



Twenty-first session
Agenda item 88

PROGRESSIVE DEVELOPMENT OF THE LAW OF INTERNATIONAL TRADE

Report of the Sixth Committee

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I. INTRODUCTION

1. At the request of the Hungarian People's Republic, the item entitled "Consideration of steps to be taken for progressive development in the field of private international law with a particular view to promoting international trade" was considered by the General Assembly at its twentieth session. On the basis of the report and recommendations of the Sixth Committee,^{1/} the General Assembly at its 104th plenary meeting, on 20 December 1965, adopted resolution 2102 (XX). The operative part of that resolution reads as follows:

"The General Assembly,

.....

"1. Requests the Secretary-General to submit to the General Assembly at its twenty-first session a comprehensive report including:

"(a) A survey of the work in the field of unification and harmonization of the law of international trade;

"(b) An analysis of the methods and approaches suitable for the unification and harmonization of the various topics, including the question whether particular topics are suitable for regional, interregional or world-wide action;

"(c) Consideration of the United Nations organs and other agencies which might be given responsibilities with a view to furthering co-operation in the development of the law of international trade and to promoting its progressive unification and harmonization;

^{1/} Official Records of the General Assembly, Twentieth Session, Annexes, agenda item 92, document A/6206.

"2. Decides to include in the provisional agenda of its twenty-first session an item entitled 'Progressive development of the law of international trade'."

2. At its 1415th plenary meeting, on 24 September 1966, the General Assembly decided to include item 88 entitled "Progressive development of the law of international trade" in the agenda of its twenty-first session and to allocate it to the Sixth Committee.
3. The Sixth Committee considered the item at its 946th to 953rd and 955th meetings, on 2, 5 to 9 and 14 December 1966.
4. The Sixth Committee had before it a report of the Secretary-General^{1/} on this subject, which was submitted in accordance with operative paragraph 1 of General Assembly resolution 2102 (XX). This report was prepared by the Office of Legal Affairs of the United Nations Secretariat on the basis of a preliminary draft elaborated by Professor Clive M. Schmitthoff of the City of London College, whose services had been retained by the Secretary-General for this purpose, and in consultation with the following experts: Dra. Margarita Arguas (Argentina), Dr. Taslim O. Elias (Nigeria), Professor Cyula Borsi (Hungary), Professor Willis L. Reese (United States) and Professor Mustafa Kamil Yasseen (Iraq).
5. In accordance with the agreement reached during the debate in the Sixth Committee at the twentieth session of the General Assembly, the Secretary-General held consultations with some organs and units of the United Nations, the specialized agencies and other inter-governmental and non-governmental organizations. The International Law Commission advised the Secretary-General that in view of its many activities and responsibilities and considering its extensive agenda the Commission did not consider that it would be appropriate for it to undertake responsibilities in the field of the law of international trade. In addition, consultations were carried out with the Secretariat units most directly concerned with responsibilities in this field. The draft report was sent for comments to the secretariat of the United Nations Conference on Trade and Development (UNCTAD), the Department of Economic and Social Affairs, the Centre for Industrial Development and the United Nations regional economic commissions.
6. The Secretary-General sent the draft report for comments to the following specialized agencies: the International Bank for Reconstruction and Development,

the Inter-Governmental Maritime Consultative Organization and the International Civil Aviation Organization. Consultations were also carried out with other inter-governmental and non-governmental organizations, namely: the International Institute for the Unification of Private Law, the Hague Conference on Private International Law, the International Chamber of Commerce and the United International Bureaux for the Protection of Intellectual Property.

7. Some of the suggestions received from the above-named United Nations organs, Secretariat units and other institutions were incorporated in the report. Certain observations submitted by the Hague Conference on Private International Law and by the International Institute for the Unification of Private Law, being of a general nature, were published as an addendum to the Secretary-General's report (A/6396/Add.1). In addition, the Secretary-General of the International Institute for the Unification of Private Law and the Secretary-General of the Hague Conference on Private International Law attended the meetings of the Sixth Committee at which the present item was discussed, and each made a statement at the 946th meeting of the Committee.

