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UNITED NATIONS COMMISSION ON
INTERNATIONAL TRADE LAW

Second session
Geneva, 3 March 1969
Item 4(c) of the agenda

TIME-LIMITS AND LIMITATIONS (PRESCRIPTION) IN
THE FIELD OF INTERNATIONAL SALE OF GOODS

1. The Committee discussed item 4 (c) of the agenda: time-limits and limitations (prescription) in the field of international sale of goods. The Committee expressed warm appreciation of the studies which had been submitted by the Governments of Belgium, Czechoslovakia, Norway and the United Kingdom. These had been of considerable help in assisting the work of the Committee. There was a general consensus that this topic was one which could profitably be the subject of immediate work by UNCITRAL, since the studies revealed numerous disparities between the rules of law of domestic legal systems and a fundamental difference of approach in the civil law and common law systems. A number of delegates referred to the work already done in this field in the draft elaborated in 1961 and the general conditions adopted in 1968 by the Council for Mutual Economic Assistance, in the enquiry conducted in 1968 by the European Committee on Legal Co-operation in the Council of Europe, and by Professor Trammer in his preliminary draft of a convention.

2. The Committee decided to recommend that UNCITRAL should set up a sub-committee consisting of representatives of its member States(). The sub-committee would be composed of persons specially qualified in this field of law referred to the sub-committee for consideration.

3. The Committee decided to recommend that this sub-committee:
 - (a) should study the topic of time-limits and limitations (prescription) in the field of international sale of goods with a view to the preparation of a preliminary draft of an international convention;
 - (b) should confine its work to consideration of the formulation of a general period of extinctive prescription by virtue of which the rights of a buyer or seller would be extinguished or become barred; the sub-committee should not consider special time-limits by virtue of which particular rights of the buyer or seller might be abrogated (e.g. to reject the goods, to refuse to deliver the goods, or to claim damages for non-conformity with the terms of the contract of sale) since these could most conveniently be dealt with by the sub-committee on sale of goods.
4. The Committee suggested that, in its work, the sub-committee might pay special attention, inter alia, to the following points:
 - (i) the moment from which time begins to run;
 - (ii) the duration of the period of prescription;
 - (iii) the circumstances in which the period may be suspended or interrupted;
 - (iv) the circumstances in which the period may be terminated;
 - (v) to what extent the prescription period should be capable of variation by agreement of the parties;
 - (vi) whether the issue of prescription should be raised by the court suo officio or only at the instance of the parties;
 - (vii) whether the preliminary draft convention should take the form of a uniform or a model law;
 - (viii) whether it would be necessary to state that the rules of preliminary draft convention would take effect as rules of substance or procedure;
 - (ix) to what extent it would still be necessary to have regard to rules of conflict of laws.

5. The Committee recommended that the Secretary-General should notify the CMEA, the Council of Europe, the European Economic Community, UNIDROIT, and the ICC of the date of the meeting of the sub-committee. The Secretary-General would also be requested to send to member States of UNCITRAL as well as to the above-mentioned organizations the studies referred to in paragraph 3 above for submission of their comments to the sub-committee as soon as possible. The Secretary-General should also be requested to transmit to the members of UNCITRAL and the above-mentioned organizations any drafts produced by the sub-committee. It was envisaged that a preliminary draft of a convention could be completed in 1970 or 1971 and the Committee recommended that the sub-committee should report its progress to the Commission at its third session.