise decision to concentrate on the draft Convention on International Bills of Exchange and International Promissory Notes and to discontinue its work on the draft Convention on International Cheques, in order to address itself to the major controversial and other issues raised by Governments in their observations on the provisions of the first-mentioned Convention.

49. It was obvious that the rules and principles embodied in the draft Convention on International Bills of Exchange and International Promissory Notes were the result of a deliberate policy of departing as little as possible from the existing rules under the principal legal systems governing negotiable instruments, namely, the civil- and common-law systems. Although Iraq had doubts about the idea of introducing yet another legal system, it was nevertheless prepared to support a new convention if it accommodated the viewpoints of the civil-law countries either by making the Geneva uniform law acceptable to the countries following the common law or by incorporating specific amendments into the draft Convention.

50. His delegation preferred the approach of the Geneva uniform laws for various reasons. First, the distinction in the draft Convention between holder and protected holder lacked clarity and was complex. Second, the requirements which

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(Mr. Aena, Iraq)

must be met by a holder in order to obtain protected holder status were too strict. It was also difficult to determine what the rights of a person in possession of an instrument were, specifically whether such a person was a holder or a protected holder. And lastly, the draft Convention did not establish what constituted a valid claim to an instrument but left that question to applicable law.

51. Iraq welcomed the Commission's decision to reconsider the criteria by which a holder qualified as a protected holder, and article 41, which imposed greater liability on transferors by mere delivery than on transferors by endorsement and delivery. Another question to be resolved was the need to devise a way of enabling the civil-law countries to ratify the draft Convention without violating their obligations under the Geneva Conventions.

52. With regard to the draft model law on international commercial arbitration, his delegation considered that the Working Group on International Contract Practices had been wise to choose the form of a model law and not a draft convention or a uniform law. The model law in some instances clarified and supplemented the provisions of the 1958 Convention on Recognition and Enforcement of Foreign Arbitral Awards, without conflicting with any of its provisions. The model law would also provide an opportunity for spreading the idea of using arbitration to settle trade disputes.

53. Certain matters needed urgent settlement, particularly the enforcement of arbitral awards. In addition to the model law, a set of model provisions dealing with specific questions could be drafted, such as a model provision based, with certain modifications and improvements, on article V of the New York Convention.

54. On the question of the legal implications of the new international economic order, his delegation welcomed the report of the Working Group on its fifth session (A/CN.9/247) and wished to underscore the fact that the main objective of the legal guide was to assist the negotiating parties, particularly those from developing countries, in drawing up international contracts for industrial works.

55. Lastly, his delegation felt that it would be appropriate for the Commission to take up the item entitled "Liability of operators of transport terminals" as a logical consequence of its work in the field of carriage of goods by sea, which had resulted in the Hamburg Rules of 1978.

56. Mr. KULAWIEC (Czechoslovakia) said that co-operation among States through international trade was a significant factor in maintaining and strengthening international peace and security and that Czechoslovakia welcomed the work done by the Commission, particularly in drafting the model law on international commercial arbitration.

57. Czechoslovakia favoured the speedy completion of the work on the draft Convention on International Bills of Exchange and Promissory Notes and on the draft Convention on International Cheques, which would facilitate the unification of that branch of the law. Within the framework of the new international economic order, it attached great importance to the preparation of the draft legal guide on drawing up contracts for industrial works.

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(Mr. Kulawiec, Czechoslovakia)

58. The work of the Commission should focus primarily on progressive suggestions based on the new international economic order. Such work should not be limited to the Working Group on the New International Economic Order; other working groups within the Commission should also deal with the question. Some of the topics which should be studied were the legal aspects of multilateral commodity agreements; legal questions relating to foreign investments; bilateral intergovernmental agreements on industrial co-operation; contract provisions in the field of industrial development, with special reference to research, development, engineering services, supplies and the construction of industrial works; legal problems arising from the activities of transnational corporations; licence agreements and other agreements concerning natural resources; in other words, the topics proposed to the Commission by the Working Group on the New International Economic Order and discussed by the Commission in plenary session in 1980. The Commission should also deal with barter and barter-like transactions.