3. Chapter I of the report of the Secretary-General contained an analysis of the concept of the term "law of international trade" and explained the two legal techniques which have been used to reduce the conflicts and divergencies arising from various national laws in matters relating to international trade, i.e., the establishment of rules regulating the conflict of laws and the harmonization of substantive rules. Chapter II consisted of a survey of the work in the field of harmonization and unification of international trade law, by inter-governmental organizations, by regional inter-governmental organizations and groupings and by non-governmental organizations. Chapter III contained an analysis of the methods, approaches and topics which were considered suitable for the progressive harmonization and unification of the law of international trade. The final chapter of the report, chapter IV, dealt with the prospective role of the United Nations in this field; it presented a picture of the progress and shortcomings of the work done and recommended action to remedy the existing shortcomings. In particular it expressed the view that the General Assembly might wish to consider the possibility of establishing a new commission which might be called the United Nations Commission on International Trade Law for the purpose of furthering the progressive development of the law of international trade.

II. PROPOSALS

9. Argentina, Ceylon, Chile, Colombia, Cyprus, Czechoslovakia, Ecuador, Ghana, Greece, Honduras, Hungary, India, Nepal, Nigeria, Panama, Sudan, the United Arab Republic, the United Republic of Tanzania, Uruguay and Yugoslavia submitted a draft resolution (A/C.6/L.613). Subsequently, Cameroon, Jamaica, Spain and Venezuela (A/C.6/L.613/Add.1) and Bolivia, Romania and the United States of America (A/C.6/L.613/Add.2) added their names to the list of sponsors. In the preamble of the draft resolution the General Assembly would refer, inter alia, to the report of the Secretary-General on the progressive development of the law of international trade; reaffirm its conviction that conflicts and divergencies arising from the laws of different States in matters relating to international trade constituted an obstacle to the development of world trade; note the efforts made by inter-governmental organizations towards the harmonization and unification of international trade law; note that progress in this area had not been commensurate with the importance and urgency of the problem; express its conviction that it would be desirable for the United Nations to play a more active role in this field; note that such action would be properly within the scope and competence of the Organization under Articles 1 (3) and 13, and Chapters IX and X of the Charter; recall that UNCTAD had a particular interest in promoting the establishment of rules furthering international trade; and recognize that there is no existing United Nations organization which is both familiar with this subject and able to devote sufficient time to work in the field. The operative part of the draft resolution read as follows:

"1. Decides to establish a United Nations Commission on International Trade Law which shall have for its object the promotion of the progressive harmonization and unification of the law of international trade.

"Organization of the United Nations Commission
on International Trade Law

"2. The United Nations Commission on International Trade Law shall consist of [eighteen] [twenty-one] [twenty-four] [thirty] States, elected by the General Assembly for a term of six years, provided, however, that of the members elected at the first election, the terms of [six] [seven] [eight] [ten] members shall expire at the end of two years and the terms of [six] [seven] [eight] [ten] other members at the end of four years.

"3. In electing the members of the Commission, the General Assembly shall be guided by the principle of equitable geographical distribution and shall have due regard to the principle that in the Commission as a whole an adequate representation of countries of free enterprise and centrally planned economies, and of developed and developing countries, should be assured.

"4. The representatives of members of the Commission shall be appointed by Member States in so far as possible from amongst persons of eminence in the field of the law of international trade.

"5. Retiring members shall be eligible for re-election.

"6. The Commission shall normally hold one regular session a year at the [Headquarters of the United Nations] [European Office of the United Nations].

"7. The Secretary-General shall make available to the Commission appropriate staff and facilities required by the Commission to fulfil its task.

"Functions

"8. The Commission shall further the progressive harmonization and unification of the law of international trade by

"(a) co-ordinating the work of organizations active in this field and encouraging co-operation among them;

"(b) promoting wider participation in existing international conventions, and wider acceptance of existing model and uniform laws;

"(c) in collaboration, where appropriate, with the organizations operating in this field, preparing, and promoting the adoption of, new international conventions, model laws and uniform laws, and the codification and wider acceptance of international trade terms, provisions, customs and practices;

"(d) promoting ways and means of ensuring a uniform interpretation and application of international conventions and uniform laws in the field of the laws of international trade;

"(e) collecting and disseminating information on national legislation and modern legal developments in the field of the law of international trade;

"(f) establishing and maintaining a close collaboration with the United Nations Conference on Trade and Development;

"(g) maintaining liaison with other United Nations organs and specialized agencies concerned with international trade;

"(h) taking any other action it may deem useful to fulfil its functions
/...

