



CONTENTS

	Page
Agenda item 85: Report of the International Law Commission on the work of its twenty-fourth session Report of the Sixth Committee . . . . .	1
Agenda item 86: Report of the United Nations Commission on International Trade Law on the work of its fifth session Report of the Sixth Committee . . . . .	1
Organization of work . . . . .	5

*President:* Mr. Stanisław TREPCZYŃSKI (Poland).

**AGENDA ITEM 85**

**Report of the International Law Commission on the work  
of its twenty-fourth session**

REPORT OF THE SIXTH COMMITTEE (A/8892)

**AGENDA ITEM 86**

**Report of the United Nations Commission on  
International Trade Law on the work of its Fifth Session**

REPORT OF THE SIXTH COMMITTEE (A/8896)

1. Mr. SHITTA-BEY (Nigeria), Rapporteur of the Sixth Committee: I have the privilege to report to the General Assembly the outcome of the deliberations of the Sixth Committee on agenda items 85 [A/8892] and 86 [A/8896].

2. At its 2037th plenary meeting, on 23 September 1972, the General Assembly allocated agenda item 85 to the Sixth Committee for consideration and report. The Sixth Committee considered the item at its 1316th to 1329th and 1336th to 1339th meetings, held from 28 September to 11 October and from 18 to 20 October 1972. Mr. Richard Kearney, the Chairman of the International Law Commission at its twenty-fourth session, introduced the Commission's report [A/8710 and Add.1 and 2] and commented on the observations on it which had been made during the debate. The Commission's report was divided into five chapters. Chapter II contained the draft articles on succession of States in respect of treaties provisionally adopted by the Commission, and chapter III contained the draft articles on the prevention and punishment of crimes against diplomatic agents and other internationally protected persons provisionally approved by the Commission.

3. Generally, the representatives who spoke in the debate congratulated the Commission on the valuable work and

the fruitful results accomplished at its twenty-fourth session, and on the excellent report reflecting the Commission's tradition of high quality as well as its dedication to the progressive development and codification of international law. Among other things, certain representatives stressed the need to accelerate the process of progressive development and codification of international law in view of the enhanced role played by it in contemporary international relations. In reference to the statement made by the Secretary-General on the 1194th meeting of the Commission, on 4 July 1972, it was observed that there was no long-term alternative to a policy of peaceful coexistence within the framework of international law, and it was essential that its codification and progressive development should be pursued even more energetically in the future. In this connexion, however, it was also pointed out that the General Assembly should always grant the Commission the time and the resources it required to carry out its work satisfactorily.

4. At the conclusion of its deliberations on the report, together with the various proposals laid before it, the Sixth Committee decided to recommend to the General Assembly the adoption of draft resolution I, entitled "Report of the International Law Commission", and draft resolution II, entitled "Twenty-fifth anniversary of the International Law Commission", both of which were set out in paragraph 206 of its report [A/8892].

5. At its 2037th plenary meeting, the General Assembly included item 86 in its agenda and allocated it to the Sixth Committee for consideration and report. The Sixth Committee considered this item at its 1328th to 1336th meetings, from 10 to 18 October 1972, and at its 1345th and 1354th meetings, on 27 October and 8 November 1972. At its 1328th meeting, Mr. Jorge Barrera-Graf, the Chairman of the United Nations Commission on International Trade Law [UNCITRAL] at its fifth session, introduced the Commission's report on the work of that session [A/8717]. The main trends of opinions expressed in the Sixth Committee on the item are summarized in paragraphs 9 to 44 of document A/8896. Specific topics relating to the Commission's programme of work were discussed under the headings "International sale of goods", "International legislation on shipping", "International payments", "International commercial arbitration", "Training and assistance in the field of international trade law", and "Future work". Most representatives who spoke expressed appreciation for the rapid and substantial progress the Commission had made towards the unification and harmonization of international trade law. In particular, all representatives who spoke on the subject of the international sale of goods welcomed the draft articles on prescription (limitation) in the international sale of goods that had been prepared by the Commission. The view was

also expressed that the draft articles constituted a significant contribution to the goal of unification and harmonization in an important area of international trade law.