ORGANIZATION OF WORK (continued) (A/C.6/39/1; A/C.6/39/L.1)

59. The CHAIRMAN said that, when the Committee had tentatively decided to begin its work with the consideration of agenda item 127, he had indicated that he would consult informally with the members of the Bureau, the chairmen of the regional groups and all interested delegations in order to work out, on the basis of the document prepared by the Secretariat, generally acceptable arrangements regarding the order in which the items on the Committee's agenda would be taken up and the approximate dates when they would be considered.

60. As a result of the consultations, it had been agreed that, as suggested in document A/C.6/39/L.1, the Committee would conclude its work not later than 7 December 1984, and agreement had also been reached on the order in which the agenda items would be taken up. The requirements of subparagraph (d) of the sole operative paragraph of General Assembly resolution 1898 (XVIII) had thus been met.

61. In accordance with rule 99 of the rules of procedure of the General Assembly, the Committee should, if possible, indicate in its programme of work the number of meetings to be set aside for each of the items allocated to it. Although the suggestions of the Secretariat could provide general guidance in that respect, it had not been felt necessary to set aside a definite number of meetings for each item, particularly because in the past it had not been possible to adhere to such rigid timetables. It had therefore been agreed that a measure of flexibility should apply in that regard. However, in accordance with General Assembly resolution 1898 (XVIII), the Committee should agree on approximate dates for the consideration of each item so that delegations could plan their work, particularly with the participation of experts in view. Consequently, in the light of the discussions held, he had a number of suggestions to make with regard to the timetable to be followed.

62. The debate on item 127 would be concluded at the following meeting on Monday, 1 October, and at that meeting consideration of item 122 would also begin, and would be continued on 2 October. On 2 October the discussion of item 128 would

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(The Chairman)

also begin, and continue until 5 October. On 5 October the Committee would take up item 126 and the debate on that item would last until 12 October. The next item would be 123, which would be considered between 12 and 17 October. The Committee would then discuss items 124 and 133, from 17 to 30 October. Item 121 would be dealt with on 30 and 31 October; on 31 October and on 1 November the Committee would address item 131. Item 130 would be discussed from 1 to 13 November, and would be followed by item 125, to which 14 and 15 November would be devoted. The next item would be 129, which would be considered between 16 and 21 November. The Committee would then discuss item 120 from 23 to 26 November.

63. The order and approximate dates of consideration of the remaining items would be as follows: item 135, 27 November; item 132, 28 November; item 137, 29 November; item 136, 30 November and item 134, 3 and 4 December. He reiterated that the dates indicated were approximate and that adjustments might have to be made, depending on the progress of work.

64. Another element which had been discussed in informal consultations related to the functioning of the two working groups. In that respect it had been agreed that during the first six weeks of the session, in other words until 9 November, the Chair would make every effort to ensure that each of the working groups held one meeting per week without prejudice to priority consideration by the Committee of the items on its agenda. To make that possible, on the one hand the Secretariat would endeavour to obtain at least one extra meeting per week, over and above the seven meetings to which the Committee was entitled and, on the other hand, an attempt would be made to gain time through a rational organization of the Committee's proceedings. In that connection he had been informed that, over the 73 plenary meetings which the Sixth Committee had held during the thirty-eighth session, a total of more than 37 hours - the equivalent of some 12 meetings - had been left unused through late startings and early endings. It would therefore be possible to improve the use of conference facilities, and he intended to take the following steps: (1) to start meetings as soon as there was a quorum; (2) to close the list of speakers on the various items at an early stage so as to have as soon as possible a clear idea of the probable length of the debate; (3) to schedule the start of the debate on any given item as soon as the list of speakers on the previous item was exhausted; (4) to urge speakers to be brief, as concise statements were usually more effective than lengthy ones; (5) to encourage speakers to take the floor at the beginning of the debate on each item rather than waiting until the last moment. If, as a result of poor use of the time available at the beginning of the discussion on each item, a surplus of speakers accumulated at the last meeting for the consideration of that item, he would arrange for night meetings to accommodate latecomers without disrupting the agreed calendar of work.

