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Forty-second session
Agenda item 132REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL
TRADE LAW ON THE WORK OF ITS TWENTIETH SESSIONReport of the Sixth CommitteeRapporteur: Mr. Kenneth MCKENZIE (Trinidad and Tobago)

I. INTRODUCTION

1. The item entitled "Report of the United Nations Commission on International Trade Law on the work of its twentieth session" was included in the provisional agenda of the forty-second session of the General Assembly pursuant to paragraph 11 of General Assembly resolution 41/77 of 3 December 1986.
2. At its 3rd plenary meeting, on 18 September 1987, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.
3. In connection with the item, the Sixth Committee had before it the report of the Commission, ^{1/} which was introduced by the Chairman of the Commission at the 3rd meeting of the Sixth Committee, on 22 September 1987.
4. The Sixth Committee considered the item at its 3rd to 6th meetings, from 22 to 25 September, and 55th and 56th on 23 and 25 November. The summary records of those meetings (A/C.6/42/SR.3-6, 55 and 58) contain the views of the representatives who spoke on the item.

1/ Official Records of the General Assembly, Forty-second Session,
Supplement No. 17 (A/42/17).

II. CONSIDERATION OF DRAFT RESOLUTIONS A/C. 6/42/L. 9 AND A/C. 6/42/L. 15

5. At the **55th** meeting, on **23 November**, the representative of Austria introduced draft resolution **A/C. 6/42/L. 9**. The draft resolution was ~~sponsored~~ by Argentina, Australia, Austria, Brazil, Czechoslovakia, Finland, France, the German Democratic Republic, Germany, Federal Republic of, Guyana, Italy, the Libyan Arab Jamahir iya, the Netherlands and Yugoslavia, later joined by Canada, Cyprus, Egypt, Greece, Hungary, India, Japan, Sweden and Turkey.

6. ~~At~~ the same meeting, the Committee adopted draft resolution **A/C.6/42/L.9** without a vote (see **para. 14** below).

7. **A statement** in explanation of position was made by the representative of Mexico.

8. Also at the 55th meeting, the representative of Austria introduced draft resolution **A/C.6/42/L.15**. The draft resolution was sponsored by Argentina, Australia, Austria, Canada, Finland, Germany, Federal Republic of, Japan, the Netherlands, Sweden and the United states of America, later joined by Cyprus. The draft resolution read as follows:

Draft Convention on International Bills of Exchange
and International Promissory Notes

The General Assembly,

Recalling **its resolution 2205 (XXI) of 17 December 1966**, by which it created the United Nations Commission on International Trade Law, with the object of ~~promoting~~ the progressive harmonisation and unification of **the law 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,

Being aware that the Commission, at its fourth session in 1971, decided **to** proceed with work directed towards the preparation of uniform rules applicable **to** a special negotiable instrument for optional use in international transactions In order to overcome the divergencies ~~arising~~ out of the existence of two main systems of law governing negotiable instruments,

Recalling that in resolution **41/77** of 3 December 1986 the General Assembly requested the Commission to complete its work on the draft Convention on International Bills of Exchange and International Promissory Notes **2/** at

2/ Official Records of the General Assembly, Forty-first Session, Supplement No. 1.7 (A/41/17), annex I.

its twentieth session and decided to consider the draft Convention during its forty-second session with a view to its adoption or other appropriate action,

Taking note of the unanimous adoption of the draft Convention by the Commission at its twentieth session, 3/

Recognizing that Governments should be given sufficient time to study the draft Convention,

1. Expresses its appreciation for the work **achieved** by the United Nations Commission on International Trade Law in **preparing** the text **of** a draft **Convention on International Bills of Exchange** and International Promissory Notes;

2. Decides to consider and adopt the draft Convention on International Bills of **Exchange** and International Promissory Notes, as elaborated by the United Nations Commission on International Trade Law at its forty-third session, and to **open the** Convention for signature on 1 January 1989.

9. At the 58th meeting, on 25 November, the representative of **France** introduced **amendments** to draft resolution **A/C.6/42/L.15 (A/C.6/42, L.21)**, on behalf of Brazil, Burkina Faso, the Central African Republic, Chad, Côte d'Ivoire, Egypt, France, Guinea, Mali, Mauritania, Morocco, Niger, Portugal, Rwanda, Senegal, Spain and Togo. These **amendments** read as follows:

(a) **Modify the** fifth preambular paragraph as **follows**:

"Taking note of the draft Convention, adopted by **the Commission at its twentieth session"**;

(b) Insert the following **new** operative paragraph **2**:

"Requests the Secretary-General to draw the attention **of** all **States to** the draft Convention, to **ask them** to submit **the observations** and proposals **they wish to make on the** draft **Convention before** 30 April 1988 **and to** circulate these observations and proposals **to all Member States before** 30 June 1988";

(c) Replace **the** present paragraph 2 with **the** following paragraph **3**:

"Decides to consider, at its forty-third session, **the** draft Convention on International Bills of Exchange and International Promissory Notes, **with a** view **to** its adoption **at that** session, and to create to this end, in **the** framework of **the** Sixth **Committee**, a **working** group **that will meet at the** beginning of the session, in order to consider the observations and proposals made **by States**".

