

123rd meeting (4 May 1972)

Mr. HONNOLD (Secretary of the Commission) described the steps the Secretariat envisaged taking with a view to the final adoption of the draft Convention. The draft having been approved by the Commission, the next step would be the preparation of the revised commentary on the draft. The Secretariat expected that the commentary would be translated into all working languages and issued by September 1972. The draft and the commentary would then be circulated to Governments and to interested international organizations for comments and proposals. The following month, i.e., October 1972, UNCITRAL's report would be submitted to the Sixth Committee. The latter's debate would lead to a decision by the General Assembly in November or December. It seemed appropriate to request Governments and interested international organizations to send it their comments and proposals concerning the draft by the end of May 1973. The replies, which would probably be numerous, would be analysed by the Secretariat, as requested by the Working Group on Prescription. It was expected that the Secretariat's analytical compilation could be sent to Governments in September 1973. Lastly, a diplomatic conference if such were to be authorized by the General Assembly, might convene in the early months of 1974.

Mr. MICHADA (Japan) said he approved in principle of the proposed time-table. He would, however, have to consult his Government before expressing a definitive opinion.

Mr. GUEIROS (Brazil) said that the provisional time-table outlined by the Secretariat was very useful. His delegation, too, would have to consult its Government.

Mr. SAM (Ghana) inquired whether the proposals mentioned by the Secretariat and the exchange of views on them would be recorded in the Commission's report.

Mr. HONNOLD (Secretary of the Commission) thought it would be preferable for the Commission merely to indicate in its report that a provisional time-table had been envisaged.

Mr. SLOAN (Director, General Legal Division) indicated the financial implications of the diplomatic conference, as established by the Secretariat. Its estimates were based on the assumption that the conference would meet for three weeks in New York, with two meetings a day, and that it would require simultaneous interpretation and translation of documents into four languages, English, French, Russian and Spanish. That being so, the costs would be the following: interpretation, \$15,000; pre-session documentation, \$17,100; summary records, \$29,650; in-session documentation, \$23,600; post-session documentation \$58,600; total: \$143,950. If interpretation and translation into Chinese were required, the additional cost would amount to \$26,080.

Mr. BURGUCHEV (Union of Soviet Socialist Republics) inquired what expenditure would be incurred if the draft Convention were considered and adopted by the Sixth Committee and the General Assembly. The Commission could not take a decision unless it could compare the cost of the two possible procedures.

Mr. SLOAN (Director, General Legal Division) replied that the cost of having the draft Convention adopted by the Sixth Committee and the General Assembly could not be calculated exactly, for in that case some of the expenditure would be covered by the expenses of the General Assembly. That would be the case, in particular, for the cost of interpretation, preparation of summary records and translation of in-session documents. The additional costs, for pre-session and post-session documentation, would amount to about \$50,000. If the diplomatic conference met at Headquarters at a time when there were relatively few meetings, some of the expenses could also be covered by the regular budget.

Mr. GUEST (United Kingdom) recalled that at the preceding meeting the Indian delegation had proposed that the Commission should not take a final decision on the matter, but should merely stress in its report that the draft Convention should be submitted to a body composed of highly qualified experts, leaving the decision to the Sixth Committee. Furthermore, nothing prevented UNCITRAL from indicating in its report that it would prefer the convening of a diplomatic conference.

Mr. BURGUCHEV (Union of Soviet Socialist Republics) said that in his delegation's view, a diplomatic conference was the only satisfactory solution. The problems raised by the draft Convention were specific and complex. They should be studied by a body specially convened for that purpose, composed of experts of recognized competence. His delegation could not reconsider its position unless it was sure that adoption of the draft by the Sixth Committee and the General Assembly would result in substantial savings. However, the figures given by the representative of the Secretary-General were not convincing; consideration of the draft Convention by the Sixth Committee and the General Assembly would also involve expenses for interpretation, documentation and so on. In any event, the question should not be left pending and the Commission should take a decision on it.

Mr. LOEWE (Austria) said he fully agreed with the views expressed by the USSR representative. The savings which could be effected if the draft Convention were simply considered by the Sixth Committee and adopted by the General Assembly were perhaps apparent rather than real. In any case, that procedure would entail extra expenses for small delegations, which would have to send an expert on limitation to the Sixth Committee in addition to their usual representative. His delegation was emphatically in favour of convening a diplomatic conference.

Mr. OGUNDERE (Nigeria) reminded the Commission that a consensus had already emerged in favour of convening a diplomatic conference. He noted that the Commission could not foresee what solution would be chosen by the Sixth Committee. It would therefore perhaps not be very useful to spend too much time on the point; it would be better to leave it to the Sixth Committee to decide which procedure should be followed.