65. Those steps would apply throughout the session, but the arrangement for the working groups would be confined to the first six weeks. At that date the Committee would review those arrangements and might make any necessary adjustments in the light of experience. In accordance with the practice followed in previous years, the chairmen of working groups should be ready to make use of any time gained by early closure of Committee meetings.

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66. Mr. ROSENSTOCK (United States of America) said that the efforts made by the Chairman to hold informal consultations and secure results from them, and especially the suggestions contained in what could be called his "five-point plan", were commendable. In the view of his delegation, a clear consensus had been reached during the consultations concerning the working groups, to the effect that they would be allotted two meetings a week, one for each working group, during the first six weeks of the current session. The results of the innovations made in the work of the Committee could be considered after that period.

67. The CHAIRMAN said that in order to adjust the work of the Committee to the approximate dates set for consideration of items, he would make every effort to assign one meeting a week to each of the working groups. The apparently not very wise practice followed the previous year, whereby working groups had met only after the close of Sixth Committee meetings, could thus be avoided.

68. Mr. ROSENSTOCK (United States of America) pointed out that the agreement reached during the consultations consisted not in "making every effort", but in a commitment to allow at least one meeting for each working group during the first six weeks. After that period the schedule would be reviewed. The delegation of the United States had joined in the consensus on that understanding.

69. Mr. YAKOVLEV (Union of Soviet Socialist Republics) expressed satisfaction with the efforts made by the Chairman concerning the organization of the Committee's work and particularly with the innovations designed to improve the procedure on the basis of previous practice. As to the agreement reached during the consultations, no delegation should interpret it unilaterally. Any change in the Committee's established procedure must be based on a consensus. In essence, under that procedure the Committee, at plenary meetings, considered the basic topics on its agenda with a view to developing the codification of public international law. The establishment of working groups of varying sizes was only an additional method for the consideration of those items.

70. The suggestions made were acceptable only in so far as the new methods did not jeopardize the primary function of the Committee, which was the consideration of basic issues at plenary meetings. If the Chairman considered it possible, during the performance of that function, to accelerate the work of the working groups and to give them more time, without interfering with the established procedure for the Committee's work, his delegation would not object. It would, however, not be legitimate automatically to interrupt the essential function of the Committee in order to allocate to the working groups, by any means available, the number of meetings considered necessary. The Soviet delegation categorically rejected that interpretation, which was incorrect and unwarranted by any standard.

71. The CHAIRMAN said he understood that it had been made quite clear during the informal consultations that the work of the working groups would not interfere with the deliberations of the Committee, and that situation had been reflected in the proposed timetable. Thus, on Monday, 1 October, the Committee would continue its consideration of the report of UNCITRAL (item 127) and would begin consideration of item 122. On Tuesday, 2 October, it would continue its discussion of item 122 and

(The Chairman)

would begin consideration of item 128. On Wednesday, 3 October, one of the working groups would meet in the morning and, on the same day, in the afternoon, the discussion on item 128 would continue. On Thursday, 4 October, there would be another meeting of a working group in the morning and, in the afternoon, the Committee would continue its consideration of item 128. On Friday, 5 October, in the morning the Committee would continue its discussion of item 128 and would begin consideration of item 126. The same pattern would be followed in subsequent weeks.

