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**Sixth Committee**

**Summary record of the 4th meeting**

Held at Headquarters, New York, on Monday, 30 September 2002 at 10 a.m.

*Chairman:* Mr. Prandler . . . . . (Hungary)

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*The meeting was called to order at 10.10 a.m.*

**Agenda item 155: Report of the United Nations Commission on International Trade Law on the work of its thirty-fifth session (A/57/17 and A/56/315)**

1. **Mr. Smart** (Chairman of the United Nations Commission on International Trade Law (UNCITRAL)), introducing the report of the United Nations Commission on International Trade Law on the work of its thirty-fifth session (A/57/17), said that the main item on the Commission's agenda at the Commission's thirty-fifth session had been the draft Model Law on International Commercial Conciliation, adopted on 28 June 2002.

2. Procedures for amicable, non-adversarial settlement of commercial disputes were increasingly being recognized as an indispensable element for promoting international trade. UNCITRAL had already made a significant contribution to the development of those procedures with the adoption of its Conciliation Rules in 1980. The experience gained since then had demonstrated the usefulness of establishing an appropriate legislative framework to support conciliation.

3. The adoption of the draft Model Law represented yet another valuable contribution by UNCITRAL to the development of efficient dispute settlement mechanisms in international commercial transactions. The short time within which the negotiations and the drafting process had been completed was further testimony to the Commission's efficient working methods.

4. The relationship between the work of UNCITRAL and the quest of developing countries for sustainable development had been highlighted at the Commission's session. For lawyers in developing countries, UNCITRAL was an important source of inspiration as they sought to participate fully in the global marketplace, not only because of the high quality of the Commission's work, but also because of the impartiality that came with the seal of the United Nations and the opportunity given to developing countries to participate in its work.

5. A central desire of the developing countries was to share in the benefits of the globalized economy, not through charity but through sustainable development, as the recent World Summit on Sustainable

Development had made clear. The measures necessary for such integration required adjustments in the developing countries' laws and overall business framework, and the texts emanating from UNCITRAL served as reliable and respected international standards in that regard.

6. Modernizing business law was not in itself sufficient to ensure that the benefits of globalization were shared by all nations. Poverty still coexisted with wealth, famine with abundance and welfare with sickness. Yet much could be achieved by the international community if it faced those challenges with the same spirit of commitment and cooperation that had characterized the work of UNCITRAL in carrying out its mandate.

7. Like other developing countries, African countries were eager to expand their share of world trade and investment and were taking steps to create an "enabling legal environment". To that end, African Governments often hired, at great expense, overseas experts to devise laws in the area of trade and commerce. As the foreign experts often covered areas that were already well documented by UNCITRAL, better knowledge of the UNCITRAL texts would save those Governments time and money.

8. UNCITRAL had a training and technical legislative assistance programme, but owing to a shortage of staff and other resources, the Commission secretariat was unable to meet the demand for such activities fully. That was a matter of great concern. Greater efforts should be deployed to make the UNCITRAL texts known not only to current administrators, but also to lawyers in the making, by including those texts in the curricula of law faculties at African universities.

9. At a time when the United Nations was considering measures to improve its efficiency, special attention should be given to the position of UNCITRAL and its secretariat. If it was to be meaningful, reform could not be reduced to a "cut-down/cut-back" exercise; activities and programmes must be allocated resources commensurate with their importance. He hoped that the Sixth Committee would echo the concern of the States members of UNCITRAL that the Commission's secretariat should be substantially strengthened.

10. In paragraph 13 of its resolution 56/79, the General Assembly had reiterated its request to the

Secretary-General, in view of the increased work programme of UNCITRAL, to strengthen its secretariat within the bounds of the resources available in the Organization so as to ensure the implementation of its programme.

11. During the past year, the Office of Internal Oversight Services (OIOS) had conducted an in-depth evaluation of legal affairs within the United Nations Secretariat. While the overall assessment of the activities of the International Trade Law Branch, which functioned as the UNCITRAL secretariat, had been highly positive, the OIOS survey had also identified a few areas for improvement, and had made recommendations in that regard (A/57/17, para. 260).

