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TRAINING AND TECHNICAL ASSISTANCE

Note by the Secretariat

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
INTRODUCTION	1-2	2
I. UNCITRAL TEXTS	3-4	2
II. PREPARATION AND IMPLEMENTATION OF LEGISLATION . . .	5-8	3
III. UNCITRAL SEMINARS AND BRIEFING MISSIONS	9-12	4
IV. PARTICIPATION IN OTHER ACTIVITIES	13- 14	6
V. INTERNSHIP PROGRAMME	15-16	9
VI. FUTURE ACTIVITIES	17-18	9
VII. FINANCIAL RESOURCES	19-25	9

INTRODUCTION

1. Pursuant to the decision taken at the twentieth session of the Commission (1987), training and assistance activities count among the high priorities of UNCITRAL.^{1/} The training and technical assistance programme carried out by the Secretariat under the mandate given by the Commission, particularly in developing countries and in countries whose economic systems are in transition, encompasses two main lines of activity: (a) information activities aimed at promoting understanding of international commercial law conventions, model laws and other legal texts; and (b) assistance to Member States with commercial law reform and adoption of UNCITRAL texts.
2. This note lists the activities of the Secretariat subsequent to the issuance of the previous note submitted to the thirty-first session of the Commission (1 - 12 June 1998) and indicates possible future training and technical assistance activities in the light of the requests for such services from the Secretariat.

I. UNCITRAL TEXTS

3. There is a continuing and significant increase in the importance being attributed by Governments, domestic and international business communities and multilateral and bilateral aid agencies to the improvement of the legal framework for international trade and investment, so badly needed in the era of globalisation. UNCITRAL has an important function to play in this process because it has produced and promotes the use of legal instruments in a number of key areas of commercial law which represent internationally-agreed standards and solutions acceptable to different legal systems. Those instruments include:

(a) in the area of sales, the United Nations Convention on Contracts for the International Sale of Goods and the United Nations Convention on the Limitation Period in the International Sale of Goods;

(b) in the area of dispute resolution, the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958) (a United Nations convention adopted prior to the establishment of the Commission, but actively promoted by it), the UNCITRAL Arbitration Rules, the UNCITRAL Conciliation Rules, the UNCITRAL Model Law on International Commercial Arbitration and the UNCITRAL Notes on Organizing Arbitral Proceedings;

(c) in the area of procurement, the UNCITRAL Model Law on Procurement of Goods, Construction and Services;

(d) in the area of banking, payments and insolvency, the United Nations Convention on Independent Guarantees and Stand-by Letters of Credit, the UNCITRAL Model

^{1/} Report of the United Nations Commission on International Trade Law on the work of its twentieth session, Official Records of the General Assembly, Forty-second Session, Supplement No. 17 (A/42/17), para. 335.

Law on International Credit Transfers, the United Nations Convention on International Bills of Exchange and International Promissory Notes, and the UNCITRAL Model Law on Cross-Border Insolvency;

(e) in the area of transport, the United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules) and the United Nations Convention on the Liability of Operators of Transport Terminals in International Trade; and

(f) in the area of electronic commerce and data interchange, the UNCITRAL Model Law on Electronic Commerce.

4. The upsurge in commercial law reform represents a crucial opportunity for UNCITRAL to significantly further the objectives of substantial coordination and acceleration of the process of harmonization and unification of international trade law, as envisaged by General Assembly resolution 2205 (XXI) of 17 December 1966.

II. PREPARATION AND IMPLEMENTATION OF LEGISLATION

5. Technical assistance is provided to States preparing legislation based on UNCITRAL texts. Such assistance is provided in various forms, including review of preparatory drafts of legislation from the view point of UNCITRAL texts, technical consultancy services and assistance in the preparation of legislation based on UNCITRAL texts, preparation of regulations implementing such legislation, comments on reports of law reform commissions as well as briefings for legislators, judges, arbitrators, procurement officials and other users of UNCITRAL texts embodied in national legislation. Another form of technical assistance provided by the Secretariat consists in advising on the establishment of institutional arrangements for international commercial arbitration, including training seminars for arbitrators, judges and practitioners in this area.