72. Mr. ROSENSTOCK (United States of America) said that his delegation was not in the habit of rehashing existing items in the middle of General Assembly sessions, nor could it understand the meaning of such expressions as "new or supplementary questions". The Committee had the authority to decide on the procedure for conducting its business, whether in its working groups, in discussions at plenary meetings of the Committee, at night meetings or by any other procedure. It was to be hoped that there would be a certain amount of good will in applying the results of the consultations, which had been accepted by all parties concerned, since all delegations that had taken part in that discussion had also been present at the consultations.

73. The results were quite clear: it had been agreed that, during the first six weeks, each working group would hold one meeting. That had been the arrangement and no attempt should be made to change it at that juncture. With good faith and flexibility the trial arrangement might prove successful. His delegation attached more importance to applying the results of the consultations than to any other aspect of the question.

74. Mr. BERMAN (United Kingdom) commended the efforts made by the Chairman with regard to the informal consultations. The fact that they had been held promptly showed that the Committee had begun its work in an efficient manner. His delegation approved of the results of the consultations and was pleased that they involved minor innovations on a trial basis, as agreed. His delegation hoped that, at the end of the six weeks' trial period, the validity of those changes would be proven.

75. With regard to the items allocated to the Committee, they had all been included by the General Assembly, including those items for which working groups had been set up. Fortunately, the Assembly never decided which items were important and which were not, and the Sixth Committee should also refrain from making that distinction. Otherwise, the practice of consensus, which was a basic aspect of the Committee's work, would be seriously jeopardized.

76. The delegation of the United Kingdom hoped that the working groups would have time to meet during the first few weeks and that the necessary services would be made available to them. It accepted the Chairman's suggestions concerning the organization of work, but observed that, as had been the case in previous years, there was a possibility of duplication and a not very rational organization of work in so far as consideration of items 130 and 125 was concerned. The draft Code of

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(Mr. Berman, United Kingdom)

Offences against the Peace and Security of Mankind would apparently be included as a chapter in the report of the International Law Commission and it would be advisable to avoid a duplication of the discussion on one and the same item. Perhaps it would be possible to combine the two items informally and to allocate a general period, between 1 and 15 November, for their joint consideration.

77. The CHAIRMAN said that, with regard to consideration of items 130 and 125, the Committee would follow the same practice as it had in the previous year. However, some delegations had expressed the wish to make separate statements and, of course, they could do so. The Committee would allow the utmost flexibility in the consideration of those items. In order to facilitate the work of the Committee, he urged delegations to agree to the suggestions he had just made.

78. Mr. YAKOVLEV (Union of Soviet Socialist Republics) said he agreed with the Chairman's appeal, but not with the views of the two previous speakers. The agenda contained 20 items, and working groups had been established for two of them. Attempts were currently being made to replace the Committee by working groups which would meet seven times a week instead of five. Priority must be given to the main items. His delegation was opposed to a complete reorganization of the Sixth Committee and to the disruption of its procedures.

79. The CHAIRMAN said that no one wished to tamper with the agreement reached by the Sixth Committee.

80. Mr. SCHRICKE (France) said that his delegation had respected the agreement reached in the informal consultations. With the help of the Secretariat, the Chairman had rearranged the dates so that the working groups could hold two meetings a week. He therefore saw no problem, since the working groups had held more than six meetings the previous year. The Soviet delegation had no cause for alarm, and the French delegation hoped that there would be no further discussion on the subject and that the working groups would hold the two meetings that had been arranged.

81. Mr. SZELEI (Hungary) agreed with the statement made by the Chairman and commended the efforts he had made to achieve those results. With regard to item 125, he was in complete agreement with the Chairman's suggestion and proposed that it should be accepted.

82. The CHAIRMAN said that, if there were no objections, he would take it that the Committee agreed to his suggestions.

83. It was so decided.

84. The CHAIRMAN said that he would submit that decision for consideration by the General Committee and hoped to be able to circulate the relevant document, in all the languages, on Monday, 1 October.

The meeting rose at 5.35 p.m.