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President : Mr. Daniel COSÍO VILLEGAS (Mexico).

Present :

Representatives of the following States: Afghanistan, Bulgaria, Chile, China, Costa Rica, Finland, France, Mexico, Netherlands, New Zealand, Pakistan, Poland, Spain, Sudan, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

Observers for the following Member States: Belgium, Brazil, Canada, Colombia, Hungary, India, Iran, Italy, Japan, Philippines, Romania, United Arab Republic, Yugoslavia.

Observers for the following non-member States: Federal Republic of Germany, Switzerland.

Representatives of the following specialized agencies: International Labour Organisation, Food and Agriculture Organization of the United Nations, United Nations Educational, Scientific and Cultural Organization, World Health Organization.

AGENDA ITEM 8

International commercial arbitration
(E/3211; E/L.823/Rev.1) (*concluded*)

1. Mr. VIAUD (France) considered that the Convention on the Recognition and Enforcement of Foreign Arbitral Awards¹ and the resolution² adopted by the United Nations Conference on International Commercial Arbitration, which had met at United Nations Head-

¹ See United Nations Conference on International Commercial Arbitration, *Final Act and Convention on the Recognition and Enforcement of Foreign Arbitral Awards* (United Nations publication, Sales No.: 58.V.6).

² *Ibid.*, para. 16.

quarters in 1958, marked an important advance on previous texts. It was desirable, however, that measures to strengthen the legal status of arbitration should be accompanied by more practical measures. That was the purpose of the joint draft resolution (E/L.823/Rev.1), which was wholly satisfactory to the French delegation. His delegation had followed with the greatest interest the work of the Committee of Experts on Arbitration which had met under the auspices of the Council of Europe, and of the ad hoc Working Group on Arbitration of the Economic Commission for Europe, which was to meet again shortly in order to prepare a draft European convention on commercial arbitration. The French delegation was therefore glad to see those organs referred to by implication in operative paragraphs 3 and 4 of the joint draft resolution.

2. Mr. SHANAHAN (New Zealand) said that he too viewed with satisfaction the results achieved at the United Nations Conference on International Commercial Arbitration. The texts adopted by the Conference affected both producer and consumer countries; they would encourage the expansion of international trade and thus favour economic development. However, they should be supplemented by practical measures, and the joint draft resolution marked an important step in that direction. The Committee on Trade of the Economic Commission for Asia and the Far East (ECAFE) had emphasized that widespread recourse to commercial arbitration could assist the development and expansion of trade. The New Zealand delegation hoped that other regional economic commissions would include that subject in their work programmes. They could do useful work in that connexion, especially by promoting the conclusion of bilateral arbitration agreements between countries in the same region. Lastly, it wished to congratulate the International Chamber of Commerce on the efforts it had been making for many years past to intensify international co-operation in that field.

3. Mr. TODOROV (Bulgaria) said that his country was rapidly developing its foreign trade and was endeavouring to conduct trade relations with all countries on the basis of the principles of equality and mutual interest.

4. In order to increase international trade, rapid and effective means of settling disputes over commercial transactions or the execution of commercial agreements were essential. The Bulgarian delegation was therefore a supporter of international commercial arbitration. It had taken part in the United Nations Conference on International Commercial Arbitration and had signed the Convention prepared by that conference. It also approved of the measures proposed in the resolution

which appeared in the Final Act of the Conference, and of which the Secretary-General had given an excellent summary in his note (E/3211, para. 1).

5. The socialist commercial organizations established by Bulgaria always included an arbitration clause in their international contracts. In addition, the Bulgarian Chamber of Commerce had a permanent commercial arbitration commission whose prestige was growing steadily. International organizations concerned with the subject would certainly benefit from the experience gained by permanent national arbitration bodies.

6. The joint draft resolution before the Council suffered from two defects: it made no mention of the Convention adopted by the Conference, but contained a reference to international investment, which seemed out of place in that context. Furthermore, since the Bulgarian delegation did not share the view expressed in the draft resolution regarding the part which the United Nations ought to play, it would be unable to vote in favour of that text.