6. At the conclusion of its deliberations on UNCITRAL's report, together with the various proposals laid before it, the Sixth Committee decided to recommend to the General Assembly the adoption of the two draft resolutions set out in paragraph 48 of document A/8896. Draft resolution I is entitled "Report of the United Nations Commission on International Trade Law", and draft resolution II is entitled "United Nations Conference on Prescription (Limitation) in the International Sale of Goods".

*Pursuant to rule 68 of the rules of procedure, it was decided not to discuss the reports of the Sixth Committee.*

7. The PRESIDENT (*interpretation from French*): I now invite members to turn their attention to the report of the Sixth Committee on agenda item 85 [A/8892]. Before we proceed to vote on the draft resolutions recommended by the Sixth Committee, I shall give the floor to those representatives who wish to explain their votes before the vote.

8. Mr. NUR ELMI (Somalia): My delegation has taken note of the report of the International Law Commission, and of the report thereon submitted by the Sixth Committee to the General Assembly for adoption [A/8892]. The authors of the voluminous report of the International Law Commission, consisting of five chapters, deserve our appreciation for the work they have done. However, chapter II of the report contains 31 draft articles and commentaries relating to the succession of States in respect of treaties, some of which require clarification. It also contains some specific questions which are of direct concern to my country. I should like therefore to enter on behalf of my Government strong reservations on the report, particularly with regard to the part relating to the boundary régime and other territorial régimes established by treaty. I think that some degree of caution is required before proceeding to hasty conclusions and that there should not be any confusion or inexactness of facts in matters of this nature and importance. So allow me to state here how my Government considers the treaties of which the report speaks.

9. The Somali Democratic Republic does not recognize the legal validity of treaties concluded between other parties against the interests and without the consent of its people. As far as my country is concerned, we consider these treaties devoid of any legality since they were stipulated between foreign colonial Powers without the supreme will, or even the knowledge, of our people. The treaties to which the report refers with regard to my country are probably the 1897 Anglo-Ethiopian Treaty,<sup>1</sup> the 1908 Italo-Ethiopian Treaty<sup>2</sup> and the 1924 Anglo-Italian Treaty,<sup>3</sup> none of which the Somali Democratic Republic recognizes for the reasons I have just stated.

<sup>1</sup> Treaty between Great Britain and Ethiopia, signed at Addis Ababa on 14 May 1897.

<sup>2</sup> Treaty between Italy and Ethiopia, signed at Addis Ababa on 25 June 1908.

<sup>3</sup> Treaty between Great Britain and Italy, signed in London on 15 July 1924.

10. It is common knowledge that such treaties were meant to serve solely the interests of the colonial Powers. The distinguished jurists who so laboriously prepared this extensive report know that colonial peoples were not required to give, and in fact had not given, their consent to such arbitrary treaties. Furthermore, these treaties have, especially in Africa, caused tremendous problems to many new nations. They have created fatal misunderstandings, and have even led to serious conflicts among neighbouring States. The Somali Democratic Republic is ready, however, to assume full obligations under present-day international law in conformity with the principles of the Charter of the United Nations vis-à-vis treaties entered into freely by us with any other party or parties. In fact, when the historic event of our revolution took place on 21 October 1969, the Supreme Revolutionary Council of my country announced in its first declaration the basic guidelines of the general programme of the Revolutionary Government, both in terms of internal and external policies. Article 6 of part II of that declaration states that the Somali Democratic Republic recognizes and respects all legal international commitments undertaken by the Somali people.

