



SUMMARY RECORD OF THE 21st MEETING

Chairman: Mr. DENG (Sudan)

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The meeting was called to order at 3.10 p.m.

AGENDA ITEM 131: REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS TWENTY-FIRST SESSION (continued) (A/C.6/43/L.4)

1. Mr. HERNDL (Austria), introducing draft resolution A/C.6/43/L.4, said that Kenya, Lesotho and Spain had joined the sponsors, and that India was no longer a sponsor.
2. Since its establishment in 1966, the Commission had consistently proved its usefulness and had developed into a valuable tool to facilitate international trade relations. The progressive harmonization and unification of international trade law, one of its specific objectives, was essential to the community of nations and contributed significantly to universal co-operation among all States on the basis of equality, equity and common interest.
3. In the past few years, UNCITRAL had made a special effort to increase its activities in the areas of training and assistance. The Lesotho seminar held in 1988 in close co-operation with the Government of Lesotho and the Preferential Trade Area of Eastern and Southern African States had been very successful, a fact recognized in the draft resolution. The Commission would hold a similar seminar in 1989 at Vienna, for which funding seemed to be inadequate, as was the case with other related activities of the Commission's secretariat. The sponsors believed it essential for the Commission and its secretariat to have appropriate funds to enable them to organize symposia and seminars without having recourse to specific appeals for contributions. In paragraph 5 (c) of the draft resolution, therefore, the sponsors invited Governments, the relevant United Nations organs, organizations, institutions and individuals to make voluntary contributions to the Trust Fund for UNCITRAL Symposia on International Trade Law, and otherwise to assist the secretariat in financing and organizing seminars and symposia.
4. The draft resolution did not differ essentially from the corresponding resolution adopted in 1987 by the General Assembly without a vote. He therefore hoped that the present text, which was uncontroversial, could be adopted without a vote.
5. Draft resolution A/C.6/43/L.4 was adopted without a vote.

AGENDA ITEM 127: STATUS OF THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS (continued) (A/C.6/43/L.5)

6. Mr. WAEVER (Denmark), introducing draft resolution A/C.6/43/L.5 on behalf of the Nordic countries, said that it was almost identical to General Assembly resolution 41/72, adopted by consensus.
7. With regard to the changes made, he said that paragraph 1 referred not only to the virtually universal acceptance of the Geneva Conventions of 1949, but also to

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(Mr. Waever, Denmark)

the fact that there was at present an increasingly wide acceptance of the two additional Protocols of 1977. In addition, in paragraph 2, the sponsors compared the acceptance of the two sets of instruments, and noted that the number of States parties to the additional Protocols was still limited.

8. The sponsors hoped that the draft resolution could be adopted by consensus.

9. Mr. HERNDL (Austria) said that his delegation wished to join in sponsoring the draft resolution in view of the great importance of the additional Protocols, which Austria hoped would become universal instruments.

10. Mr. VAN DE VELDE (Netherlands) and Ms. HIGGIE (New Zealand) said that their delegations also wished to join in sponsoring the draft resolution.

11. The CHAIRMAN said that the Committee would take action on the draft resolution at a subsequent meeting.

AGENDA ITEM 126: OBSERVER STATUS OF NATIONAL LIBERATION MOVEMENTS RECOGNIZED BY THE ORGANIZATION OF AFRICAN UNITY AND/OR BY THE LEAGUE OF ARAB STATES (A/43/528 and Add.1 and 2)

12. Mr. HAMID (Pakistan) said it was an unfortunate paradox of contemporary times that in the current age of enlightenment when States emphasized human rights and individual freedoms, people in Africa and the Middle East were still being held in bondage. In other areas, a small minority ruled over the majority, who were treated like second-class citizens. Subjected to such inhuman treatment, many sons of the soil had launched movements for the liberation of their territories. His Government fully supported the inalienable right of the peoples of those regions to self-determination. It recognized their liberation movements, many of which had also been recognized by the Organisation of African Unity (OAU) and/or by the League of Arab States, and participated, as observers in the work of the United Nations and its various organs.

13. The days of the antiquated and brutal system of colonialism were numbered, and the peoples struggling against it would triumph in the not too distant future. The extension of privileges and immunities to the liberation movements which were recognized by OAU and/or by the League of Arab States and were called upon to participate in various international conferences as observers was essential if they were to perform their functions effectively. Pakistan therefore urged States, particularly those which hosted international conferences, to accord to the observer delegations of liberation movements the same facilities, privileges and immunities as were provided to States under the Vienna Convention on the Representation of States in Their Relations with International Organisations of a Universal Character.

14. The international community had embarked on a process of codification and development of international law. Experience had shown that emerging States not associated with the process sometimes found it difficult to adopt the rules

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(Mr. Hamid, Pakistan)

concerned. The object of the exercise of codification and development of international laws was to make such rules universally acceptable. His delegation therefore supported the participation of national liberation movements in international conferences with full guarantees of immunities and privileges.