7. Mr. ANIEL QUIROGA (Spain) said that arbitration, by definition, removed the parties to a dispute from the jurisdiction of the regular courts, and thus helped to create what in a sense was a private system of justice. Furthermore, the supporters of arbitration made no secret of their aim to confer quasi-legislative and quasi-judicial powers on certain non-state organs; the effect would be to reduce the role of the State, whose only remaining function would be to enforce certain compulsory rules.

8. In Spain, financial, industrial and commercial undertakings were allowed under the 1953 arbitration act to designate in advance arbitrators of their own choice in their standard contracts. That provision was designed to promote the security of contractual relations in the interest of industrialization.

9. After briefly reviewing the history of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, he observed that, since readily accessible, comprehensive and reliable data on arbitration laws and machinery were still lacking, it was essential that the organizations concerned should collect the relevant information in an authoritative publication. Member States would not be in a position to express an opinion on the existing forms of arbitration machinery until they had that publication before them. It should be borne in mind, however, that the adaptation of domestic laws to international standards was inevitably a long and difficult task.

10. With regard to the joint draft resolution, the Spanish delegation felt that matters were not yet sufficiently far advanced for the measures proposed to yield positive results; it would nevertheless vote in favour of the draft resolution because it believed that it was the Council's duty to aid the development of world trade by promoting the security of commercial relations, and that encouragement should be given to the conclusion of bilateral or regional agreements of the type which might result from the work of the organizations concerned.

11. Mr. SZABLEWSKI (Poland) said that Poland, having taken part in the United Nations Conference on International Commercial Arbitration which had produced the Convention and the resolution on arbitration, regretted that the more important of those two texts, the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, was not even mentioned in the joint draft resolution (E/L.823/Rev.1), and that insufficient attention was paid to the resolution. The Polish delegation would therefore be unable to vote in favour of the joint draft resolution.

12. Mr. SCHURMANN (Netherlands), referring to his statement at the 1059th meeting, regretted that some of his remarks should have been misinterpreted. His observations on the difficulties of arbitration between western and eastern countries had been intended not as a criticism, but as a statement of fact. Furthermore, he did not see how the representative of the Soviet Union could have thought that the sponsors of the joint draft resolution were envisaging the use of compulsion in matters of arbitration, since arbitration was by definition a procedure based on the free consent of the parties.

13. He also wished to reply to certain observations made by the representative of the Soviet Union and repeated by the Bulgarian and Polish representatives.

14. The reason why the joint draft resolution did not mention the Convention was that its essential purpose was the adoption of the practical measures proposed in the resolution but not in the Convention; nevertheless he would have no objection to the Convention's being mentioned.

15. With regard to the word "investment" in the fourth preambular paragraph and operative paragraph 5, he admitted that it was ill-chosen, and proposed, on behalf of the co-sponsors, that it should be replaced by the words "other private law transactions".

16. It had also been said that the Council should reject the draft resolution before it and endorse that adopted by the Conference; but that would involve the Council recommending itself to take certain steps (see E/3211, para. 2), and that would constitute a vicious circle.

17. The inclusion of the words "when necessary" after the word "establishment" in operative paragraph 1, as proposed by the United Kingdom representative (1059th meeting), seemed to him redundant, but he would not oppose that amendment if the United Kingdom delegation pressed it.

18. Lastly, the word "to" in operative paragraph 3 of the English text of the draft resolution should be deleted.

19. Mr. SCHACHTER (Secretariat) thanked the representatives for the guidance they had been good enough to give the Secretariat.

20. The Secretariat would be glad to help, within the limits of its resources, the interested organizations in their efforts to carry out educational programmes and to disseminate information on arbitration law and practice,

without, however, assuming the responsibility for any publications in that field. With regard to the point raised by the Mexican delegation (1059th meeting), he felt that it was covered by operative paragraphs 3 and 5 of the joint draft resolution, which would enable the Secretariat to co-operate with and render appropriate assistance to the organizations engaged in studies aiming at a greater uniformity of arbitration laws.