11. The report now before us makes some comments on boundary disputes between States, and in a specific reference to my country mentions the boundary disputes between the Somali Democratic Republic, Ethiopia and Kenya. Indeed, there are outstanding boundary disputes between the Somali Democratic Republic and its neighbouring States, disputes for which we are seeking friendly and peaceful settlement. The President of the Supreme Revolutionary Council of my country, Major-General Mohamed Siad Barre, said in a recent policy statement with regard to this question:

"What we intend to do is to press for peaceful and amicable settlement of all disputes with our neighbours, which, if left unresolved, will sow the seeds of suspicion and hatred between the peoples and Governments of our part of the world."

Thus, the Somali Democratic Republic has chosen to resort to the policy of pacific settlement of disputes between States as laid down in the Charter of the United Nations and in the Charter of the Organization for African Unity to demonstrate its genuine desire for peace in our region.

12. As regards the question of our borders with Ethiopia, I wish to make it clear that they are provisional administrative boundaries pending their final demarcation and the solution of the dispute. In a letter dated 29 March 1950 addressed to the President of the Trusteeship Council, the late Count Sforza, then Minister for Foreign Affairs of Italy, referring to the unilateral extension of the provisional administrative line, wrote:

"2. It is clear from the letter of March 1950, which is reproduced in the above-mentioned document, and from a similar letter transmitted direct to the Italian Government by the United Kingdom Government that, as the retiring Administering Authority, the latter has felt bound, in view of the possible difficulties entailed in tripartite negotiations, to fix the provisional administrative line itself unilaterally.

“3. The Italian Government, while stating that it has no intention of questioning the procedure adopted and noting that the decision in question is of a provisional nature and in no way prejudices the final settlement of the problem, nevertheless deems it appropriate to point out that the provisional line was fixed without its being consulted and, as protector of the rights of Somaliland, to reserve its position with regard not only to the legal aspects of the question but also to certain practical difficulties which may arise from the line so fixed.”<sup>4</sup>

The letter to which the Minister of Foreign Affairs of Italy was referring was a letter dated 1 March 1950.<sup>5</sup> The Somali Democratic Republic has, ever since its independence and admission to membership in the United Nations, insisted on those same reservations which were expressed by the Italian Government in its capacity of Administering Authority 22 years ago.

13. In conclusion, I should like to request the President to be so kind as to ensure that the record of this meeting will show the reservations of my Government on the aspects of the present report on which I have spoken.

14. Mr. SCHERER (United States of America): My delegation abstained in the vote on draft resolution I in the Committee and we shall do so again here. We shall not abstain out of any dissatisfaction with or complaint about the work of the International Law Commission. Quite the contrary, we believe the Commission has done an excellent job. Indeed, we believe the Commission deserves particular commendation for the expeditious manner in which it responded to the request of the General Assembly at its twenty-sixth session to produce a draft convention on the urgent problem of the protection of diplomats [*resolution 2780 (XXVI)*]. The reason for our abstention is that we do not believe the Sixth Committee was as responsive to the urgent needs of the situation as the Commission was. The convening of a plenipotentiary conference as early as practicable in 1973 to complete the drafting of the convention would, in our view, have been an appropriate step for the Sixth Committee to have recommended. Such a step would have been consistent with the urgency and importance of the matter. We simply abstained on the draft resolution and did not request a separate vote on part of it in order to record a negative vote because we are confident that the General Assembly at its twenty-eighth session will be able to complete the work on the protection of diplomats and open it for signature. We shall work constructively to that end.

15. Mr. MILLER (Canada): Like the previous speaker, I should like to make a few remarks about a particular aspect of draft resolution I now before the Assembly.

16. Canada has supported, and will continue to support, the International Law Commission in the very important work it does in the development of international law. Nevertheless, my delegation had the honour to play an active part in the Sixth Committee's consideration of that

part of the Commission's report having to do with the convention on the protection of diplomats, that is to say, the articles that the Commission provisionally approved and sent to this Assembly for us to take action upon.