3/ Ibid., Forty-second Session, Supplement No. 17 (A/42/17) .

10. Also at the 56th meeting, statements in explanation of vote were made by the representatives of Australia, the United States of America, the Union of Soviet Socialist Republics, the Netherlands, Austria and the United Kingdom of Great Britain and Northern Ireland.

11. At the same meeting, the amendments to the draft resolution (see para. 9) were adopted as follows:

Amendment (a) was adopted by a vote of 66 to 33, with 20 abstentions;

Amendment (b) was adopted by a vote of 71 to 33, with 19 abstentions;

Amendment (c) was adopted by a vote of 68 to 36, with 20 abstentions.

12. Following the adoption of the amendments contained in document A/C.6/42/L.21, the Netherlands, Germany, Federal Republic of, Canada, Austria, Sweden, Finland, the United States of America, Argentina, Australia, Japan and Cyprus withdrew their co-sponsorship of draft resolution A/C.6/42/L.15 as amended and Rwanda and Egypt became co-sponsors of draft resolution A/C.6/42/L.15 as amended.

13. Draft resolution A/C.6/42/L.15 as amended was adopted by a vote of 80 to none, with 46 abstentions (see para. 14).

v. RECOMMENDATIONS OF THE SIXTH COMMITTEE

14. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

DRAFT RESOLUTION I

Report of the United Nations Commission on International Trade Law on the work of its twentieth session

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it created the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples and in particular those of developing countries, in the extensive development of international trade,

Recalling also its resolutions 3201 (S-Y?) of 1 May 1974, 3281 (XXIX) of 12 December 1974 and 3362 (S-VII) of 16 September 1975,

Reaffirming its conviction that the progressive harmonization and unification of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the

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developing countries, would **significantly** contribute to universal economic co-operation among all States **on** a basis of equality, **equity** and common interest and to **the** elimination **of** discrimination in international trade and, **thereby**, to **the** well-being **of** all peoples,

Having regard for **the need** to take into **account the** different social and legal systems in harmonising and unifying international trade law,

Stressing the value of participation **by** States at all levels of economic development, including developing countries, in the process of **harmonizing** and unifying international trade law,

Having considered the report of the Commission **on the work** of its **twentieth** session, **4/**

Considering that legally sound, balanced and **equi** table inter national **contracts for the** construction of industrial **works** are important for all countries,

Being of the opinion **that the** United Nations Commission on International Trade **Law** Legal Guide **on Drawing up International Contracts for the** Construction of Industrial **Works** adopted **by the** Commission at its twentieth session, **5/** which identifies **the** legal issues **to** be dealt with in **such** contracts and **suggests** solutions of those issues, will **be** helpful to all parties in concluding such contracts,

Noting **thnt the** Convention on the Limitation Period in **the** International Sale of **Goods**, 1974, will come into force **upon the** deposit of one additional **ratif** icd tion or accession,

Being aware **that the** United Nations Convention **on the Carriage of Goods** **by** Sea, 1976, was prepared at the request of developing countries,

Being convinced that widespread adherence **tu** the anventions emanating from **the work of the** Commission would benefit the peoples of all. States,

1. Takes note with **appreciation of** the report of the United Nations **Commission on International Trade Law on the work** of its **twentieth** sessionr

2. Commends the Commission for the progress made in its work and for having reached decisions **by consensus**;

3. Calls upon the Commission to continue **to take account** of the relevant provisions of **the** resolutions concerning the **new Internet ional**

4/ Official Records of **the** General Assembly, Forty-second Session, Supplement **No. 17** (A/42/17).

