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Item 10 of the provisional agenda

LIABILITY FOR DAMAGE CAUSED BY PRODUCTS INTENDED
FOR OR INVOLVED IN INTERNATIONAL TRADE

Note by the Secretary-General

1. The General Assembly, at its twenty-eighth session, adopted resolution 3108 (XXVIII) of 12 December 1973 on the report of the United Nations Commission on International Trade Law on the work of its sixth session. 1/ In paragraph 7 of the resolution, the General Assembly invited the Commission:

"To consider the advisability of preparing uniform rules on the civil liability of producers for damage caused by their products intended for or involved in international sale or distribution, taking into account the feasibility and most appropriate time therefor in view of other items in its programme of work."

2. The present note sets forth certain background information pertaining to that resolution and suggests possible action by the Commission in response thereto.

A. DEBATE IN THE SIXTH COMMITTEE

3. The discussion that took place in the Sixth Committee on the issue of producer's liability for damage caused by products intended for or involved in international trade, was summarized in the report of the Sixth Committee on the report of the United Nations Commission on International Trade Law on the work of its sixth session, 2/ as follows:

1/ Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 17 (A/9017).

2/ A/9408, paras. 49-51.

49. The representative of Norway proposed that the Commission should include a new item in its priority work programme, namely, harmonization of the law on producers' civil liability for damage caused by their products intended for or involved in international sale or distribution. ^{3/} In explanation of the proposal, it was stated that the consequences of dangerous qualities of manufactured products had increased greatly and that the problems that arose in this connexion were not necessarily linked to the contract between seller and buyer. With the increase of marketing and distribution of mass-produced goods across national frontiers and between the different continents of the world, damage caused by such products and the protection of consumers was of international concern. In the opinion of the representative of Norway, there was an urgent need for international harmonization in the field in order to facilitate international trade by a unified system of liability standards. In view of the fact that legislative action on the subject was in most countries still in the preparatory or initial stages, such harmonization would avoid the development of diverging laws and a possible distortion of the terms of trade.

50. Several representatives supported the proposal made by the delegate of Norway and expressed the hope that a draft convention on the subject could be prepared. It was pointed out that any international rules on the international sale of goods would be incomplete without rules on the producers' civil liability.

51. Other representatives, while expressing appreciation for the proposal, were of the opinion that the Commission should either not take up new items until it had disposed of the substantive items already on its agenda or given it a low order of priority.

B. POSSIBLE ACTION BY THE COMMISSION

4. Under paragraph 7 of General Assembly resolution 3108 (XXVIII), the Commission is invited to consider:

- (a) "The advisability of preparing uniform rules on the civil liability of producers for damage caused by their products intended for or involved in international sale or distribution";
- (b) "The feasibility and most appropriate time therefor in view of other items on its programme of work".

5. Accordingly, the Commission may wish to request the Secretariat to prepare, for consideration at its eighth session, a preliminary report setting forth the

^{3/} For the summary record of the proposal by the representative of Norway made on 29 October 1973 at the 1427th meeting of the Sixth Committee, see document A/C.6/SR.1427, pp. 8-10. The representative of Norway made reference to the work currently undertaken in this area by the Council of Europe, the Hague Conference on Private International Law and the International Bar Association.

main problems that may arise in connexion with the preparation of uniform rules on the topic, a survey of the pending work of other organizations in this area, and suggestions as to the appropriate working methods. 4/

4/ When the Commission decides as to the advisability of preparing such uniform rules and as to working methods, it may wish to bear in mind that the present item is related to the subject of the international sale of goods, which is one of the priority topics currently before the Commission.