17. In the activity in which we participated in the Sixth Committee we advanced, in company with 10 other delegations, a draft resolution [*see A/8892, para. 7*] which called for a conference to be held as early in 1973 as practicable for the purpose of dealing with the very urgent problem of protecting diplomats and other persons who enjoy special protection under international law. We did this because we felt, and continue to feel, that this was a reasonable, correct response to the articles given to us by the Commission and to the need for this Assembly to take urgent action on them. We suggested also, in the same draft resolution, that the opinions of Member States, of specialized agencies and of interested intergovernmental organizations on these articles presented by the Commission might be submitted to the Secretary-General by 1 March of next year. I am sorry to say that our draft resolution was not successful.

18. Instead, we now have before us, in section II of draft resolution I, a paragraph proposing the inclusion of an item entitled “Draft convention on the prevention and punishment of crimes against diplomatic agents and other internationally protected persons” on the agenda of our twenty-eighth session, with a view to the final elaboration of such a convention by the General Assembly. But when will this job be done? We had hoped that the authors of this particular paragraph might have indicated more strongly the urgency which we believe all of us attach to the need for such a convention. We had hoped they would be willing to indicate that such a convention must be the outcome of next year's regular session. Indeed, we sincerely hope that it will be and my delegation, for one, will work very actively to that end.

19. Before I say how Canada intends to vote, I should like to inquire, Sir, whether it would be possible to ask the authors of operative paragraph 1 of section II of the draft resolution before us if they would consider inserting the word “intergovernmental” between the words “interested” and “organizations”, so that the phrase would read “interested intergovernmental organizations”. These are the organizations invited by us to submit as soon as possible their written comments on this subject. It would seem to my delegation that the omission of the word “intergovernmental” may be an accident, since the language follows very closely similar language to be found in the original 11-Power draft resolution.

20. Regrettably, Canada will have to abstain in the vote on draft resolution I. We do so conscious that an abstention on a draft resolution on a report, and indeed on the work, of the International Law Commission is a serious step. This should in no way be taken as a reflection on the work of the International Law Commission, which, as I have already mentioned, Canada holds in very high regard. It is purely because the sense of urgency and the precision as to when the Assembly will complete the drafting of the convention on the protection of diplomats are now lacking in the draft resolution.

<sup>4</sup> See *Official Records of the Trusteeship Council, Sixth Session, Annex*, vol. I, document T/527.

<sup>5</sup> *Ibid.*, document T/484.

21. The PRESIDENT (*interpretation from French*): The General Assembly will now take a decision on the two draft resolutions which the Sixth Committee recommends for adoption in paragraph 206 of its report [A/8892].

22. Draft resolution I is entitled "Report of the International Law Commission". The representative of Canada has proposed a slight amendment to the text of operative paragraph 1 of section II of this draft resolution, where he suggests the addition of the word "intergovernmental" between the words "interested" and "organizations", so that the revised text would read:

"1. Invites States and also the specialized agencies and interested intergovernmental organizations to submit . . .".

Since this is a very slight amendment, I propose, in accordance with rule 80 of the rules of procedure, that we decide on it now, without having to adjourn the debate and allow 24 hours for discussion.

23. If I hear no objection, and if there is no other proposal with regard to the proposal of the representative of Canada to add the word "intergovernmental", I propose to put draft resolution I to the vote as thus amended orally. A recorded vote has been requested.

*A recorded vote was taken.*

*In favour:* Afghanistan, Algeria, Argentina, Bahrain, Barbados, Belgium, Bolivia, Botswana, Brazil, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Chad, Chile, Congo, Cyprus, Czechoslovakia, Dahomey, Democratic Yemen, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Finland, Gabon, Ghana, Guatemala, Guyana, Hungary, India, Indonesia, Iran, Iraq, Ivory Coast, Jamaica, Kenya, Khmer Republic, Kuwait, Laos, Lebanon, Lesotho, Libyan Arab Republic, Luxembourg, Madagascar, Malaysia, Mali, Mauritania, Mexico, Mongolia, Morocco, Nepal, Netherlands, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Paraguay, Peru, Poland, Qatar, Romania, Saudi Arabia, Senegal, Sierra Leone, Singapore, South Africa, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Upper Volta, Venezuela, Yemen, Yugoslavia, Zaire, Zambia.