6. With a view to maximizing the benefit that recipient countries derive from UNCITRAL technical assistance, the Secretariat has taken steps towards increasing cooperation and coordination with development assistance agencies. Cooperation and coordination among entities providing legal technical assistance has the desirable effect of ensuring that, when United Nations system entities or outside entities are involved in providing legal technical assistance, the legal texts prepared by the Commission and recommended by the General Assembly to be considered are in fact so considered and used. The Secretariat is continuing its efforts in this regard.

7. From the standpoint of recipient States, UNCITRAL technical assistance is beneficial owing to the Secretariat's accumulated experience in the preparation of UNCITRAL texts. It helps establish legal systems that not only are internally consistent, but also utilize internationally-developed trade law conventions, model laws and other legal texts. The resulting legal harmonization maximizes the ability of business parties from different States to successfully plan and implement commercial transactions, and, thus, fosters investors' confidence.

8. States that are in the process of revising their trade legislation may wish to contact the UNCITRAL Secretariat in order to obtain technical assistance and advice.

III. UNCITRAL SEMINARS AND BRIEFING MISSIONS

9. The information activities of UNCITRAL are typically carried out through seminars and briefing missions for Government officials from interested ministries (such as trade, foreign affairs, justice and transport), judges, arbitrators, practising lawyers, the commercial and trading community, scholars and other interested individuals. Seminars and briefing missions are designed to explain the salient features and utility of international trade law instruments of UNCITRAL. Information is also provided on certain important legal texts of other organizations, e.g., Uniform Customs and Practice for Documentary Credits and INCOTERMS (International Chamber of Commerce); Factoring Convention (International Institute for the Unification of Private Law (UNIDROIT)).

10. Lectures at UNCITRAL seminars are generally conducted by one or two members of the Secretariat, experts from the host countries and, occasionally, external consultants. After the seminars, the UNCITRAL Secretariat remains in contact with seminar participants in order to provide the host countries with the maximum possible support during the process leading up to the adoption and use of UNCITRAL texts.

11. Since the previous session, the Secretariat organized seminars in a number of States. The following seminars and briefing missions were financed with resources from the Trust Fund for UNCITRAL Symposia:

- Lusaka, Zambia (20 - 22 April 1998), seminar held in cooperation with the Common Market for Eastern and Southern Africa (COMESA); attended by approximately 25 participants;

- Yaounde, Cameroon (27 April 1998), briefing of 40 officials of member countries of the Organization for the Harmonization of Business Law in Africa (OHADA);

- Douala, Cameroon (28 - 30 April 1998), seminar held in cooperation with the International Development Law Institute; attended by approximately 50 participants;

- Manama, Bahrain (12 - 13 May 1998), seminar held in conjunction with the Gulf Cooperation Council (G.C.C.) Commercial Arbitration Centre; attended by approximately 100 participants;

- La Paz, Bolivia (18 May 1998), seminar held in cooperation with the Ministry of Foreign Affairs; attended by approximately 60 participants;

- Cochabamba, Bolivia (20 May 1998), seminar held in cooperation with the Chamber of Commerce; attended by approximately 50 participants;

- Santa Cruz, Bolivia (22 May 1998), seminar held in cooperation with the Bolivian Institute of Foreign Commerce; attended by approximately 60 participants;

- Lima, Peru (25 - 29 May 1998), seminar held during the Inter-American Bar Association's XXXIV Conference; attended by approximately 80 participants;

- Baku, Azerbaijan (24 - 25 September 1998), seminar held in cooperation with the Ministry of Trade; attended by approximately 50 participants;

- Ulaanbaatar, Mongolia (21 - 23 October 1998), seminar held in cooperation with the Mongolian Chamber of Commerce and Industry; attended by approximately 60 participants;

- Beijing, China (26 - 30 October 1998), seminars held in cooperation with the Ministry of Foreign Economic Cooperation and Trade, Legislation Commission of National People's Congress, China International Economic and Trade Arbitration Commission and the China Judges College; attended by approximately 130 participants;

- Bucharest, Romania (29 - 30 October 1998), seminar held in cooperation with the Ministry of Foreign Affairs; attended by approximately 30 participants;

