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COLLABORATION AND WORKING RELATIONSHIPS WITH ORGANS AND
ORGANIZATIONS CONCERNED WITH INTERNATIONAL TRADE LAW

Note by the Secretary-General

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INTRODUCTION

1. In setting up the United Nations Commission on International Trade Law the General Assembly, in resolution 2205 (XXI), underlined the importance of establishing collaboration and appropriate working relationships between the Commission and organs and organizations concerned with the progressive harmonization and unification of the law of international trade. The importance of collaboration was also stressed in the Sixth Committee's discussion on this item^{1/} as well as in many of the comments on the work programme of the Commission, submitted by Member States, organs and organizations pursuant to section III, paragraph 1 of the resolution.^{2/}
2. The following provisions of section II of resolution 2205 (XXI) deal with this matter:

A. Paragraph 8 provides that the Commission shall further the progressive harmonization and unification of the law of international trade by, inter alia:

"(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;"

B. Paragraph 12 reads:

"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."

3. The purpose of this paper is to provide the Commission with information that may assist it in determining what action it wishes to take in implementing the foregoing provisions of the resolution.

I. COLLABORATION WITH THE UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD)

4. In addition to the above-quoted paragraph 8 (f), the following provisions of the resolution refer to UNCTAD:

^{1/} See Report of the Sixth Committee, document A/6594, paragraphs 22-25.

^{2/} See A/CN.9/4 and Corr.1; A/CN.9/4/Add.1.

- A. The eleventh and twelfth preambular paragraphs read:

"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,".

- B. Section II, paragraph 10 reads:

"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 Conference 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 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."

5. In accordance with the foregoing provisions of paragraph 10 of the resolution the United Nations Conference on Trade and Development or the Trade and Development Board, having received the annual reports of the Commission to the General Assembly, may make comments or recommendations relating to the Commission's reports; these comments or recommendations may also include suggestions on topics for inclusion in the work of the Commission. In addition to the comments or recommendations relating to the Commission's annual reports, the Conference or the Board may make any other recommendation relevant to the work of the Commission.

6. The comments and recommendations as well as suggestions on topics, referred to in the preceding paragraph, are transmitted by the Conference or the Board to the General Assembly in accordance with the relevant provisions of resolution 1995 (XIX) establishing UNCTAD. Thus any comments, recommendations or suggestions on topics made by the Conference or the Board, together with any comments thereon as the Assembly may wish to make, would reach the Commission through the General Assembly.

11. On the basis of existing agreements providing for reciprocal representation at meetings, the Secretary-General invited the following inter-governmental organizations to attend the first session of the Commission as observers: The Hague Conference on Private International Law, the International Institute for the Unification of Private Law (UNIDROIT) and the United International Bureaux for the Protection of Intellectual Property (BIRPI). In addition, the Secretary-General of UNCTAD was invited to assign a member of his staff to attend the first session of the Commission.

12. A letter was sent to the following organizations informing them of the date and place of the first session of the Commission:

A. Specialized agencies: Food and Agriculture Organization, Inter-Governmental Maritime Consultative Organization, International Bank for Reconstruction and Development, International Civil Aviation Organization, International Labour Organisation.

B. Other inter-governmental organizations: Bank for International Settlements, Central Office for International Railway Transport, Council of Europe, Customs Co-operation Council, European Economic Community, General Agreement on Tariffs and Trade, Organization for Economic Co-operation and Development, Organization of American States.

C. International non-governmental organizations: Afro-Asian Organization for Economic Co-operation, European Insurance Committee, Institute of International Law, Inter-American Institute of International Legal Studies, International Air Transport Association, International Association for the Protection of Industrial Property, International Association of Legal Science, International Chamber of Commerce, International Chamber of Shipping, International Juridical Organization for Developing Countries, International Law Association, International Rail Transport Committee, International Savings Banks Institute, International Union for Inland Navigation.