21. In reply to the observations of the representatives of the Soviet Union, Bulgaria and Poland, he wished to assure them that the tasks to be undertaken by the Secretariat under the joint draft resolution would be entirely consistent with the wishes expressed by the United Nations Conference on International Commercial Arbitration. To the extent that its resources permitted, the Secretariat would stand ready to facilitate the implementation of the objectives set forth in the resolution adopted by the Conference, and to assist the Governments and organizations concerned in the solution of the practical problems which they might encounter in their efforts to increase the use and effectiveness of arbitration in the settlement of private law disputes.

22. The PRESIDENT invited the observer for the Philippines to address the Council.

23. Mr. MALOLES (Philippines) said that international commercial arbitration would never have given rise to problems if the willingness of parties to submit to arbitration had been matched by the willingness of the losing party to comply with an adverse award. Even in the most favourable circumstances, however, there was no clear boundary between respect for the will of the parties and judicial intervention for the purpose of enforcing the award. The problem was especially complicated when it involved the recognition and enforcement of foreign awards. In such cases, the difficulties were increased both by the rules of procedure governing arbitral awards and by the problem of the validity of awards when they were invoked in a country other than the one in which they had been handed down.

24. Some efforts had been made to remedy the situation. In the field of international law, mention should be made of the Convention on the Execution of Foreign Arbitral Awards, signed at Geneva on 26 September 1927, and of the recommendation of the Consultative Assembly of the Council of Europe for the appointment of a committee of governmental experts to draft a European convention on arbitration, using as its basis a uniform law prepared by the Rome Institute. In the case of the American States, the Montevideo treaties and the Bustamante Code included provisions concerning the enforcement of foreign arbitral judgements and awards. Moreover, the seventh conference of the Organization of American States had recommended that the participating countries should incorporate in their legal systems certain standards to be observed in arbitral procedures. Lastly, a number of non-governmental organizations had undertaken a study of the question.

25. The work that had been done on the subject showed the major obstacles to progress in commercial arbitration to be the following: differences in national laws and

arbitration procedures; the difficulty of excluding the jurisdiction of courts when there was an arbitration agreement; the difficulty of determining the applicable law; difficulties arising from the competence of the arbitral tribunal to decide a question on the basis of equity or law; requirements of nationality of arbitrators; the problems involved in the enforcement of foreign awards; the lack of uniformity in arbitral procedures; the lack of standard arbitration clauses applicable to each individual case; the lack of arbitration facilities; exchange control difficulties in the transfer of currencies required for the settlement of awards.

26. The adoption of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards would not necessarily solve all those problems, but it would certainly be a step forward. Moreover, the establishment, within the framework of the United Nations, of a service or agency for registering and examining international arbitral awards for the purpose of certifying their validity would be of great assistance in the enforcement of such awards and in the establishment of a uniform system in that domain.

27. In the Philippines, arbitration had been recognized for many years as a means of settling disputes, and provision was made for it in the revised civil code of 1950. The question of the enforcement of foreign awards had arisen only twice, which showed that, as far as his country was concerned, commercial disputes between exporters and importers were few, and that so far the existing machinery had been adequate to deal with them.

28. He expressed the hope that the efforts of the United Nations in the field of arbitration would be crowned with success, and that, through economic and legal co-operation, the possibilities of commercial disputes between nations and individuals would be reduced, thus helping to build up confidence between peoples.

29. Mr. SAPOZHNIKOV (Union of Soviet Socialist Republics) noted with satisfaction that a number of delegations acknowledged the soundness of his delegation's earlier remarks (1059th meeting). For instance, the Netherlands representative was prepared to replace the word "investment" by the words "other private law transactions", and possibly also to refer in the text to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards. In that connexion, he himself did not share the view of the representative of the Secretary-General that there was hardly any difference between the joint draft resolution submitted to the Council and the resolution adopted by the United Nations Conference on International Commercial Arbitration: the preamble to the Conference resolution explicitly mentioned the Convention, whereas the draft resolution before the Council did not refer to it. There could be no doubt that if the Council did not refer to the Convention in the resolution it adopted, it would give the impression that it did not favour that instrument.

