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CO-ORDINATION OF THE WORK OF ORGANIZATIONS ACTIVE  
IN INTERNATIONAL TRADE LAW

Report of the Secretary-General

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## INTRODUCTION

1. The General Assembly, in paragraph 6(e) of Resolution 2421 (XXIII) on the report of the United Nations Commission on International Trade Law, recommended that the Commission should "consider at its second session ways and means of promoting co-ordination of the work of organizations active in the progressive harmonization and unification of international trade law and of encouraging co-operation among them."

2. For the convenience of the Commission, the present report sets out the background of the question of co-ordination in general (Chapter I), followed by a summary of the views expressed by member states and international organizations on the ways and means by which co-ordination could be promoted (Chapter II) and some general considerations and suggestions on this point (Chapter III).

I. BACKGROUND OF THE QUESTION

3. The report of the Secretary-General on the Progressive Development of the Law of International Trade<sup>1/</sup>, in considering the role of the United Nations in this field, mentioned insufficient co-ordination and co-operation among formulating agencies as one of the shortcomings of the work done so far in the harmonization and unification of international trade law. The report quoted in this respect the observations made some years ago by the late Professor H.C. Gutteridge:

"The most urgent problem of all is that of the waste of effort and confusion that has, at times, been caused by the existence of competing agencies engaged in the work of unification. The remedy for this state of affairs would seem to lie in the establishment of a rallying ground for unificatory activities - a kind of international clearing house - which would co-ordinate and supervise activities of this nature and also facilitate the collection of any information that might be required, either from governmental or other sources ... it would be possible, in this way, to avoid the overlapping of attempts to achieve uniformity, and to discourage the ill-timed, or over-ambitious, projects which are largely responsible for the paucity of success which has hitherto characterized the movement for the unification of law." <sup>2/</sup>

4. During the debate in the Sixth Committee in the General Assembly preceding the establishment of the Commission, many representatives stressed the importance of co-ordination as a primary function of the proposed Commission.

5. Paragraph 8 of operative part II of General Assembly Resolution 2205 (XXI) establishing the United Nations Commission on International Trade Law, which enumerates the means by which the Commission should further the progressive harmonization and unification of the law of international trade, sets out as the first of those means "co-ordinating the work of organizations active in this field and encouraging co-operation among them."

6. The Commission, at its first session, did not consider the question of co-ordination as a separate item on its agenda. The question was, however, discussed during the general debate on item 5 of the agenda of the first session (Programme of Work of the Commission), in connexion with sub-item (c) (Working relationships and collaboration with other bodies). The report of the Commission on its first session, in the summary of its general debate under the heading "Collection and Dissemination of Information Concerning International Trade Law", contains in this respect the following paragraphs:

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<sup>1/</sup> Document A/6396 of 23 September 1966.

<sup>2/</sup> H.C. Gutteridge, Comparative Law, 2nd ed. (Cambridge, University Press, 1949), pp. 183-184.

"29. The view was expressed by the great majority of speakers that the collection and dissemination of information pertaining to international trade law was a matter to which the Commission should give very early consideration. The Commission, it was said, could only have a complete view of what should be accomplished in the field of harmonization and unification, and more usefully expand its efforts to that end, if it had a complete picture of what had already been accomplished. The collection and dissemination of such information would ensure, on the part of the Commission as well as on the part of other bodies active in the field, that wasteful duplication of effort and of result was avoided. On the basis of such information, the activities of the Commission and of other bodies could be satisfactorily co-ordinated. The circulation of information would make possible the dissemination on an international level of more exact and complete data on activities under way and on the results already achieved in the field of international trade law.

30. The information to be collected, it was suggested, might include information as to all bodies active in the field of the harmonization and unification of international trade law and information as to all work already accomplished and presently undertaken in the field of harmonization and unification. The collection and dissemination of such information was envisaged as a permanent aspect of the work of the Commission. It was thought that it would be appropriate to entrust this function to the Secretariat, which would act as a clearing-house, or documentation centre, for information on international trade law."