13. The organizations selected were those that, in replying to the invitation sent by the Secretary-General pursuant to resolution 2205 (XXI), had sent comments on the work programme of the Commission or had manifested their interest by describing their own activities or expressing readiness to collaborate with the Commission. In addition, these organizations have been placed on the mailing list for documents relating to the activities of the Commission (i.e. the documents in the A/CN.9 series).

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14. The same letter was sent also to the National Association of Credit Management, which is responsible for the publication of a three-volume "Digest of Commercial Laws of the World". This organization expressed readiness to collaborate with the Commission, and has been placed on the mailing list for Commission documents.

B. Arrangements for future sessions

1. Organizations especially concerned with international trade law

15. With reference to UNIDROIT and the Hague Conference on Private International Law, paragraph 22 of the Report of the Sixth Committee⁴ states that:

"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) of 3 July 1958, and it was suggested that a similar method be followed in connexion with the work of the new commission."

16. The agreement between the United Nations and the Hague Conference on Private International Law provides for collaboration between the two organizations by means of exchange of information and documents, proposal of agenda items and reciprocal representation at meetings. The agreement with UNIDROIT has the same provisions and, in addition, contains the following sentence: "The Institute shall, at the request of organs of the United Nations, render assistance to the United Nations with respect to studies relating to questions of comparative law and the unification of rules of private law, subject to arrangements between the parties with regard to expenditure which such assistance might entail."

17. In the light of the above-quoted statement in the Sixth Committee's report and taking into account the existing agreements, the Commission may wish to consider whether it would be necessary to conclude separate agreements with UNIDROIT and the Hague Conference for the purpose of laying down the terms of the collaboration between the United Nations and those two organizations in the field of the law of international trade.

18. In this connexion, the Commission might also consider whether agreements should be concluded with other organizations especially concerned with international trade law.

19. Should the Commission not wish to make a decision on this question at its first session, it might request the Secretariat to consult further with the organizations concerned, and report on the matter to the Commission at its second session.

2. Relationships with other organizations

20. In responding to the invitation to comment on the work programme of the Commission a number of organizations referred to ways and means to establish some form of co-operation with the Commission. While the African Development Bank, the International Bank for Reconstruction and Development (IBRD) and the Organization for Economic Co-operation and Development (OECD) only requested to be kept informed on the work done by the Commission, other organizations [e.g. International Civil Aviation Organization (ICAO), Inter-Governmental Maritime Consultative Organization (IMCO), International Association of Legal Science] expressed willingness to co-operate with the Commission by furnishing all information on their work which might be of interest to it. Other organizations [Bank for International Settlements (BIS), United International Bureaux for the Protection of Intellectual Property (BIRPI), Council of Europe, International Juridical Organization for Developing Countries (IJO), International Latin Institute of Commercial Law, General Agreement on Tariffs and Trade (GATT), International Labour Organisation (ILO), International Union of Marine Insurance, National Association of Credit Management, Organization of American States (OAS), UNIDROIT] expressed readiness to collaborate with the Commission by participating in the work to be done.

21. A variety of arrangements exist regulating the relationships between different United Nations organs and inter-governmental and non-governmental organizations. In addition to the agreements with specialized agencies referred to in paragraph 9 above, such arrangements range from the consultative status given to certain non-governmental organizations under the terms of Economic and Social Council resolution 283 (X) to ad hoc relationships established by various United Nations organs with selected inter-governmental organizations.

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22. In considering what would be the most suitable type of relationship to be established with inter-governmental and international non-governmental organizations the Commission might wish to take into account the procedures followed in this respect by the Trade and Development Board.

23. Rule 78 of the rules of procedure of the Trade and Development Board^{5/} provides that representatives of specialized agencies, the International Atomic Energy Agency (IAEA) and the inter-governmental bodies which are designated for this purpose by the Conference or the Board, may participate, without the right to vote, in the deliberations of the Board and its subsidiary organs upon the invitation of the President or Chairman, as the case may be, on questions within the scope of their activities. Under the same rule, written statements of such inter-governmental bodies, related to items on the agenda of the Board or its subsidiary organs, are to be circulated by the Secretariat to members of the Board and the subsidiary organs concerned.

