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ADOPTION OF RULES OF PROCEDURE

Note by the Secretary-General

1. The Commission, being a subsidiary organ of the General Assembly established by resolution 2205 (XXI), is governed by rule 162 of the rules of procedure of the Assembly, which reads:

"The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions. The rules relating to the procedure of committees of the General Assembly, as well as rules 45 1/ and 62, 2/ shall apply to the procedure of any subsidiary organ, unless the General Assembly or the subsidiary organ decides otherwise."

2. In the resolutions establishing some subsidiary organs which, like the Commission, have continuing functions, the General Assembly expressly directed

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Rule 45

"The Secretary-General shall act in that capacity in all meetings of the General Assembly, its committees and sub-committees. He may designate a member of the staff to act in his place at these meetings."

2/

Rule 62

"The meetings of the General Assembly and its Main Committees shall be held in public unless the body concerned decides that exceptional circumstances require that the meeting be held in private. Meetings of other committees and sub-committees shall also be held in public unless the body concerned decides otherwise."

the organ concerned to adopt its own rules of procedure. Two recent examples are the Industrial Development Board^{3/} and the Trade and Development Board.^{4/}

3. In other instances, however, as for example with respect to the International Law Commission,^{5/} and UNCITRAL itself, the resolutions establishing subsidiary organs do not contain any reference to rules of procedure.

4. In the absence of a decision of the General Assembly on this matter the rules of procedure of committees of the Assembly would apply to the procedure of the Commission, in accordance with the above quoted rule 162, unless the Commission decided to adopt its own rules of procedure.

5. Should the Commission wish to adopt the former course, which is essentially the one followed by the International Law Commission since its first session in 1949, the procedure described below may be considered.

Application of rules of procedure of the General Assembly

6. On the basis of rule 162 of the rules of procedure of the General Assembly the rules relating to the procedure of committees of the General Assembly (rules 98-134), as well as rules 45 and 62, would apply to the procedure of the Commission mutatis mutandis. On matters not covered by the above-mentioned rules, the Commission may wish to be guided by the general principle that the rules of the General Assembly shall apply to the Commission as may be appropriate for the performance of its functions.

Officers

7. Rule 105 of the rules of procedure of the General Assembly provides for the election of a Chairman, a Vice-Chairman and a Rapporteur for each committee of the Assembly. In the case of the Commission, however, it may be desirable to

3/ Paragraph 10 of General Assembly resolution 2152 (XXI) of 17 November 1966 establishing the United Nations Industrial Development Organization (UNIDO).

4/ Paragraph 12 of General Assembly resolution 1995 (XIX) of 30 December 1964 establishing the United Nations Conference on Trade and Development (UNCTAD).

5/ Established by General Assembly resolution 174 (II) of 21 November 1947.

establish the practice that each of the five groups of States specified in section II, paragraph 1, of resolution 2205 (XXI) should be represented in the Bureau of the Commission. Accordingly, the Commission may wish to decide to elect each year a President, three Vice-Presidents and a Rapporteur.

Relationships with intergovernmental and non-governmental organizations

8. The rules of procedure of the General Assembly do not contain any provision with respect to relationships with intergovernmental and non-governmental organizations. On the other hand, section II, paragraph 12, of resolution 2205 (XXI) provides that

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

9. It is, therefore, for the Commission to decide how the foregoing provision is to be implemented. In particular, it would seem desirable to establish the procedure by which intergovernmental and non-governmental organizations might be able to participate in the deliberations of the Commission.

10. This matter may be regulated by the adoption of special rules of procedure, by resolution of the Commission, or in other suitable manner. It is suggested that the Commission should discuss this subject under item 6 of the provisional agenda, entitled "Working relationships and collaboration with other bodies". In this connexion, the Secretary-General is submitting a note (A/CN.9/7) dealing with the Commission's relationships with intergovernmental and non-governmental organizations concerned with international trade law.