"9. The Commission shall submit an annual report, including its recommendations, to the General Assembly, and the report shall be submitted simultaneously to the United Nations Conference on Trade and Development for comments. Any such comments or recommendations which the United Nations Conference on Trade and Development or the Trade and Development Board may wish to make, including suggestions on topics for inclusion in the work of the Commission, shall be transmitted to the General Assembly in accordance with the relevant provisions of General Assembly resolution 1995 (XIX). Any other recommendations relevant to the work of the Commission which the United Nations Conference on Trade and Development or the Trade and Development Board may wish to make shall be similarly transmitted to the General Assembly.

"10. The Commission may consult with any international or national organization, scientific institution and individual expert, on any subject entrusted to it if it considers that such consultation might assist it in the performance of its functions.

"11. The Commission may establish appropriate working relationships with inter-governmental organizations and international non-governmental organizations concerned with the progressive harmonization and unification of the law of international trade."

10. Following informal consultations, the sponsors of draft resolution A/C.6/L.613, joined by Guatemala, Italy, Mali and Turkey, submitted a revised version of the draft resolution (A/C.6/L.613/Rev.1). Later, Malawi and the Netherlands (A/C.6/L.613/Rev.1/Add.1) and Belgium and Syria (A/C.6/L.613/Rev.1/Add.2) joined the sponsors of the revised draft resolution. In this revision: (1) the reference to "conflicts and" was deleted from the third preambular paragraph, so that the resolution would provide for the General Assembly to reaffirm "its conviction that divergencies arising from the laws of different States in matters relating to international trade constitute one of the obstacles to the development of world trade"; (2) the wording of operative paragraph 3 was changed to provide that the General Assembly should, in the election of the members of the Commission, be guided by the principle of equitable geographical distribution "with due regard to the adequate representation of the principal economic and legal system of the world and of developed and developing countries"; (3) operative paragraph 8 (c) was changed to read as follows: "Preparing and/or promoting the adoption of new international conventions, model laws and uniform laws, and the codification and wider acceptance of international trade terms, provisions, customs and practices

in collaboration, where appropriate, with the organizations operating in this field;"; (4) a reference to "case law" was introduced into operative paragraph 8 (e) so that it would read as follows: "collecting and disseminating information on national legislation and modern legal developments, including case law, in the field of the law of international trade;"; (5) the language in operative paragraph 10 was modified to read: "10. The Commission may consult with or request the services of any international or national organization, scientific institution and individual expert, on any subject entrusted to it if it considers that such consultation or services might assist it in the performance of its functions".

11. As a result of further discussions among the sponsors, a second revision (A/C.6/L.613/Rev.2) was submitted by the sponsors. Under the second revised version of the draft resolution, the General Assembly would (1) express, in the second preambular paragraph, its appreciation for the report of the Secretary-General (A/6396 and Corr.1 and 2 and Add.1 and 2); (2) add the following, as a new third preambular paragraph: "Considering that international trade co-operation among States is an important factor for promoting friendly relations and consequently for the maintenance of peace and security", and (3) provide for reversal of the order of the former third and fourth preambular paragraphs. The operative part of the second revised draft resolution (A/C.6/L.613/Rev.2) read as follows:

"The General Assembly,

.....

I

"1. Decides to establish a 'United Nations Commission on International Trade Law' which shall have for its object the promotion of the progressive harmonization and unification of the law of international trade.

II

"Organization and functions of the United Nations Commission on International Trade Law

"2. The United Nations Commission on International Trade Law shall consist ofStates, elected by the General Assembly at its

twenty-second session for a term of six years. In electing the members of the Commission, the General Assembly shall observe the following distribution of seats:

- (a) from African States;
- (b) from Asian States;
- (c) from Eastern European States;
- (d) from Latin American States;
- (e) from Western European and other States.

"3. Of the members elected at the first election, the terms of members shall expire at the end of three years. The President of the General Assembly shall select these members within each of the five groups of States referred to in the preceding paragraph by drawing lots.

"4. The members elected at the first election shall take office on 1 January 1968. Subsequently, the members shall take office on 1 January of the year following each election.

"5. In electing the members of the Commission, the General Assembly shall be guided by the principle of equitable geographical distribution with due regard to the adequate representation of the principal economic and legal systems of the world, and of developed and developing countries,

"6. The representatives of members on the Commission shall be appointed by Member States in so far as possible from amongst persons of eminence in the field of the law of international trade.

"7. Retiring members shall be eligible for re-election.

"8. The Commission shall normally hold one regular session a year. It shall, if there are no technical difficulties, meet alternately at the United Nations Headquarters and the United Nations Office at Geneva.

"9. The Secretary-General shall make available to the Commission appropriate staff and facilities required by the Commission to fulfil its task.