*Against:* None.

*Abstaining:* Australia, Austria, Canada, Colombia, Costa Rica, Cuba, Denmark, El Salvador, France, Greece, Guinea, Honduras, Ireland, Israel, Italy, Japan, Malawi, New Zealand, Philippines, Portugal, Rwanda, Somalia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

*Draft resolution I, as amended orally, was adopted by 93 votes to none, with 26 abstentions (resolution 2926 (XXVII)).*

24. The PRESIDENT (*interpretation from French*): We come now to draft resolution II, entitled "Twenty-fifth

anniversary of the International Law Commission". Since the Sixth Committee adopted this draft resolution unanimously, may I take it that the General Assembly wishes to do the same?

*Draft resolution II was adopted (resolution 2927 (XXVII)).*

25. The PRESIDENT (*interpretation from French*): I shall now call on those representatives who wish to explain their votes after the vote.

26. Mr. FREELAND (United Kingdom): My delegation was one of those which abstained in the vote on the first of the two draft resolutions concerning the report of the International Law Commission. We did so not because of doubts about the work carried out by the International Law Commission at its twenty-fourth session. Our appreciation of the quality of that work was made quite clear in our statement in the Sixth Committee.<sup>6</sup> The reason why we abstained was that, in our view, section II of that draft resolution did not adequately reflect the sense of urgency which we feel should attend the General Assembly's handling of the Commission's draft articles on the protection and punishment of crimes against diplomatic agents and other internationally protected persons.

27. Despite our disappointment at the outcome on that question this year, however, we shall do all we can at next year's session of the General Assembly to make sure that an effective convention is adopted at that session. My delegation is confident that that aim is one which is widely shared here, notwithstanding the differences which have existed on the question of procedure.

28. Mr. BRENNAN (Australia): My delegation abstained in the vote on draft resolution I, but we should like to take this opportunity once again to commend the report of the Commission and to express the hope that the Commission will continue its fine work. We abstained, however, because we were concerned that section II of the draft resolution did not convey that sense of urgency regarding the adoption of a convention on the protection of diplomats which our delegation attaches to such a convention. Naturally, my delegation will play its full part in the discussion of these draft articles in the Sixth Committee at the next session of the General Assembly, with a view to the adoption of a convention by that Committee at the next session of the Assembly.

29. Mr. SANDBERG (Sweden): The Swedish delegation voted for draft resolution I, but that does not mean that we have changed our opinion with respect to the procedure to be followed for the preparation and adoption of a convention on the prevention and punishment of crimes against diplomatic agents and other internationally protected persons. We still think that the matter should have been referred to an international conference of plenipotentiaries instead of being dealt with in the Sixth Committee. We voted for the draft resolutions to express our high consideration for the International Law Commission and its work. We consider that the Commission has made major

<sup>6</sup> See *Official Records of the General Assembly, Twenty-seventh Session, Sixth Committee, 1321st meeting.*

contributions to the codification and development of international law. In view thereof we felt that we should vote in favour of the draft resolution rather than abstain.

30. I am authorized to say that I also speak for the Norwegian delegation in this matter.

31. Mr. IBRAHIM (Ethiopia): My delegation voted in favour of the draft resolutions on the report of the International Law Commission. I am taking the floor not so much to explain my vote with regard to those draft resolutions as to reserve the right of my delegation, particularly in view of the statement made by the representative of Somalia, regarding some treaties validly entered into between two sovereign States: Ethiopia and the sovereign authority in the Territory formerly known as Somaliland.

32. Mr. ODERO-JOWI (Kenya): In explaining the vote of my delegation, we should like to reiterate our position in connexion with draft article 29 on boundary régimes. We fully subscribe to the conclusions of the International Law Commission in that article. A State can only succeed to the territory previously held by its predecessor. In our opinion this has nothing to do with the exercise of self-determination: it is purely a matter of one State succeeding to the sovereignty formerly exercised by another State over a given territory.