15. Mr. MIRZAIK-YENGEJEH (Islamic Republic of Iran) announced that the Iranian Islamic Consultative Assembly had ratified the 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character on 19 July 1988. His Government would deposit the instruments of ratification with the Secretary-General in the near future.

16. His delegation considered that the decision taken by the United Nations to grant observer status to the liberation movements recognized by OAU and/or by the League of Arab States confirmed the view of the majority of Member States that those movements should participate fully in the activities of the Organization. The Islamic Republic of Iran therefore believed that an appeal had to be made once again to all States that had not yet done so, in particular those which hosted international organizations or conferences held under the auspices of international organizations, to consider the question of ratifying, or acceding to, the Vienna Convention. The States concerned should be called upon once more to accord to the delegations of the national liberation movements recognized by OAU and/or by the League of Arab States and accorded observer status by international organizations, the facilities, privileges and immunities necessary for the performance of their functions in accordance with the provisions of the Convention.

17. Although no international organization of a universal character had its headquarters in his country, the representatives of the Palestine Liberation Organization (PLO), the South West Africa People's Organization (SWAPO) and Frente POLISARIO in the Islamic Republic of Iran had been granted the necessary facilities, privileges and immunities on a bilateral basis.

18. Mr. ORDZHONIKIDZE (Union of Soviet Socialist Republics) said that the United Nations and other international organizations should act in such a way as to meet the needs and aspirations of the international community and to promote the free and independent development of all countries and peoples, including those peoples fighting for their liberation. The participation of national liberation movements in the work of international organizations and conferences was not only an important way to support that just struggle, but also a considerable factor in the search for a political solution to regional conflicts.

19. It was clear that national liberation movements could make a useful contribution to the work of international organizations and conferences only if they were accorded observer status and the facilities, privileges and immunities necessary for the performance of their functions, in accordance with the provisions of the Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character.

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(Mr. Ordahonikidze, USSR)

20. Referring to General Assembly resolution 41/71, which, inter alia, urged all States to consider as soon as possible the question of ratifying, or acceding to, the Vienna Convention, he said that the number of States heeding that appeal was unfortunately still small. That fact hampered the creation of conditions necessary to ensure a response to the other appeal by the General Assembly concerning the granting to delegations of national liberation movements recognized by OAU and/or by the League of Arab States - such as PLO and SWAPO - observer status, and the facilities, privileges and immunities necessary for the performance of their functions, in accordance with the provisions of the Vienna Convention.

21. His country had been one of the first to ratify the 1975 Convention, and constantly fulfilled its provisions in connection with international meetings held in its territory. His delegation considered that the General Assembly should renew the appeal made by it in paragraphs 1 and 2 of resolution 41/71.

22. Mr. ALI (Democratic Yemen), speaking on behalf of the Arab delegations in the Sixth Committee, said that the support provided by the United Nations to national liberation movements seeking freedom and independence for their peoples had been one of the most distinguished features of the Organization's activities since its foundation. It was therefore natural that, in its resolution 41/71, the General Assembly should have expressed its conviction that the participation of the national liberation movements recognized by OAU and/or by the League of Arab States in the work of international organizations helped to strengthen international peace and co-operation.

23. The United Nations had recognized those movements by according them observer status, having determined that they were leading the just struggle of their peoples for freedom, independence and self-determination. The presence of the recognized national liberation movements in international forums, and their involvement in international relations had thus become a fact that could not be ignored.

24. The Arab delegations were convinced of the importance of according the national liberation movements better facilities in order to enable them to advance the cause of their peoples. Although some of the Arab States had not yet acceded to the 1975 Vienna Convention, since they were still engaged in the thorough study of all its aspects, they nevertheless belonged to a number of regional organizations of which those movements were members. On occasion, the Arab States accorded more facilities, privileges and immunities to such movements than were stipulated in the 1975 Vienna Convention.

25. The Arab delegations were confident that the Committee would pay great attention to the issue in view of its importance in supporting the just struggle of the national liberation movements, and would take steps to promote the work of those movements in their relations with international organizations in such a manner as to guarantee their active participation.

26. Mr. AL-KIDWA (Observer, Palestine Liberation Organization) said that the General Assembly had accorded observer status to national liberation movements

(Mr. Al-Kidwa, Observer, PLO)

recognized by OAU and/or by the League of Arab States, specifically to PLO and SWAPO, in response to the need felt by the majority of Member States for practical action to promote the implementation of the purposes and principles of the Charter. It was therefore considered essential that the representatives of colonial peoples and peoples under occupation should be allowed to participate actively in the work of the Organization in order to expedite the attainment of their right to self-determination. That would, in itself, be a significant contribution to the strengthening of international peace and security, since with the achievement of self-determination, a major cause of regional conflicts would be removed, namely colonialism and foreign occupation.

27. Observer status for such movements and the active role played by observers had proved to be most beneficial. The outworn concepts prevailing at the time of the establishment of the United Nations had been replaced by such notions as the universal character of the Organization and the major significance of entities other than States.