- Sofia, Bulgaria (2 - 3 November 1998), seminar held in cooperation with the Ministry of Trade and Tourism; attended by approximately 30 participants;

- Shanghai, China (4 - 6 November 1998), briefing of 120 participants at the International Bar Association Second Asian Financial Law Seminar;

- Sao Paulo, Brazil (16 November 1998), seminar held in cooperation with the International Law Association; attended by approximately 60 participants;

- Brasilia, Brazil (19 - 20 November 1998), seminar held in cooperation with the Ministry of External Relations; attended by approximately 100 participants;

- Caracas, Venezuela (24 - 27 November 1998), seminar held in cooperation with the Ministry of Foreign Affairs and the Civil Association for the Integration of Nations (ACIN); attended by approximately 40 participants;

- Guatemala City, Guatemala (11 - 12 March 1999), seminar held in cooperation with the Ministry of Economy; attended by approximately 100 participants;

- Mexico City, Mexico (15 - 17 March 1999), seminar held in cooperation with the Ministry of Foreign Affairs; attended by approximately 270 participants; and

- Monterrey, Nuevo Leon, Mexico (20 March 1999), seminar held in cooperation with the Centro Juridico para el Comercio Interamericano; attended by approximately 100 participants.

12. The following **seminar was** financed by the institution organizing the event or by another organization:

- Buenos Aires, Argentina (30 November - 1 December 1998), seminar held in cooperation with the law review *La Ley*; attended by approximately 100 participants.

IV. PARTICIPATION IN OTHER ACTIVITIES

13. Members of the UNCITRAL Secretariat have participated as speakers in various seminars, conferences and courses, where UNCITRAL texts were presented for examination and possible adoption or use. The participation of members of the Secretariat in the seminars, conferences and courses listed below was financed by the institution organizing the events or by another organization:

- Seminar on Intellectual Property, Licensing and Dispute Resolution sponsored by the World Intellectual Property Organization (WIPO) (Cairo, Egypt, 9 - 10 March 1998);

- Meeting on the Role of Future Receivables in Commodity Financing sponsored by the International Business Conferences (IBC) (Geneva, 3 - 4 April 1998);

- New German Arbitration Law and DIS-Arbitration Rules Meeting sponsored by the German Institution for Arbitration (Leipzig, Germany, 21 - 22 April 1998);

- Symposium on Alternative Mechanisms for the Resolution of Transnational Commercial Disputes sponsored by the Asia-Pacific Economic Cooperation (APEC) (Bangkok, Thailand, 27 - 28 April 1998);

- International Trade Law Post Graduate Course sponsored by the International Training Centre of the International Labour Organization (ILO) and the University Institute of European Studies (Turin, Italy, 20 May 1998);

- Opening and Conference of the Center for Transnational Law (Munster, Germany, 25 May 1998);

- Round-table Discussion on Electronic Commerce Law Reform in Bangkok sponsored by The Arbitration Office, Ministry of Justice, Thailand (Bangkok, Thailand, 28 - 29 May 1998);

- Communic Asia 98/Network Asia 98 International Conference sponsored by the Singapore Exhibition Services (Singapore, 1 - 4 June 1998);

- Workshop for Senior Central Bank Lawyers on International Bank Insolvencies sponsored by the Bank for International Settlements (Thun, Switzerland, 25 - 26 June 1998);

- Legal Experts Panel on Business Environment Study of Trusted Services (BESTS) sponsored by Coopers and Lybrand (Amsterdam, The Netherlands, 15 - 16 July 1998);

- Annual Meeting of the Swiss Arbitration Association (Basel, Switzerland, 4 September 1998);

- Inter-American Banking Law Conference sponsored by the National Law Center for Inter-American Free Trade and the Federation of Latin-American Banking Lawyers (FELEBAN) (Mexico City, Mexico, 23 - 26 September 1998);