"10. The Commission shall further the progressive harmonization and unification of the law of international trade by:

(a) co-ordinating the work of organizations active in this field and encouraging co-operation among them;

(b) promoting wider participation in existing international conventions, and wider acceptance of existing model and uniform laws;

(c) preparing and/or promoting the adoption of new international conventions, model laws and uniform laws, and the codification and wider acceptance of international trade terms, provisions, customs and practices, in collaboration, where appropriate, with the organizations operating in this field;

(d) promoting ways and means of ensuring a uniform interpretation and application of international conventions and uniform laws in the field of the law of international trade;

(e) collecting and disseminating information on national legislation and modern legal developments, including case law, in the field of the law of international trade;

(f) establishing and maintaining a close collaboration with the United Nations Conference on Trade and Development;

(g) maintaining liaison with other United Nations organs and specialized agencies concerned with international trade;

(h) taking any other action it may deem useful to fulfil its functions.

"11. The Commission shall bear in mind the interests of all peoples and particularly those of developing countries in the extensive development of international trade.

"12. The Commission shall submit an annual report, including its recommendations, to the General Assembly, and the report shall be submitted simultaneously to the United Nations Conference on Trade and Development for comments. Any such comments or recommendations which the United Nations Conference on Trade and Development or the Trade and Development Board may wish to make, including suggestions on topics for inclusion in the work of the Commission, shall be transmitted to the General Assembly in accordance with the relevant provisions of General Assembly resolution 1995 (XIX). Any other recommendations relevant to the work of the Commission which the United Nations Conference on Trade and Development or the Trade and Development Board may wish to make shall be similarly transmitted to the General Assembly.

"13. The Commission may consult with or request the services of any international or national organization, scientific institution and individual expert, on any subject entrusted to it if it considers that such consultation or services might assist it in the performance of its functions.

"14. The Commission may establish appropriate working relationships with inter-governmental organizations and international non-governmental organizations concerned with the progressive harmonization and unification of the law of international trade.

III

"15. Requests the Secretary-General, pending the election of the Commission, to carry out the preparatory work necessary for the organization of the work of the Commission and, in particular (i) to invite Member States to submit in writing before 1 July 1967, taking into account in particular the report of the Secretary-General (A/6396), comments on a programme of work to be undertaken by the Commission in discharging its functions under paragraph 10 of this resolution and (ii) to request similar comments from the organs and organizations referred to in paragraph 10 (f) and (g) and in paragraph 14 of this resolution;

"16. Decides to include an item entitled 'Election of the members of the United Nations Commission on International Trade Law' in the provisional agenda of the twenty-second session of the General Assembly."

12. As a result of additional informal consultations, the sponsors of draft resolution A/C.6/L.613/Rev.2 submitted a third revision (A/C.6/L.613/Rev.3) on 13 December, paragraphs 1, 2, 3 and 5 of which read as follows:

"The General Assembly,

.....

"1. Decides to establish a 'United Nations Commission on International Trade Law' which shall have for its object the promotion of the progressive harmonization and unification of the law of international trade.

II

"Organization and functions of the United Nations
Commission on International Trade Law

"2. The United Nations Commission on International Trade Law shall consist of twenty-nine States, elected by the General Assembly for a term of six years, except as provided in paragraph 3 of this resolution. In electing the members of the Commission, the General Assembly shall observe the following distribution of seats:

- (a) seven from African States;
- (b) five from Asian States;
- (c) four from Eastern European States;
- (d) five from Latin American States;
- (e) eight from Western European and other States.

"3. Of the members elected at the first election to be held at the twenty-second session of the General Assembly, the terms of fourteen members shall expire at the end of three years. The President of the General Assembly shall select these members within each of the five groups of States referred to in the preceding paragraph by drawing lots

.....

"5. In electing the members of the Commission, the General Assembly shall also have due regard to the adequate representation of the principal economic and legal systems of the world, and of developed and developing countries."

13. In the course of the consideration of the third draft (A/C.6/L.613/Rev.3), it was orally agreed by the representative of Colombia on behalf of the sponsors that a more logical sequence of the operative paragraphs could be achieved by certain changes in the order thereof: (1) specifically, it was proposed to transpose the content of operative paragraph 5 without the opening words: "In electing the members of the Commission" to the end of operative paragraph 2; (2) operative paragraphs 6-16 would be renumbered 5-15; (3) the references in renumbered operative paragraph 14 would be changed accordingly. Furthermore, the sponsors orally agreed to the following new wording of renumbered operative paragraph 9 (c):

"(c) preparing or promoting the adoption of new international conventions, model laws and uniform laws, and promoting the codification and wider acceptance of international trade terms, provisions, customs and practices, in collaboration, where appropriate, with the organizations operating in this field;"

It was also agreed to replace, in the Spanish version of operative paragraph 3, the words: "eligirá por sorteo" by the words "designará por sorteo".