30. It was not a convincing argument to maintain that no reference to the Convention was necessary in a resolution concerned exclusively with supplementary measures, for the resolution should indicate clearly what was

the original decision to which the measures in question would be added. In the opinion of the USSR delegation, the Council should not only mention the Convention but should also indicate its approval of the Convention and perhaps even invite Governments to accede to it.

31. Nor could he accept the argument of the Netherlands representative that the Council could not take over the resolution adopted by the Conference, lest it appear to be urging itself to take steps. It would be entirely logical for the Council to confirm the resolution of the Conference by inviting States to act upon its provisions.

32. Mr. Zahiruddin AHMED (Pakistan) felt that in adopting the Convention on the Recognition and Enforcement of Foreign Arbitral Awards the United Nations had taken a constructive step which should contribute to the generalization of that method of settling private law disputes. The Pakistani delegation attached great importance to arbitration procedure, and hoped that it could be extended to the settlement of disputes in spheres other than that of private law.

33. Replying to a question by the PRESIDENT, Mr. ERROCK (United Kingdom) said that, since the Netherlands representative had not objected formally to the inclusion of the words "when necessary" in operative paragraph 1, he adhered to his proposal to that effect.

34. In answer to a question by the PRESIDENT, Mr. SAPOZHNIKOV (Union of Soviet Socialist Republics) reiterated that he did not consider the present text of the joint draft resolution to be satisfactory. He did not, however, intend to submit any amendments.

35. Following an observation by Mr. SEPULVEDA (Mexico), Mr. SCHURMANN (Netherlands) said that the word "investment" should be replaced by the words "other private law transactions" at the end of the second preambular paragraph also.

36. Mr. CHENG Paonan (China) said that, in the English text, the word "and" between the words "private law" and "arbitrations" at the end of operative paragraph 1 should be deleted.

37. The PRESIDENT invited the members of the Council to vote on the joint draft resolution (E/L.823/Rev.1), on the understanding that the word "investment" at the end of the second and fourth preambular paragraphs and at the end of operative paragraph 5 was replaced by the words "other private law transactions", and that the words "when necessary" were added after the word "establishment" in operative paragraph 1.

38. At the request of Mr. ERROCK (United Kingdom) the PRESIDENT called for a separate vote on the words "and procedures" in operative paragraph 3.

The words in question were adopted by 13 votes to none, with 5 abstentions.

The joint draft resolution, as amended, was adopted by 15 votes to none, with 3 abstentions.

AGENDA ITEM 5

Economic development of under-developed countries (E/3203, E/3208, E/3212 and Corr.1 and Add.1, E/3213 and Add.1 and 2, E/3218 and Corr.1, E/3219, E/3237; E/L.826) (continued):*

(a) Industrialization;

(b) Land reform;

(c) Sources of energy

39. The PRESIDENT proposed that the Council should give a hearing to the observer for Iran, who had been delayed by circumstances beyond his control and who wished to make a statement on land reform.

It was so decided.

40. Mr. ABDON (Iran) considered that the United Nations and the specialized agencies were doing highly important work in land reform, both through their research activities and by granting technical assistance and organizing seminars. He looked forward with keen interest to the report which the Secretary-General was to submit on that subject in 1962.

41. The Iranian Government, which was anxious to promote social progress and to increase agricultural production, attached the greatest importance to agricultural questions. He would like to describe briefly the manner in which Iran had undertaken its land reform.

42. An initial plan for the distribution of Crown lands had been established in a decree of 1950. Part of those lands were reserved for public institutions, such as schools and hospitals, and the remainder was apportioned among the peasants, care being taken to avoid excessive fragmentation. The lots were sold at a reduction of 20 per cent on their estimated value and could be paid for, interest free, over a period of twenty-five years. The annual instalments were paid into a special fund of the Development Bank, which financed the production and distribution of agricultural products.

43. The distribution of Crown lands was not only scheduled to continue but was also exerting an influence on the general policy of the Government, which had undertaken large irrigation projects and which, under an act of 1955, had distributed land in the public domain, to be paid for, interest free, over a period of twenty years. The sums collected were used to finance co-operatives concerned primarily with the mechanization of agriculture, the execution of irrigation works, the improvement of livestock breeding, and parasite control.

