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President: Sir Douglas COPLAND (Australia).

Present:

The representatives of the following countries: Argentina, Australia, China, Czechoslovakia, Dominican Republic, Ecuador, Egypt, France, India, Netherlands, Norway, Pakistan, Turkey, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Yugoslavia.

Observers from the following countries: Brazil, Colombia, Haiti, Indonesia, Iran, Mexico, Philippines.

The representatives of the following specialized agencies: International Labour Organisation, International Bank for Reconstruction and Development.

AGENDA ITEM 14

**Enforcement of international arbitral awards
(E/2704 and Corr.1, E/L.664)**

1. The PRESIDENT invited the Chairman of the Committee on the Enforcement of International Arbitral Awards to introduce the Committee's report (E/2704 and Corr.1) to the Council.
2. Mr. LOOMES (Australia), Chairman of the Committee on the Enforcement of International Arbitral Awards, said that the Committee had concluded that it would be desirable to establish a new convention on the enforcement of international arbitral awards which, while going further than the Geneva Convention on the Execution of Foreign Arbitral Awards of 26 September 1927 in facilitating the enforcement of foreign arbitral awards, would at the same time maintain generally recognized principles of justice and respect the sovereign rights of States.
3. The members of the Committee, while aware that they had been appointed as government representatives, had considered themselves as acting essentially as technical experts, with the understanding that the views expressed by them in the course of the Committee's deliberations would not necessarily represent the position of their respective Governments.
4. The discussions in the Committee had been conducted on a high technical level and had benefited from the co-operation of the International Chamber of Commerce, the International Law Association, the International Institute for the Unification of Private Law and the International Monetary Fund.
5. The Committee's recommendations were set out in paragraph 70 of its report (E/2704 and Corr.1).
6. Mr. DONS (Norway) agreed with the Committee's conclusion that a new convention should be

adopted and that Governments should be given an opportunity to make a full study of the draft Convention that had been prepared (E/2704 and Corr.1, annex). Accordingly, his delegation had submitted a draft resolution (E/L.664) based on the Committee's recommendations.

7. Mr. STIKKER (Netherlands) said that the Netherlands, a country to which international commerce was indispensable, was keenly interested in the settlement of disputes arising from commercial transactions. An international arrangement in the form of a convention under which parties to international commercial transactions would be assured of the maximum protection of their interests in a foreign country would undoubtedly be of great value to the development of international trade. The draft Convention prepared by the Committee would serve the legitimate interests of States whose economies were largely based on international trade and would also benefit world trade as a whole.

8. The Netherlands delegation fully agreed with the recommendations in the Committee's report on the procedure to be followed with respect to the draft Convention. It hoped that Governments would submit their comments in time for the Council to take a decision at its twenty-first session.

9. For the reasons given, the Netherlands delegation would support the Norwegian draft resolution.

10. Mr. AKANT (Turkey) said that his delegation had carefully studied the Committee's report and the draft Convention it had prepared. The International Chamber of Commerce had taken the view that the Geneva Convention of 1927 no longer met the requirements of international trade. He noted that under article VI of the Committee's draft Convention, the Geneva Convention would remain in force for the signatories to it.

11. He agreed that the draft Convention required further study and consequently would vote for the Norwegian draft resolution (E/L.664).

12. Mr. HOTCHKIS (United States of America) said that the United States of America felt that arbitration was the most effective and economical means of deciding international trade disputes. Wider acceptance of that method would expedite international trade. Accordingly, the United States was desirous of promoting the effectiveness of international arbitration. However, it was unlikely to participate in an international conference in view of its long-standing position on such matters, based in part upon the relationship between the Federal Government and the states. Enforcement of foreign arbitral awards would in many cases be within the competence of the states concerned. However, enforcement provisions had been included in bilateral agreements.

13. The United States delegation would therefore abstain from voting on the Norwegian draft resolution.

14. Mr. TURPIN (France) congratulated the Secretariat on the quality of the French translation of the draft Convention.

15. He said he would vote in favour of the Norwegian draft resolution (E/L.664).

16. Mr. BARNES (United Kingdom), Mr. CAFIERO (Argentina), Mr. RAMADAN (Egypt), Mr. DIPP GOMEZ (Dominican Republic), Mr. PRADO (Ecuador), Mr. HAMDANI (Pakistan) and Mr. LOOMES (Australia) also said that they would vote in favour of the Norwegian draft resolution (E/L.664).