- World Bank Procurement Forum (Baltimore, Maryland, United States of America, 16 - 18 September 1998);
- International Receivables Financing Meeting sponsored by the Max-Planck Institute for Public and International Law and the Institute of International Financial Law of the University of Mainz (Hamburg, Germany, 18 - 20 September 1998);
- United Nations Centre for Trade and Development (UNCTAD) Train for Trade Seminar on Electronic Commerce (Tunis, Tunisia, 26 - 27 October 1998);
- Annual Meeting of the International Chamber of Commerce Institute of World Business Law (Paris, France, 29 October 1998);
- Forum for International Arbitration/Irish Bar Association Seminar on the Irish Arbitration Act (Dublin, Ireland, 8 November 1998);
- 1998 Freshfields Arbitration Lecture (London, 10 November 1998);
- Colloquium on Networks and Telecommunication Technology and Legal Change sponsored by the Governments of France and Viet Nam (Hanoi, Viet Nam, 23 - 26 November 1998);
- Milan Bar Association Seminar on International Trade and Electronic Trade (Milan, Italy, 9 January 1999);
- Chartered Institute of Arbitrators/Cairo Regional Centre for Commercial Arbitration International Entry Course and Special Fellowship Course on Arbitration (Cairo and Alexandria, Egypt, 30 January - 6 February 1999);
- International Arbitration Centre of the Austrian Chamber of Commerce Arbitration Seminar (Hernstein, Austria, 11 February 1999);
- World Trade Organization CTD Seminar on Electronic Commerce and Development (Geneva, Switzerland, 19 February 1999);
- New Zealand Law Conference (Rotorua, New Zealand, 6 - 9 April 1999);
- Meeting of Steering Group on Electronic Commerce (Wellington, New Zealand, 11 April 1999);
- Meeting of New Zealand Arbitration and Mediation Institute (Wellington, New Zealand, 13 April 1999);
- Semi-annual Conference of Business Law Section of American Bar Association (San Francisco, United States of America, 15 - 17 April 1999);
- National Day of Arbitration Symposium sponsored by the Tunis Centre of Conciliation and Arbitration (Tunis, Tunisia, 26 - 27 April 1999);

- International Development Law Institute Training Seminar (Rome, Italy, 26 - 27 April 1999); and

- International Trade Law Post-Graduate Course sponsored by the International Training Centre of the International Labor Organization (ILO) and the University Institute of European Studies (Turin, Italy, 27 April 1999).

14. The participation of members of the UNCITRAL Secretariat as speakers in the conferences listed below was financed with resources from the United Nations regular travel budget:

- Arbitration Workshop and Symposium sponsored by the Institute of Transnational Arbitration of the Southwestern Legal Foundation (Dallas, Texas, United States of America, 18 - 19 June 1998);

- Commission on Banking Technique and Practice Meeting sponsored by the International Chamber of Commerce (ICC) (Paris, France, 6 - 7 April 1998);

- XLII Congress of the Union Internationale des Avocats (UIA) (Nice, France, 28 August - 1 September 1998);

- Post-Graduate Course on International Contracts: CISG Revisited sponsored by the Inter-University Centre Dubrovnik (Dubrovnik, Croatia, 2 - 4 September 1998);

- 1998 International Bar Association Biennial Conference (Vancouver, Canada, 13 - 18 September 1998);

- 18th Annual Congress of the European Insolvency Practitioners Association (EIPA) (Oslo, Norway, 17 - 20 September 1998);

- International Chamber of Commerce Institute Annual Meeting - Forging Trust in Electronic Commerce: Law and Dispute Resolution (Geneva, Switzerland, 23 - 25 September 1998);

- International Chamber of Commerce Banking Commission (Marco Island, Florida, United States of America, 8 - 9 October 1998);

- Slovenian Law Society Annual Meeting (Portoroz, Slovenia, 15 - 17 October 1998);

- Partners for Development Meeting sponsored by the United Nations Centre for Trade and Development (UNCTAD) (Lyon, France, 9 - 12 November 1998); and

- International Chamber of Commerce Electronic Commerce Project Meeting (Paris, France, 29 - 30 April 1999).