44. Some of the big landholders, following the example of the Sovereign and the Government, had voluntarily sold their land, and new laws would probably be adopted in the near future to encourage that trend.

45. The lessons of the experiment could be summed up in the following manner: in order to be successful, land reform had to be an integral part of an economic development plan; the legislative measures which it entailed

* Resumed from the 1058th meeting.

had to take account of local conditions; it had to be based on other measures, especially community development and educational campaigns; it should be possible to achieve the division of large holdings through a system of compensation rather than by confiscation; it was advantageous to establish a credit agency and co-operatives; the purpose of land redistribution should be not only an increase in productivity and national income, but also the avoidance of unduly rapid urbanization.

46. The Iranian Government was aware of the considerable obstacles yet to be surmounted. It expressed its gratitude to the United Nations, the specialized agencies, certain private foundations and certain countries for the help that it had received. In the hope of continuing to benefit by that aid in the future, it expected to be able to complete its land reform within the framework of a balanced economic development.

REPORT OF THE ECONOMIC COMMITTEE (E/3237; E/L.826)

47. The PRESIDENT drew the Council's attention to the report of the Economic Committee (E/3237) and said that he would put to the vote the draft resolutions appearing in the annex.

48. Mr. ZULOAGA (Venezuela) said that he wished to explain his vote on draft resolution I B.

49. During the debate in the Economic Committee, two draft resolutions (E/AC.6/L.234/Rev.1 and E/AC.6/L.235) had been submitted on the subject of petroleum resources. They had had a number of common features, but the first had not been as far-reaching as the second. The Venezuelan delegation, having no objection to the substance or form of either draft resolution, had voted in favour of both of them in the Committee in order to pay a tribute to the efforts of their sponsors. It would now, however, abstain from voting on the one draft resolution that the Committee had endorsed, in order to leave full freedom of action to the Venezuelan Government, which had decided to review its international oil policy. That decision had been prompted firstly by the drop in oil prices, which was not justified by any decrease in consumption, and secondly by the changes which some consumer countries had introduced in their restrictive quotas. Venezuela was also awaiting the results of the conference at present being held in Cairo, to which it had been invited, together with Iran, as an observer.

50. He wished to stress once again that his abstention should not be interpreted as implying any objection to draft resolution I B.

51. Mr. ARKADEV (Union of Soviet Socialist Republics) said that he too would abstain from voting on draft resolution I B, for the text failed to stress the true importance of the problem of petroleum resources and its significance to the economic development of the under-developed countries. By contrast, the draft resolution which had been submitted by Afghanistan and Bulgaria (E/AC.6/L.235), and which had been rejected by the Economic Committee, had been designed to further the interests of under-developed countries desiring to estab-

lish or improve their own oil industry. The opposition which that draft had encountered from countries such as the United Kingdom and the United States showed that attempts were being made to prevent the United Nations from dealing with those questions. Nevertheless, even if the Council adopted the draft resolution recommended by the Economic Committee, it was still possible that, at a later stage, a higher organ might decide to initiate studies of a much broader scope than those envisaged in the draft resolution.

52. Despite the insistence of the USSR delegation, the sponsors of draft resolution I C, among whom there were some under-developed countries, had not agreed to mention in operative paragraph 5 the particularly important project concerning international assistance in the supply of equipment. The Council would be seriously at fault if it were to adopt the draft resolution without adding that project to the list.

53. The USSR delegation would abstain from voting on draft resolution I D, which dealt somewhat prematurely with an insufficiently prepared question and did not seem absolutely consistent with the interests of the under-developed countries. If the sponsors had not included a delegation from an under-developed country, he would have voted against that draft resolution.

54. The PRESIDENT invited the Council to vote on the draft resolutions contained in the annex to the report of the Economic Committee (E/3237).

Draft resolution I A was adopted unanimously.

55. At the request of Mr. PAZHWAQ (Afghanistan), who wished to vote in favour of the fourth preambular paragraph of draft resolution I B, on which he had abstained in the Economic Committee, the PRESIDENT put that paragraph to the vote separately.

The fourth preambular paragraph was adopted by 17 votes to none, with 1 abstention.

Draft resolution I B as a whole was adopted by 11 votes to none, with 7 abstentions.