14. Following the submission of the original draft resolution (A/C.6/L.613 and Add.1 and 2), the Secretary-General presented for the consideration of the Sixth Committee a statement of the administrative and financial implications (A/C.6/L.615) of that draft resolution. Upon the submission of the third revised draft resolution (A/C.6/L.613/Rev.3), he presented a statement of the administrative and financial implications (A/C.6/L.615/Rev.1) of that revised draft resolution.

III. DISCUSSION

15. Numerous representatives expressed appreciation of the initiative taken by the Hungarian delegation at the twentieth session of the General Assembly with respect to the progressive development of the law of international trade, and welcomed the report of the Secretary-General. The assistance which had been provided by Professor Schmitthoff in the preparation of the report was recognized as very valuable. The consultations carried on by the Secretary-General with individual experts and with organs of the United Nations and other institutions active in the field had been extremely profitable in the view of numerous representatives.

16. A great number of representatives supported the conclusions of the report, particularly that the United Nations should take an active part in efforts towards the harmonization and unification of the law of international trade. Many representatives stated that this could most appropriately be done by the establishment of a United Nations organ such as the one described in the Secretary-General's report.

17. Several representatives pointed out the extreme importance for developing countries of devoting attention to and participating in efforts towards the progressive development of the law of international trade. One representative pointed out that since developing countries were not able, by force of circumstance, to participate in numerous international institutions active in this field, their participation in such a United Nations organ as had been proposed was particularly important to them. It was pointed out in this connexion that the Commission could be instrumental in improving trade practices that had evolved in the past, which benefited developed countries at the expense of the developing countries.

Functions of the proposed Commission

18. Certain representatives considered that the proposed Commission should be authorized to take action both in the area of the harmonization and unification of substantive rules relating to trade law and in the field of conflict of law rules. Other representatives considered that the work of the proposed Commission should be primarily in the field of the unification of substantive rules.

19. With respect to the specific role that such a Commission should perform, representatives expressed varying views. Certain representatives considered that

the Commission should engage in co-ordinating and centralizing the efforts of organizations already active in the field under discussion, and in promoting the wider acceptance of instruments already in existence. Others considered that the Commission should in addition, where appropriate, perform the function of formulating new international instruments designed to further the development of international trade law. One representative expressed the view that the proposed Commission should, in its initial endeavours, concentrate on co-ordinating efforts of institutions already active in the progressive development of international trade law, before considering the possibility of initiating new measures in this field while bearing in mind the financial implications.

20. Certain representatives pointed out that the proposed Commission's functions did not include the adoption of instruments binding upon States, but that in this connexion a clarification of the scope of the authority would be welcome. In response to this request, it was stated on behalf of the sponsors that the task of the Commission in this respect would be to work out model laws and uniform laws which could then serve as standards which States might wish to consider as guides in the development of **their** own national legislation, and to formulate draft international instruments to which States would give their consideration.

21. Reference was made by several representatives to the fact that the functions of the Commission should not be interpreted to imply that it could engage in activities affecting sectors of private international law which fall outside the laws governing commercial transactions, or that it could take steps having a bearing on international trade relations governed by public law.

Collaboration with other organizations

22. It was pointed out by several representatives that should the Commission engage in formulating activities, it should maintain close liaison with the inter-governmental and non-governmental organizations already active in the field in order to avoid overlapping and duplication. In the latter connexion, numerous representatives pointed out the valuable contributions to the progressive development of international trade law which had been made by the International Institute for the Unification of Private Law and the Hague Conference on Private International Law. One representative made reference to the fact that both of these institutions had welcomed the

establishment of the proposed Commission. The Sixth Committee agreed to express its appreciation to these organizations for the major contributions they had made to the work in this field, for their valuable comments on the report of the Secretary-General and for the participation of their representatives in the debates of the Committee. It was suggested that appropriate working relationships should be established between the proposed Commission and these two organizations, since the experience and expertise which they had acquired would be of great assistance to the proposed Commission. In connexion with the relationship to be established with the two organizations, attention was drawn to the agreements concluded between the Secretary-General of the United Nations and the secretaries-general of those organizations pursuant to Economic and Social Council resolution 678 (XXXVI), and it was suggested that a similar method be followed in connexion with the work of the new Commission.