Mr. KAMAT (India) observed that when the Sixth Committee discussed the draft Convention, all countries which were not members of UNCITRAL would have an opportunity to consider the problem and express their views on the adoption procedure they considered most desirable. He proposed that the Committee should not make a formal recommendation, but should merely express a view, indicating in its report that in view of the technical nature of the draft Convention it

considered it desirable that the latter should be submitted to a diplomatic conference of highly-qualified plenipotentiaries. It was for the General Assembly to take a decision, taking into account the views expressed by the Commission and the financial implications established by the Secretariat.

Mr. JENARD (Belgium) agreed with the representatives of the USSR and Austria that the convening of a diplomatic conference was the only possible course. The way in which the Commission expressed its preference was of little importance, provided that its preference was clearly indicated.

Mr. RECZEI (Hungary) said it was not perhaps necessary to take a decision immediately. The envisaged diplomatic conference could not meet before 1974. The question of the procedure to be followed for the definitive adoption of the Convention was thus not particularly urgent.

Mr. MADHO (Kenya) said that the Commission would certainly not be exceeding its terms of reference if it expressed its preferences in a recommendation. Such a recommendation would obviously not be binding and the final decision would be taken by the competent bodies, but it could be argued that the Commission was in a better position than any other body to express an informed opinion on the subject. It should therefore adopt a recommendation inviting the General Assembly to convene a diplomatic conference.

Mr. SAM (Ghana) agreed with the representative of Nigeria that it was not necessary to spend time on the question, which would be re-examined by the Sixth Committee. His delegation favoured the course proposed by the representative of India.

Mr. SLOAN (Director, General Legal Division) drew the Commission's attention to document A/CN.9/R.12, paragraph 8, which indicated that the International Law Commission had submitted to the Sixth Committee a recommendation to the effect that the draft articles on relations between States and international organizations should be considered and adopted by an international conference of plenipotentiaries. If UNCITRAL did not formulate a specific recommendation, the members of the Sixth Committee might infer that it was not fully convinced of the need for a diplomatic conference.

Mr. KAMAT (India) observed that the Commission could indicate its preferences equally well by expressing them in its report. He inquired whether the International Law Commission had adopted a recommendation similar to that mentioned by the Director of the General Legal Division in connexion with all the draft Conventions prepared under its auspices.

Mr. SLOAN (Director, General Legal Division) said he was unable to reply immediately to that question.

Mr. GUEIROS (Brazil) suggested that the Commission should adopt the Hungarian representative's proposal to the effect that a decision on the matter should be deferred.

Mr. RECZEI (Hungary) explained that he had made no formal proposal and was not opposed to the adoption of a recommendation to the Sixth Committee.

Mr. BURGUCHEV (Union of Soviet Socialist Republics) observed that the Commission did not take a decision on the adoption procedure, but made a recommendation that the General Assembly could either endorse or reject as it saw fit. He did not understand why some members of the Commission hesitated to express a preference.

Mr. GUEST (United Kingdom) said that he would not press his views and would support the position of the USSR representative.

Mr. KHOO (Singapore) said that the special nature of the draft Convention made it necessary for the States which took part in the diplomatic conference to be represented by experts. That requirement should be duly mentioned in the Commission's recommendation.

The CHAIRMAN suggested that the Commission should recommend the convening of an international conference of plenipotentiaries with specialized knowledge of limitation.

It was so decided.

HOW TO OBTAIN UNITED NATIONS PUBLICATIONS

United Nations publications may be obtained from bookstores and distributors throughout the world. Consult your bookstore or write to: United Nations, Sales Section, New York or Geneva.

COMMENT SE PROCURER LES PUBLICATIONS DES NATIONS UNIES

Les publications des Nations Unies sont en vente dans les librairies et les agences dépositaires du monde entier. Informez-vous auprès de votre librairie ou adressez-vous à: Nations Unies, Section des ventes, New York ou Genève.

КАК ПОЛУЧИТЬ ИЗДАНИЯ ОРГАНИЗАЦИИ ОБЪЕДИНЕННЫХ НАЦИЙ

Издания Организации Объединенных Наций можно купить в книжных магазинах и агентствах во всех районах мира. Наводите справки об изданиях в вашем книжном магазине или пишите по адресу: Организация Объединенных Наций, Секция по продаже изданий, Нью-Йорк или Женева.

COMO CONSEGUIR PUBLICACIONES DE LAS NACIONES UNIDAS

Las publicaciones de las Naciones Unidas están en venta en librerías y casas distribuidoras en todas partes del mundo. Consulte a su librero o diríjase a: Naciones Unidas, Sección de Ventas, Nueva York o Ginebra.