5/ *Ibid.*, para. 315.

economic order, as adopted by the General Assembly at its sixth 6/ and seventh 7/ special **sessions**;

4. Reaffirms the mandate of **the Commission, as** the core legal **body** within the United Nations **system** in the field of international trade law, to co-ordinate legal activities in this field **in order to** avoid duplication of effort and to promote efficiency, consistency and **coherence** in the unification and harmonisation of international trade law and, in this connection, **recommends** that **the Commission**, through its secretariat, should continue to maintain close co-operation with **the** other international organs and organizations, including regional organizations, **active in the** field of international trade law)

5. Reaffirms also the importance, **in** particular for developing countries, of the **work** of **the** Commission concerned with training and assistance in the field of international trade law and **the desirability** for it to sponsor seminars and symposia, in particular those organized **on a** regional basis, to promote such training and assistance, **and, in this connection:**

(a) **Expresses** its appreciation to those regional **organizations** and institutions which **have** collaborated with **the** secretariat of **the** Commission in organizing **regional** seminars and **symposia** in the field of international trade law;

(b) **Welcomes** the initiatives **being undertaken by the** Commission and its secretariat to collaborate **with** other **organizations** and **institutions in the** organisation of regional seminars!

(c) Invites **Governments**, international organizations and **institutions to** assist **the** secretariat of **the Commission in** financing and organizing regional seminar **s** and symposia, in particular in developing **countries;**

(d) Invites Governments, the relevant United Nations **organs,** organisations, institutions and **individuals to make** voluntary **contributions to** allow the resumption of the programme of **the** Commission for **the** award of fellowships on a regular basis to candidates **from** developing **countries to** enable **them to** participate in **such** seminars and **symposia;**

6. Takes note with appreciation of the completion **by the** Commission of **the** draft Convention **on** International Bills of Exchange and International Promissory **Notes; 8/**

6/ Resolutions 3201 (S-VI) and 3202 (S-VI) .

7/ **Resolution 3362** (S-VII) .

8/ Ibid., annex I.

7. Notes with particular **satisfaction** the completion and adoption by the Commission of the United Nations **Commission on International Trade Law Legal Guide on Drawing up International Contracts for the Construction of Industrial Works**;

8. Recommends that **all** efforts should be made so that the **Legal Guide** becomes generally known and available)

9. Invites those States **which** have not yet **done** so to consider ratifying or acceding to the following **conventions**:

(a) Convention on the Limitation Period in **the** International Sale of Goods, of **12 June 1974**;

(b) Protocol amending the Convention on the Limitation Period in **the** International Sale of Goods, of **11 April 1980**;

(c) United **Nations** Convention on **the** Carriage of Goods by Sea, of **30 March 1978**;

(d) United Nations Convention on Contracts for the **International Sale of** Goods, of **11 April 1980**;

10. Requests the **Secretary-General** to make increased **efforts** to **promote** the adoption and **use** of the texts emanating **from the** work of the **Commission**, and to **submit** to the General **Assembly** at its forty-fourth session a report concerning **the** status of the **Convention**

11. Recommends that the Commission should **continue its** work on the topics included in **its programme of work**;

12. Expresses its appreciation for the important **role** played by the International Trade Law Branch **of the Office of Legal Affairs of the** Secretariat, **as** the substantive secretariat of the Commission, in assisting in the structuring and implementation of **the work** programme of the **Commission**, and invites **the** Secretary-General to consider **taking whatever measures** may be necessary, within existing resources, to provide **the Commission** with adequate **substantive** secretariat support.

DRAFT RESOLUTION II

Draft **Convention on International Bills of Exchange and International Promissory Notes**

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it created **the United Nations Commission on International Trade Law**, with the **object** of promoting **the** progressive **harmonization and** unification of the law 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,

Being aware that: the Commission, at its fourth session in 1971, decided to proceed with work directed towards the preparation of uniform rules applicable to a special negotiable instrument for optional use in international transactions in order to overcome the divergencies arising out of the existence of two legal systems of law governing negotiable instruments,

Recalling that in resolution 41/77 of 3 December 1986 the General Assembly requested the Commission to complete its work on the draft Convention on International Bills of Exchange and International Promissory Notes 9/ at its twentieth session and decided to consider the draft Convention during its forty-second session with a view to its adoption or other appropriate action,

Taking note of the draft Convention adopted by the Commission at its twentieth session,

Recognizing that Governments should be given sufficient time to study the draft Convention,

1. Expresses its appreciation for the work achieved by the United Nations Commission on International Trade Law in preparing the text of a draft Convention on International Bills of Exchange and International Promissory Notes;

2. Requests the Secretary-General to draw the attention of all States to the draft Convention, to ask them to submit the observations and proposals they wish to make on the draft Convention before 30 April 1988 and to circulate these observations and proposals to all Member States before 30 June 1988;

3. Decides to consider, at its forty-third session, the draft Convention on International Bills of Exchange and International Promissory Notes, with a view to its adoption at that session, and to create to this end, in the framework of the Sixth Committee, a working group that will meet for a maximum period of two weeks at the beginning of the session, in order to consider the observations and proposals made by States,