56. At the request of Mr. ARKADEV (Union of Soviet Socialist Republics), the PRESIDENT put operative paragraph 5 of draft resolution I C to the vote separately.

Operative paragraph 5 was adopted by 15 votes to none, with 3 abstentions.

Draft resolution I C as a whole was adopted unanimously.

57. Mr. PHILLIPS (United States of America) stressed that, contrary to the opinion expressed by the USSR representative, draft resolution I D, which the United States delegation had co-sponsored, deserved the Council's support. One of its purposes was to obtain recognition for the progress made towards economic integration among groups of States closely united by geography, history and similar cultures.

58. It was encouraging to note that certain countries in Central America were exploring the possibility of more rational regional exploitation of their resources and of developing complementary trade. Their consultations were reaching the point where tangible results might be hoped for in the near future.

59. The United States welcomed such action taken by neighbouring countries towards economic integration, for such integration would not only enable the group concerned to accomplish what each member country could not undertake by itself but would also act as a stabilizing factor in international affairs. Again, regional action made it easier for under-developed countries to obtain financial support for their development plans from international institutions such as the newly created Inter-American Development Bank and the United Nations Special Fund.

60. By encouraging that kind of action, the Council would undoubtedly stimulate economic development at both the regional and the local level.

61. At the request of Mr. PAZHWAK (Afghanistan), the PRESIDENT put sub-paragraph (a) of the preambular paragraph of draft resolution I D to the vote separately.

At the request of the Costa Rican representative, the vote was taken by roll-call.

Spain, having been drawn by lot by the President, was called upon to vote first.

In favour: Spain, United States of America, Venezuela, Chile, China, Costa Rica, France, Netherlands, New Zealand.

Abstaining: Sudan, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Afghanistan, Bulgaria, Finland, Mexico, Pakistan Poland.

Sub-paragraph (a) of the preambular paragraph was adopted by 9 votes to none, with 9 abstentions.

At the request of the Costa Rican representative, the vote on draft resolution I D as a whole was taken by roll-call.

Bulgaria, having been drawn by lot by the President, was called upon to vote first.

In favour: Chile, China, Costa Rica, Finland, France, Netherlands, New Zealand, Spain, Sudan, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Afghanistan.

Abstaining: Bulgaria, Mexico, Pakistan, Poland, Union of Soviet Socialist Republics.

Draft resolution I D as a whole was adopted by 13 votes to none, with 5 abstentions.

62. Mr. GARCÍA REYNOSO (Mexico) said that he had abstained from voting on draft resolution I D, not because Mexico did not endorse the principle of regional integration but for procedural reasons. In the first place, the question of regional economic integration was not on the agenda of the current session and the Council lacked sufficient information to approve a text as general as draft resolution I D.

63. Furthermore, operative paragraph 3 contained recommendations to the regional economic commissions and the specialized agencies. The Council normally respected the relative autonomy of those bodies so far as their work programme was concerned, and a recommendation that they should grant high priority to assistance of a specialized kind might set an ill-advised precedent. In any event, the objectives envisaged in paragraph 3 were so wide and undefined that it was unreasonable to ask that they should be granted a high priority.

64. He again stressed that, far from objecting to the principle of regional economic integration programmes, Mexico viewed with sympathy the efforts being exerted to that end by the Central American countries, and took an active part in the negotiations concerning the Latin American regional market.

Draft resolution II was adopted by 14 votes to none, with 4 abstentions.

65. At the request of Mr. SHANAHAN (New Zealand), the PRESIDENT put operative paragraph 2 of draft resolution III A to the vote separately.

Operative paragraph 2 was adopted by 14 votes to none, with 4 abstentions.

Draft resolution III A as a whole was adopted unanimously.

66. The PRESIDENT drew the Council's attention to the amendment submitted by the United States (E/L.826) to draft resolution III B.

The amendment was adopted by 14 votes to none, with 4 abstentions.

Draft resolution III B as a whole, as amended, was adopted unanimously.

67. The PRESIDENT declared that the delegations which so desired could explain their vote at the next meeting.

The meeting rose at 6 p.m.