V. INTERNSHIP PROGRAMME

15. The internship programme is designed to give young lawyers the opportunity to become familiar with the work of UNCITRAL and to increase their knowledge of specific areas in the field of international trade law. During the past year, the Secretariat has hosted 7 interns from Austria, Germany, Italy, the Netherlands, Poland, Sweden and the United States of America. Interns are assigned tasks such as basic or advanced research, collection and systematization of information and materials or assistance in preparing background papers. The experience of UNCITRAL with the internship programme has been positive. As no funds are available to the Secretariat to assist interns to cover their travel or other expenses, interns are often sponsored by an organization, university, Government agency or they meet their expenses from their own means. The Commission, in this connection, may wish to invite Member States, universities and other organizations, in addition to those that already do so, to consider sponsoring the participation of young lawyers in the United Nations internship programme with UNCITRAL.

16. In addition, the Secretariat occasionally accommodates requests by scholars and legal practitioners who wish to conduct research in the Branch and in the UNCITRAL Law Library for a limited period of time.

VI. FUTURE ACTIVITIES

17. For the remainder of 1999, seminars and legal-assistance briefing missions are being planned in Africa, Asia, Latin America and Eastern Europe. Since the costs of training and technical assistance activities is not covered by the regular budget, the ability of the Secretariat to implement these plans is contingent upon the receipt of sufficient funds in the form of contributions to the Trust Fund for UNCITRAL Symposia.

18. As it has done in recent years, the Secretariat has agreed to co-sponsor the next three-month International Trade Law Post-Graduate Course to be organized by the University Institute of European Studies and the International Training Centre of the International Labour Organization in Turin. Typically, approximately half of the participants are drawn from Italy, with many of the remainder being drawn from developing countries. This year's contribution from the UNCITRAL Secretariat will focus on issues of harmonization of laws on international trade law from the perspective of UNCITRAL, including past and current work.

VII. FINANCIAL RESOURCES

19. The Secretariat continues its efforts to devise a more extensive training and technical assistance programme to meet the considerably greater demand from States for training and assistance in keeping with the call of the Commission at the twentieth session (1987) for an increased emphasis both on training and assistance and on the promotion of the legal texts prepared by the Commission. However, as no funds for UNCITRAL seminars are provided for in the regular budget, expenses for UNCITRAL training and technical assistance activities (except for those that are supported by funding agencies such as the World Bank) have to be met by voluntary contributions to the Trust Fund for UNCITRAL Symposia.

20. Given the importance of extra-budgetary funding for the implementation of the training and technical assistance component of the UNCITRAL work programme, the Commission may again wish to appeal to all States, international organizations and other interested entities to consider making contributions to the Trust Fund for UNCITRAL Symposia, particularly in the form of multi-year contributions, so as to facilitate planning and enable the Secretariat to meet the increasing demands from developing countries and States with economies in transition for training and assistance. The Secretariat can be contacted for information on how to make contributions.

21. In the period under review, contributions were received from Finland, Greece and Switzerland. The Commission may wish to express its appreciation to those States and organizations that have contributed to the Commission's programme of training and assistance by providing funds or staff or by hosting seminars.

22. In this connection, the Commission may wish to recall that, in accordance with General Assembly Resolution 48/32 of 9 December 1993, the Secretary-General was requested to establish a Trust Fund for granting travel assistance to developing States Members of the United Nations Commission on International Trade Law. The Trust Fund so established is open to voluntary financial contributions from States, inter-governmental organizations, regional economic integration organizations, national institutions and non-governmental organizations as well as natural and juridical persons.

23. At its thirty-first session, the Commission noted with appreciation that the General Assembly, in resolution 52/157, paragraph 10, had appealed to Governments, the relevant United Nations organs, organizations and institutions and individuals, in order to ensure full participation by all member States in the sessions of the Commission and its working groups, to make voluntary contributions to the Trust Fund for Granting Travel Assistance to Developing States members of UNCITRAL, at their request and in consultation with the Secretary-General.

24. Since the establishment of the Trust Fund, contributions were received from Cambodia, Kenya and Singapore.

25. It is recalled that in operative paragraph 11 of Resolution 51/161 of 16 December 1996, the General Assembly decided to include the Trust Funds for Symposia and Travel Assistance in the list of funds and programmes that are dealt with at the United Nations Pledging Conference for Development Activities.

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