28. Observer status for the recognized movements had enhanced their legal position in bilateral relations with a large number of States, and they had in some cases been granted full recognition and full diplomatic immunities. At the same time, they had not been accorded facilities, privileges and immunities by all countries that were hosts to international organizations or to conferences convened by, or held under the auspices of, international organizations of a universal character. That had been particularly true of the country that was host to the Headquarters of the United Nations. It was the collective responsibility of the United Nations and its Member States to ensure that the necessary facilities, privileges and immunities were accorded by the host country and were not a matter for bilateral negotiations with that country.

29. Observers were entitled to the necessary facilities, privileges and immunities under Article 105 of the Charter, which had always been interpreted as applying to invitees of the United Nations, and under the terms of the agreements concluded with host countries - in the case of United Nations Headquarters, those of articles 11, 12 and 13 of the Headquarters Agreement.

30. It was necessary to refer to the dispute that had arisen between the United Nations and the United States of America concerning the interpretation and application of the Headquarters Agreement. The United States had attempted to implement title X of the Foreign Relations Authorization Act for Fiscal Years 1988-1989, against the Permanent Observer Mission of PLO to the United Nations. While his delegation was gratified that the dispute had been settled with the decision of the United States Administration not to pursue the matter, it would have been preferable if it had not arisen at all or had been settled on the basis of the host country's respect for Article 105 of the Charter, articles 11, 12 and 13 of the Headquarters Agreement, the repeated recommendations of the General Assembly or the advisory opinion given by the International Court of Justice on the matter. General Assembly resolutions 42/210 B, 42/229 A and B, 42/230 and 42/232 had unequivocally reiterated that the Permanent Observer Mission of PLO to the

(Mr. Al-Kidwa, Observer, PLO)

United Nations was covered by the provisions of the Headquarters Agreement and should be enabled to establish and maintain premises and adequate functional facilities. The violation by any host country of established precedent and its recourse to domestic law in that regard should not be allowed to recur.

31. Experience had shown that there was a need to guarantee respect for the minimal rights of observers of recognized liberation movements. There was a pressing need for a multilateral convention under which host countries would be bound to accord to observer missions privileges and immunities similar to those accorded to Member States. Although the 1975 Vienna Convention did not deal with entities other than States, accession to that Convention by Member States, and particularly host countries, might constitute a step towards the application of its provisions to observers of recognized national liberation movements.

32. Another aspect of the matter, and one that was no less important, was the need for action to ensure that the status of observer missions to the United Nations was strengthened and their ability to participate in its work enhanced. As well as being the legitimate representatives of their peoples, the recognized national liberation movements also represented States that would emerge in the near future. PLO currently assumed major responsibilities towards the Palestinian people in the political, economic, social and cultural field, and therefore required even greater support from the United Nations.

33. The necessary steps should be taken to strengthen the role of the recognized national liberation movements in the work of the United Nations, particularly by enabling them to transmit their views to all Member States and organizations of the United Nations system in a speedier and more effective manner throughout the year. That could be done by authorizing them to submit material for distribution as documents of the intergovernmental bodies of the United Nations under the appropriate agenda items without the use of intermediaries. That would have a positive impact by promoting dialogue and improving communications within the United Nations framework. PLO would work with SWAPO in conducting the appropriate consultations on the matter with the delegations of Member States, and hoped that the necessary arrangements could be made.

34. Mr. GUPTA (India) said that his delegation supported the granting of functional privileges and immunities to the national liberation movements recognized by OAU and/or by the League of Arab States. His country had been a sponsor of the resolution of the United Nations Conference on the Representation of States in Their Relations with International Organizations relating to the observer status of such movements.

35. Since the adoption of General Assembly resolution 2787 (XXVI), which had confirmed the legality of the people's struggle for self-determination and liberation from alien subjugation, the national liberation movements recognized by OAU and/or by the League of Arab States had been invited to participate as observers in the deliberations of several specialized agencies and international conferences. That practice had been endorsed in a number of resolutions adopted by

(Mr. Gupta, India)

the General Assembly, the Economic and Social Council, UNESCO, WHO and FAO. In its resolution 3237 (XXIX), the General Assembly had invited PLO to participate in its work as well as in that of all international conferences convened under United Nations auspices.

36. He stressed the need to define the status, privileges and immunities of observer missions and observer delegations of national liberation movements in order to ensure that they were in a position to make an effective contribution. His delegation was aware of the difficulties faced by representatives of national liberation movements recognized by OAU and/or by the League of Arab States, and of the fact that such problems hampered them in the discharge of their functions. In that connection, he announced that his Government had accorded the PLO Office at New Delhi full diplomatic status.

37. The Secretary-General should be requested to prepare a working paper on the problems faced by various national liberation movements and on the functional privileges and immunities granted to observer missions, in order to enable the Sixth Committee to examine the entire question of the representation of national liberation movements and to ensure that their representatives were granted the privileges and immunities necessary for the proper discharge of their duties.

The meeting rose at 4.15 p.m.