23. Various representatives made mention of the participation of their respective countries in inter-governmental and non-governmental organizations active in this field. Reference was made, for instance, to the Council for Mutual Economic Aid, the Council of Europe, the Nordic Council, the Asian-African Legal Consultative Commission, the European Economic Community, the Inter-American Council of Jurists, the European Free Trade Association, the United Nations regional economic commissions and to the International Chamber of Commerce and the Comité maritime international. In this connexion it was pointed out that experience gained by States in the course of participation in such institutions and organizations was relevant to the work of the proposed Commission to promote the progressive unification and harmonization of international trade law. It was also pointed out by several representatives that the experience gained by States in seeking to reduce the divergencies existing within their own legal systems could also be relevant to proposed efforts on the international level, which were far more complicated owing to numerous facts such as the variety of legal concepts and languages.

24. During the final stage of the Committee's deliberations and in view of the new formulation of operative paragraph 9 (c) of the draft resolution (A/C.6/L.613/Rev.3), as described in paragraph 13 of the present report, a question arose as to whether the collaboration in operative paragraph 9 (c) mentioned was

to be understood to apply to all of the activities of the proposed Commission described in that sub-paragraph. It was agreed by the representatives who spoke on this issue and on behalf of the sponsors that there was no doubt that the collaboration referred to applied to all the activities of the Commission enumerated in the sub-paragraph under discussion.

Relationship with the United Nations Conference on Trade and Development

25. The Committee discussed the relationship which should exist between work relating to the progressive development of the law of international trade and UNCTAD. Several representatives welcomed the provision in the draft resolution for the submission to UNCTAD of the reports prepared by the Commission for the General Assembly since this would assure the required liaison with the Assembly and would assist the Commission in reaching solutions which were attuned to the practical needs of the commercial world. Reference was made to paragraph 14 of General Assembly resolution 1995 (XIX), of 30 December 1964, providing that when the Conference was not in session, the Trade and Development Board should carry out the functions of the Conference.

Size and composition of the proposed Commission and terms of office of its members

26. In commenting on the size of the proposed Commission, representatives expressed various preferences. However, they agreed that it should be small enough not to be unwieldy but large enough to allow for a membership in which States of the various legal and socio-economic systems and States in different stages of development would be represented. One representative suggested, for example, that there should be between twenty-four and thirty members; another believed that the size should be between twenty-four and twenty-seven; yet another suggested a Commission with from eighteen to twenty-four members, while another considered that from twenty-one to twenty-eight would be an appropriate solution. It was pointed out by one representative that it should be borne in mind that in certain areas there existed a scarcity of persons who are highly qualified legal experts in the technical and complicated field of international trade law.

27. Upon the introduction of draft resolution A/C.6/L.613/Rev.3, it was pointed out on behalf of the sponsors that the formulation of the revised version and the

distribution of seats provided for in operative paragraph 2 thereof had been arrived at in a spirit of co-operation and compromise. It was hoped that although the solution proposed in the revised draft resolution was not completely satisfactory to all delegations, it could be adopted in the same spirit of co-operation. Several representatives spoke in support of this view.

28. The representative of Ecuador, speaking on behalf of his delegation and the delegations of Bolivia, Colombia, El Salvador, Honduras, Jamaica, Mexico, Panama, Paraguay and Uruguay, and the representative of Venezuela on his own behalf, wished to record the conviction of these delegations that the distribution of seats in the proposed Commission, as provided for in the draft resolution (A/C.6/L.613/Rev.3), did not reflect an equitable geographical distribution in respect of the States of Latin America and did not take into consideration the realities of that region. The Ecuadorian representative stated that, in the view of the delegations for which he spoke, the disposition of seats suggested in the draft resolution should not constitute a precedent in respect of any future organs which might be established. The representatives of the African and Asian States, of the Eastern European States and of the Western European and other States, giving the views of their groups or of their own delegations, expressed their belief that the representation provided for was not an equitable solution, but that in the interest of progress and in view of the contribution which the proposed Commission could be expected to make, they would accept the compromise reached.