7. Reference may also be made here to two of the documents which were before the Commission at its first session in that they relate, in part, to the question of co-ordination, i.e. a note by the Secretary-General entitled "Organization and Methods of Work" (A/CN.9/6) and the comments submitted by Member States, United Nations organs and international governmental and non-governmental organizations on the work programme of the Commission (A/CN.9/4). The note by the Secretary-General, in paragraphs 30 and 31, dealt with the question of co-ordination as follows:

"30. Not infrequently there are conflicts, overlapping and duplication between different organizations dealing with the same topic. This occurs not only between organizations concerned with world-wide as opposed to regional unification, but sometimes between different regional organizations as well.

31. In areas where co-ordination is needed the Commission may wish to study the work of existing organizations and consider such measures as:

(a) Acting as a clearing house for information relating to the unification activities of different organizations, so as to avoid conflicts and duplication due to lack of knowledge of what is being done elsewhere;

(b) Making recommendations as to which organization or organizations may be considered to be best equipped for dealing with a topic and taking the necessary unifying measures, whether on a world-wide scale or otherwise."

In the comments on the work programme of the Commission, many references to co-ordination were made by Member States and international organizations.

8. Observations on the question of co-ordination were also made by some representatives during the Twenty-third Session of the General Assembly in the course of the discussions in the Sixth Committee on the report of the Commission on the work of its first session, mainly in connexion with the establishment of a register of organizations and a register of texts and the relevancy of these registers to co-ordination. The relevant paragraph in the report of the Sixth Committee to the General Assembly<sup>3/</sup> reads as follows:

"20. A number of representatives referred to the problem of the waste of effort and confusion caused by the existence of competing agencies in the work of unification. It was stressed, in this connexion, that the remedy would seem to lie in UNCITRAL's functioning as a rallying ground for unificatory activities and in the co-ordination and supervision by UNCITRAL of such activities. Some representatives stressed that UNCITRAL should be the main co-ordinating and law-making international organ in the field of international trade law and that it should maintain close co-operation with the specialized agencies and the intergovernmental and non-governmental organizations concerned. Other representatives emphasized that the work of UNCITRAL should be complementary to the efforts that had been made and were being made by such organizations and that stimulating wider interest in, and particular work by, existing institutions was among the significant contributions that UNCITRAL could make."

## II. WAYS AND MEANS WHICH HAVE BEEN SUGGESTED FOR PROMOTING CO-ORDINATION

9. There appears to be general agreement that the general purpose and raison d'être of co-ordination is to avoid wasteful overlapping and to bring concerted efforts to bear upon specific issues of international trade law.<sup>4/</sup>

10. In their observations on this particular aspect of co-ordination, a number of Member States and international organizations stressed the importance of collecting full information on the present and future activities of organizations in the field of international trade law since it was only on the basis of such information that the Commission could determine what measures it could take.

<sup>3/</sup> A/7408, pp. 9-10, para. 20.

<sup>4/</sup> Another aspect of the need for co-ordination was recently stressed by the Chairman of the First Session of the Commission, Ambassador Emmanuel Kodjoe Dadzie, when he introduced the Commission's report on this first session to the Sixth Committee at the Twenty-third session of the General Assembly:

"The proliferation of organizations active at various levels in a field essentially universal in scope cannot but result in achievements which are fragmentary and lacking in direction and uniformity of purpose. There is thus a danger of divergent national laws being replaced by divergent international instruments".

11. In addition to the collection of information, the following means of achieving co-ordination have been advocated by Member States and/or international organizations:

- (a) the establishment of close working relationships with United Nations organs, agencies and other international organizations;
- (b) the indication of the work of organizations in specific fields of international trade law, the analysis of their programmes and potentialities, and the formulation of proposals for the establishment of co-operative relations with them, including the identification of possible areas of duplication.