33. The inviolability of existing treaties has been fully recognized and enshrined in the charter of the Organization of African Unity; it is a principle which the International Law Commission has also endorsed; and it is the guiding principle of the Government of Kenya.

34. As far as the Kenya-Somali boundary is concerned, there is absolutely no room for dispute: the boundary was clearly demarcated by the Anglo-Italian Treaty of 1924, and we stand by that boundary—not because it was concluded by the colonialists, but because it clearly spells out the areas of sovereignty of the two States. Our full position on this subject was reiterated in the statement we made before the Sixth Committee,<sup>7</sup> which we should like to incorporate by reference into the record of this meeting.

35. Mr. KRISPIS (Greece): In the vote on draft resolution I my delegation abstained for the reasons stated by the representatives of the United States, Canada, the United Kingdom and Australia. My delegation regrets that its abstention had to cover section I of the draft resolution also. If section I had been voted upon separately, I should have voted in favour.

36. Mr. FLEITAS (Uruguay) (*interpretation from Spanish*): Like some other representatives, we abstained in the vote on draft resolution I, although we do congratulate the International Law Commission on the work it has done. What we do not like is that there will be no conference of plenipotentiaries, as was provided for in the 11-Power draft [*see A/8892, para. 7*], despite the fact that the Commission prepared a proper text on the important question of the protection of diplomatic agents and other internationally protected persons, for consideration by such a conference.

37. Our abstention therefore simply marks our fundamental divergence with the recommendation put forward by the majority of the Sixth Committee.

38. Mr. NAKAGAWA (Japan): My delegation abstained in the vote on draft resolution I just adopted because this text does not respond fully to the urgency of the problem: namely, the need for the protection of diplomats and other agents. However, it is the intention of my delegation to co-operate in the final elaboration of the draft articles when that is undertaken by the General Assembly at its twenty-eighth session.

39. Mr. NDAGIJIMANA (Rwanda) (*interpretation from French*): The delegation of Rwanda abstained on draft resolution I on the report of the International Law Commission because we believe that the question of the protection of diplomatic agents and other internationally protected persons is an urgent one. Rwanda would, therefore, have liked to see a conference of plenipotentiaries convened as soon as possible. However, Rwanda will do everything in its power to see to it that the Sixth Committee successfully follows up the important resolution which has just been adopted.

40. The PRESIDENT (*interpretation from French*): We turn now to the report of the Sixth Committee on agenda item 86 [A/8896].

41. We shall now take a decision on the draft resolutions which the Sixth Committee recommends for adoption in paragraph 48 of its report.

42. Draft resolution I is entitled "Report of the United Nations Commission on International Trade Law". Since the Sixth Committee adopted draft resolution I unanimously, may I assume that the General Assembly wishes to do so also?

*Draft resolution I was adopted (resolution 2928 (XXVII)).*

43. The PRESIDENT (*interpretation from French*): Draft resolution II is entitled "United Nations Conference on Prescription (Limitation) in the International Sale of Goods". The report of the Fifth Committee on the administrative and financial implications of this draft resolution is in document A/8910. I shall now put to the vote draft resolution II.

*Draft resolution II was adopted by 112 votes to 1, with 5 abstentions (resolution 2929 (XXVII)).*

#### *Organization of work*

44. The PRESIDENT (*interpretation from French*): Before the Assembly turns to the consideration of agenda item 23, I have been requested to suspend the meeting briefly, and if I hear no objection I shall proceed accordingly.

*The meeting was suspended at 4.15 p.m. and resumed at 5 p.m.*

<sup>7</sup> *Ibid.*, 1324th meeting.

45. The PRESIDENT (*interpretation from French*): I have been informed that consultations are still under way on item 23, "Admission of new Members to the United Nations", and I have been asked by certain delegations that

are directly concerned to hold over the consideration of that item to a later date. I have acceded to their request.

*The meeting rose at 5.05 p.m.*