29. The draft resolution (A/C.6/L.613/Rev.3) provided that the term of office of the members of the Commission should be six years, but in order to ensure a degree of continuity in its membership, a rotation system was envisaged whereby the terms of office of fourteen of the members elected at the first election - which would take place at the twenty-second session of the General Assembly - would expire at the end of three years; the President at that session would select those fourteen members by drawing lots. The sponsors of the draft resolution agreed that the fourteen members with three-year terms would be selected as follows from the different groups:

Four from African States;

Two from Asian States;

Two from Eastern European States;
Two from Latin American States; and
Four from Western European and other States.

Place of meeting

30. With respect to the place where the sessions of the proposed Commission should be held, various representatives expressed divergent opinions. It was pointed out, on the one hand, that reasons of economy and efficiency would call for a choice of the United Nations Headquarters as the seat of the proposed Commission; on the other hand, some argued it might be more appropriate and convenient if Geneva were chosen. A number of delegations remarked that the Commission should co-operate closely with UNCTAD whose headquarters are located in Geneva, in view of the importance of that organ and of its interest in promoting the establishment of rules furthering international trade. It was finally agreed, as a compromise solution, that if there were no technical difficulties, the Commission should meet alternately at United Nations Headquarters and the United Nations Office at Geneva.

Time of election of members of the Commission and of its first session

31. Certain representatives expressed the need for careful preparation in connexion with the establishment of the proposed Commission. Some representatives suggested that prior to the establishment of the Commission, preliminary studies should be made of subjects which might be suitable for consideration by the Commission. Other representatives stated that there was a need for careful consideration of the financial implications of the establishment at the appropriate time of such a Commission. It was suggested by several representatives that prior to the election of the members of the Commission it might be wise to provide for further study and consultation. It was suggested in this connexion that were such a course to be adopted, during the intervening period the Secretariat could make administrative and technical preparations for the work of the Commission and might circulate requests to Member States and to inter-governmental and non-governmental institutions for suggestions as to the work programmes of the Commission.

32. It was finally agreed that the Commission would be elected by the General Assembly at its twenty-second session and that, pending the election, the Secretary-General would be requested to carry out the preparatory work necessary for the organization of the work of the Commission.

IV. VOTING

33. At its 955th meeting, on 14 December, the Sixth Committee adopted unanimously revised draft resolution A/C.6/L.613/Rev.3, as amended (see paragraph 13 above). The representatives of Cameroon, Dahomey, Ecuador, France, Ghana, Greece, Mexico, Nepal, Somalia, Venezuela and the United States of America explained their votes.

V. RECOMMENDATION OF THE SIXTH COMMITTEE

34. The Sixth Committee therefore recommends to the General Assembly the adoption of the following draft resolution:

Establishment of the United Nations Commission
on International Trade Law

The General Assembly,

Recalling its resolution 2102 (XX) of 20 December 1965, by which it requested the Secretary-General to submit to the General Assembly at its twenty-first session a comprehensive report on the progressive development of the law of international trade,

Having considered with appreciation the report of the Secretary-General on that subject,^{2/}

Considering that international trade co-operation among States is an important factor in promoting friendly relations and, consequently, in the maintenance of peace and security,

Recalling its belief that the interests of all peoples, and particularly those of developing countries, demand the betterment of conditions favouring the extensive development of international trade,

Reaffirming its conviction that divergencies arising from the laws of different States in matters relating to international trade constitute one of the obstacles to the development of world trade,

Having noted with appreciation the efforts made by inter-governmental and non-governmental organizations towards the progressive harmonization and unification of the law of international trade by promoting the adoption of international conventions, uniform laws, standard contract provisions, general conditions of sale, standard trade terms and other measures,

Noting at the same time that progress in this area has not been commensurate with the importance and urgency of the problem, owing to a number of factors, in particular insufficient co-ordination and co-operation between the organizations concerned, their limited membership or authority and the small degree of participation in this field on the part of many developing countries,

^{2/} A/6396 and Corr.1 and 2 and Add.1 and 2.

Considering it desirable that the process of harmonization and unification of the law of international trade should be substantially co-ordinated, systematized and accelerated and that a broader participation should be secured in furthering progress in this area,

Convinced that it would therefore be desirable for the United Nations to play a more active role towards reducing or removing legal obstacles to the flow of international trade,

Noting that such action would be properly within the scope and competence of the Organization under the terms of Article 1, paragraph 3, and Article 13, and of Chapters IX and X of the Charter of the United Nations,

Having in mind the responsibilities of the United Nations Conference on Trade and Development in the field of international trade,

Recalling that the Conference, in accordance with its General Principle Six, has a particular interest in promoting the establishment of rules furthering international trade as one of the most important factors in economic development,

Recognizing that there is no existing United Nations organ which is both familiar with this technical legal subject and able to devote sufficient time to work in this field,

I

Decides to establish a United Nations Commission on International Trade Law (hereinafter referred to as the Commission), which shall have for its object the promotion of the progressive harmonization and unification of the law of international trade, in accordance with the provisions set forth in section II below.