12. Mention may also be made of the suggestion made by the International Institute for the Unification of Private Law (UNIDROIT) in its comments on the programme of work of the Commission:

- "(a) the Commission as a central co-ordinating body should regularly make available full information about the programmes of work of international organizations that are concerned with matters of international trade law. It might wish to indicate the matters which it considers to be of practical importance in this context and examine the possibility of formulating broad guidelines in respect of certain of these matters;
- (b) the Member Governments of the United Nations should be recommended to use their influence with the organizations of which they are Members to the effect that programmes of work are drawn up in such a way so as to prevent unnecessary duplication. This co-ordination at national level in turn requires the furnishing of information mentioned under (a)."

### III. GENERAL OBSERVATIONS AND SUGGESTIONS

13. It is obviously necessary for the purposes of co-ordination that the Commission have available information on the activities of international organizations concerned with international trade law. The question arises whether such information should pertain to all the activities in the field or only to some. One possible approach might be for the Commission to select one or more topics for the purpose of co-ordination and then proceed to collect information in respect of those topics. On the other hand, this approach might present some difficulties and the Commission may consider that, in order to reach any decision on the extent of co-ordination in full knowledge of the issues involved, it may be necessary in the first instance to have available complete information on all the activities of international organizations in the field.

14. With respect to the information to be obtained for purposes of co-ordination, it would seem that this task would go beyond that of compiling the register of organizations, the establishment of which was recommended by the Commission at its first session. Moreover, should the Commission wish that the information obtained

for purposes of co-ordination be disseminated, some duplication would inevitably occur between the dissemination of that information and the publication of the register of organizations to the extent that both publications would include the same topics.

15. It would also seem that the methods to be followed in achieving an appropriate degree of co-ordination would to some extent depend on circumstances surrounding each particular topic and that a flexible attitude would therefore be desirable. In the absence of supervisory powers of the Commission regarding the selection of topics by other organizations, as well as the determination of the scope of those topics, the success of the Commission's co-ordinating efforts must depend, in the last resort, on the good will of other organizations. This in turn depends on the recognition by organizations that co-ordination is an essential element for the success of the work of harmonization and unification of international trade law and that the support and assistance given by the Commission to that work is likely to have a favourable impact on their activities.

16. One method which would enable the Commission to function adequately as a rallying ground for unifying activities would be the collection of complete information on all or some of the present and contemplated activities of the organizations concerned, accompanied, as necessary, by an evaluation of those activities. Where appropriate, the Commission might consult with the organizations concerned and make recommendations with a view to furthering the progressive development of international trade law.

17. A currently relevant example of a field where co-ordination might be useful is that of the carriage of goods by containers, involving problems arising from the fact that more than one way of transport is used (e.g. rail, road, motorway, sea or air). Several international organizations (e.g. ECE, IMCO, UNIDROIT, International Maritime Committee) are presently dealing with, or are interested in, the legal issues of the container method of transportation and the combined carriage of goods which are questions to which many governments now attach great importance and which transcend the regional level.

18. Summing up, the Commission may wish to consider the following questions which arise in the context of the ways and means by which co-ordination might be promoted:

- (a) should the information on the activities of organizations active in the field of international trade law to be collected for purposes of co-ordination pertain to all topics of international trade law with which these organizations may deal, or to certain topics only?

- (b) should such information be disseminated and, if so, in what form?
- (c) if disseminated, would not such information duplicate the register of organizations and their work insofar as both publications would include information on the same topics and, if so, how can duplication be avoided?

19. The Commission may also wish to consider appropriate methods and procedures for achieving co-ordination, such as:

- (a) encouraging organizations to co-operate among themselves;
- (b) the desirability of consulting with organizations for the purpose of assessing -
  - (i) as to which organization or organizations would be best qualified or in the best position to carry out work on new topics, or
  - (ii) how to co-ordinate the activities of organizations that are already working on the same topic;
- (c) the desirability of making recommendations with a view to furthering the progressive development of international trade law, or indicating along which lines a given topic should, in its view, be approached.