24. The inter-governmental organizations so designated also have the right, in the same way as the specialized agencies, to propose items for the Board's provisional agenda, and to be heard by the Board on the inclusion of the item. They also have the right to be notified in advance of the Board's sessions, and to receive the provisional agenda.

25. As regards international non-governmental organizations, Rule 79 of the rules of procedure of the Trade and Development Board provides that non-governmental organizations concerned with matters of trade and of trade as related to development may designate representatives to sit as observers at public meetings of the Board, its sessional committees and subsidiary organs. The Secretary-General of the Conference, in consultation with the Bureau of the Board, from time to time prepares a list of such organizations for approval by the Board. Upon the invitation of the President or the Chairman, as the case may be, and subject to the approval of the Board or of the subsidiary organ concerned, non-governmental organizations may make oral statements on matters within the scope of their activities. Written statements provided by non-governmental bodies, related to items on the agenda of the Board or of its subsidiary organs, are to be circulated by the Secretariat to members of the Board and the subsidiary organ concerned.

^{5/} UNCTAD, Rules of Procedure of the Trade and Development Board (United Nations publication Sales No. 66.I.19).

26. Should the Commission decide to adopt the procedures of the Trade and Development Board, mutatis mutandis, it would be necessary for the Commission to designate the inter-governmental organizations authorized to participate in meetings of the Commission, and the international non-governmental organizations authorized to sit as observers.

27. At this stage the Commission may wish to designate those organizations which are directly concerned with the whole range of the activities of the Commission. In addition, other organizations specializing in topics which are of particular concern to the Commission, might be designated for the purpose of the consideration of such topics. It is of course understood that the Commission would be free to make additions to, or deletions from the list of designated organizations.

28. It should be noted that, owing to difficulties encountered in the application of the procedures relating to participation of non-governmental organizations in meetings of the Board, such procedures are currently under review by the Board itself. Furthermore, in the light of experience the Board, at its fifth session, decided that, on the basis of the pertinent provisions of General Assembly resolution 1995 (XIX) it would be desirable to supplement the provisions of rule 78 by a procedure whereby inter-governmental organizations could be invited, on the recommendation of the UNCTAD secretariat, to participate on an ad hoc, rather than continuing, basis in the meetings of the Board of particular concern to them.^{6/} Such arrangement is similar to the one envisaged in paragraph 2 of Economic and Social Council resolution 1267 (XLIII) B.^{7/}

6/ See Designation of Inter-Governmental Bodies under Rule 78 of the Rules of Procedure, Note by the Secretary-General of UNCTAD, TD/B/123; and United Nations Conference on Trade and Development, Report of the Trade and Development Board (25 September 1966 to 9 September 1967), A/6714, paragraph 223.

7/ "The Economic and Social Council...

"2. Further invites the Secretary-General, where he considers it would help to further the aims and work of the Council, to propose to the Council the names of inter-governmental organizations outside the United Nations system that should be represented by observers at sessions of the Council; these organizations may participate with the approval of the Council and without the right to vote, in its debates on questions of concern to them;".

29. It is understood that these ad hoc arrangements relating to inter-governmental organizations have been working satisfactorily. As an alternative to the procedure indicated in paragraphs 26 and 27 above, the Commission might therefore consider applying the ad hoc procedure described in the preceding paragraph, on an experimental basis, to inter-governmental organizations, except for the specialized agencies and other inter-governmental organizations whose relationships with the United Nations are governed by separate agreements (e.g. UNIDROIT, the Hague Conference on Private International Law, BIRPI). The same procedure could also be applied to the Commission's relationships with international non-governmental organizations.

30. Aside from the foregoing arrangements relating to participation in meetings, the collaboration between the Commission and inter-governmental as well as international non-governmental organizations may also be assured by other suitable means, including informal consultation at the secretariat level, exchange of information and documents. Where appropriate, these informal arrangements could be extended also to organizations which, while not included among those designated or authorized by the Commission for the purpose of participation in meetings, are interested in specific aspects of the harmonization and unification of the law of international trade.