17. Mr. SAKSIN (Union of Soviet Socialist Republics) said that the Committee on the Enforcement of International Arbitral Awards had done some remarkable work, in which the USSR delegation had taken an active part, and had produced a draft convention embodying important provisions to which no State could take exception. Some articles, in particular articles VII, IX, X and XIII, were not in keeping with the purposes of the Convention, and the USSR delegation on the Committee had accordingly abstained from voting for the draft Convention as a whole.

18. The wording of article VII would restrict the number of participants in the Convention, which would be contrary to the purpose of the Convention itself. The text of article VII of the draft prepared by the International Chamber of Commerce (E/C.2/373) would have been preferable, as it made the Convention open to all States.

19. Article IX, the so-called colonial application clause, would also restrict the Convention's application. A similar clause proposed in connexion with the draft International Covenants on Human Rights had been rejected by the General Assembly at its ninth session, and Assembly resolution 422 (V) specifically provided for the inclusion in the Covenants of an article to the effect that their provisions should be applicable equally to a signatory metropolitan State and to all the territories administered or governed by it.

20. Article X, the so-called federal State clause, established discrimination between federal and unitary States in favour of the former, since the scope of the federal State's responsibilities would be indefinite. A similar proposal had been made in connexion with the draft International Covenants on Human Rights, but articles to the contrary effect had been adopted by the Commission on Human Rights on a Soviet proposal and had been embodied in article 27 of the draft International Covenant on Economic, Social and Cultural Rights and article 52 of the draft International Covenant on Civil and Political Rights.¹ Articles IX and X should be deleted.

21. Article XIII would mean a violation of the sovereign rights of States with respect to the principle of voluntary recognition of the binding character of the jurisdiction of the International Court of Justice and a limitation of the sovereign rights of States to make reservations on any article of the Convention. If it were retained, paragraph 1 should at least be amended to specify that reference of the dispute to the Court must be with the agreement of both parties.

¹ See *Official Records of the Economic and Social Council, Eighteenth Session, Supplement No. 7*, paras. 249, 260 and 261.

22. The Committee had rejected a Soviet proposal (E/2704 and Corr.1, para. 25) that it should be specifically stated that the expression "arbitral awards" in article I included awards made by permanent arbitral bodies established in accordance with the law of a contracting State as well as awards made by *ad hoc* arbitral bodies. The USSR delegation had therefore abstained in the vote on that article.

23. The USSR delegation had no objection to the circulation of the draft Convention, despite its defects, and would vote for the Norwegian draft resolution (E/L.664) in the hope that the comments received would make it possible to draft a convention more acceptable to all States.

24. He drew attention to the footnote to paragraph 69 of the report. His delegation had abstained in the vote on that paragraph, considering it ill-advised and unnecessary, since arbitral procedures within a State would be governed by the municipal law of the State concerned.

25. Mr. KAMAT (India) paid a tribute to the Committee for the high level it had maintained in its discussions on a matter of great technical complexity which was nevertheless of great importance in international trade and finance. The Committee had been wise to take full account of the legal and policy differences between countries. He agreed that Governments should have an opportunity to make a full study of the draft Convention prepared by the Committee and was prepared to support the Norwegian draft resolution.

26. Mr. CHA (China) said that he would support the Norwegian draft resolution (E/L.664).

27. He suggested that in operative paragraphs 1 and 2, the summary records of the Committee's meetings should be mentioned as well as the draft Convention and the Committee's report. He had examined the records with great care and had found them indispensable for a proper understanding of the subject and of the report. They would be particularly useful to under-developed countries with little experience of arbitral procedure.

28. Mr. PEREZ PEROZO (Venezuela) said that he would support the Norwegian draft resolution.

29. He suggested that it should be completed by the insertion, at the end of operative paragraph 1, of a phrase based on the last phrase in Council resolution 527 (XVII), paragraph 1 (b), for the purpose of ascertaining whether Governments were prepared to attend a conference, should it be held.

30. Mr. DONS (Norway) said that he could accept the Venezuelan suggestion, and the Chinese suggestion subject to the agreement of the Secretariat.

31. After some discussion of the wording of the Venezuelan amendment, the PRESIDENT proposed that the Secretariat should be requested to draft an amendment on the lines suggested by the Venezuelan representative. He would ascertain from the Secretariat whether summary records could be distributed on the scale envisaged in the Chinese proposal. The Secretariat would then prepare an amended draft resolution in the light of those discussions.

It was so decided.

The meeting rose at 12.10 p.m.