II

Organization and functions of the United Nations Commission on International Trade Law

1. The Commission shall consist of twenty-nine States, elected by the General Assembly for a term of six years, except as provided in paragraph 3 of the present resolution; in electing the members of the Commission, the Assembly shall observe the following distribution of seats:

- (a) Seven from African States;
- (b) Five from Asian States;
- (c) Four from Eastern European States;
- (d) Five from Latin American States;
- (e) Eight from Western European and other States.

The General Assembly shall also have due regard to the adequate representation of the principal economic and legal systems of the world, and of developed and developing countries.

2. Of the members elected at the first election, to be held at the twenty-second session of the General Assembly, the terms of fourteen members shall expire at the end of three years. The President of the General Assembly shall select these members within each of the five groups of States referred to in the preceding paragraph, by drawing lots.

3. The members elected at the first election shall take office on 1 January 1968. Subsequently, the members shall take office on 1 January of the year following each election.

4. The representatives of members on the Commission shall be appointed by Member States in so far as possible from among persons of eminence in the field of the law of international trade.

5. Retiring members shall be eligible for re-election.

6. The Commission shall normally hold one regular session a year. It shall, if there are no technical difficulties, meet alternately at United Nations Headquarters and the United Nations Office at Geneva.

7. The Secretary-General shall make available to the Commission the appropriate staff and facilities required by the Commission to fulfil its task.

8. The Commission shall further the progressive harmonization and unification of the law of international trade by:

(a) Co-ordinating the work of organizations active in this field and encouraging co-operation among them;

(b) Promoting wider participation in existing international conventions and wider acceptance of existing model and uniform laws;

(c) Preparing or promoting the adoption of new international conventions, model laws and uniform laws and promoting the codification and wider acceptance of international trade terms, provisions, customs and practices, in collaboration, where appropriate, with the organizations operating in this field;

(d) Promoting ways and means of ensuring a uniform interpretation and application of international conventions and uniform laws in the field of the law of international trade;

(e) Collecting and disseminating information on national legislation and modern legal developments, including case law, in the field of the law of international trade;

(f) Establishing and maintaining a close collaboration with the United Nations Conference on Trade and Development;

(g) Maintaining liaison with other United Nations organs and specialized agencies concerned with international trade;

(h) Taking any other action it may deem useful to fulfil its functions.

9. The Commission shall bear in mind the interests of all peoples, and particularly those of developing countries, in the extensive development of international trade.

10. The Commission shall submit an annual report, including its recommendations, to the General Assembly, and the report shall be submitted simultaneously to the United Nations Conference on Trade and Development for comment. Any comments or recommendations which the Conference or the Trade and Development Board may wish to make, including suggestions on topics for inclusion in the work programme of the Commission, shall be transmitted to the General Assembly in accordance with the relevant provisions of General Assembly resolution 1995 (XIX) of 30 December 1964. Any other recommendations relevant to the work of the Commission which the Conference or the Board may wish to make shall be similarly transmitted to the General Assembly.

11. The Commission may consult with or request the services of any international or national organization, scientific institution and individual expert, on any subject entrusted to it, if it considers that such consultation or services might assist it in the performance of its functions.

12. The Commission may establish appropriate working relationships with inter-governmental organizations and international non-governmental organizations concerned with the progressive harmonization and unification of the law of international trade.

III

1. Requests the Secretary-General, pending the election of the Commission, to carry out the preparatory work necessary for the organization of the work of the Commission and, in particular:

(a) To invite Member States to submit in writing before 1 July 1967, taking into account in particular the report of the Secretary-General,^{3/} comments on a programme of work to be undertaken by the Commission in discharging its functions under paragraph 8 of section II above;

(b) To request similar comments from the organs and organizations referred to in sub-paragraphs 8 (f) and (g) and in paragraph 12 of section II above;

2. Decides to include an item entitled "Election of the members of the United Nations Commission on International Trade Law" in the provisional agenda of its twenty-second session.

^{3/} A/6396 and Corr.1 and 2 and Add.1 and 2.