12. With respect to the UNCITRAL expanded programme of work, the OIOS report had stated that doubts had been expressed as to whether the International Trade Law Branch would be able to maintain the quality and efficiency of its work in view of the fact that staff resources had remained at 1968 levels. The report had further indicated that an analysis and reappraisal of staff requirements and other support to the expanded working groups appeared timely, and OIOS had made a recommendation in that regard (*ibid.*, para. 261). The Commission had been pleased to learn that the Office of Legal Affairs had formulated proposed revisions to the medium-term plan for the period 2002-2005, which, if endorsed by the competent units at the Secretariat level and approved by the General Assembly, would increase substantially the resources of the UNCITRAL secretariat.

13. It was against that background that the Commission had adopted the recommendation contained in paragraph 271 of its report, the main points of which he wished to summarize.

14. First, the modernization of private law standards on international trade was essential for supporting economic development and for designing a sustainable economy.

15. Second, there was a clear demand from Member States, particularly developing countries, for UNCITRAL to prepare legal standards for the global economy in an increasing number of areas. As a result, the number of major projects on the Commission's agenda had more than doubled in 2001 as compared with previous years, increasing the need for coordination between other international trade organizations and UNCITRAL. The Commission was

also concerned about the considerably increased demands on personnel of the UNCITRAL secretariat resulting from the increased work programme and its inability to perform all the tasks assigned to it.

16. In conclusion, the Commission requested the Secretary-General to consider measures to strengthen significantly the UNCITRAL secretariat within the bounds of the resources available in the Organization, if possible during the current biennium and in any case during the 2004-2005 biennium.

17. **Mr. Popkov** (Belarus) said that the work of UNCITRAL was fully in keeping with the goals outlined in the Millennium Declaration and confirmed the primacy of law in international relations. The fact that the conventions, model laws, legislative guides and other instruments prepared by UNCITRAL had been recognized by many States testified to the high quality of those texts, which were prepared by experts representing various countries, civilizations and legal systems. His Government had ratified five of the nine UNCITRAL conventions; in 2002 it had ratified the United Nations Convention on Independent Guarantees and Stand-by Letters of Credit, which would enter into force in Belarus on 1 February 2003. The UNCITRAL model laws were also broadly used in his country in the preparation and adaptation of legislation.

18. His delegation supported the initiatives to strengthen the UNCITRAL secretariat with a view to enhancing the effectiveness of its work, especially in meeting the growing needs of developing countries and countries in transition for training and technical assistance in international trade law. His Government called upon States, international organizations and other interested bodies to consider making voluntary contributions to the UNCITRAL trust fund to support the plans outlined by the UNCITRAL secretariat. Consideration should also be given to encouraging broader participation in the work of UNCITRAL by developing countries and countries in transition so that their interests might be taken into account more fully in the Commission's working groups.

19. His delegation was of the view that priority should be given to the preparation by the UNCITRAL secretariat of a draft report on the legislative implementation of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, which was one of the basic international

agreements in the area of commercial dispute settlement.

20. He noted with satisfaction the work done in 2002 by the Working Group on Arbitration, which had made possible the adoption at the Commission's thirty-fifth session of the draft Model Law on International Commercial Conciliation. The Model Law, together with the UNCITRAL Conciliation Rules, would undoubtedly make a substantial contribution to the establishment of a just and effective regime for the settlement of commercial disputes. It was to be hoped that the Working Group would deal successfully with the other items on its agenda, in particular, the requirement of written form for the arbitration agreement and the enforceability of interim measures of protection.

21. Successful completion of work on the draft new article 7 of the UNCITRAL Model Law on Arbitration would help to overcome differences of opinion as to the form that the draft interpretative instrument regarding article II(2) of the New York Convention should take. His delegation, which was interested in a comprehensive and authoritative interpretation of that provision, believed that consideration should be given to preparing an amending protocol.

22. In Belarus, as in other countries in transition, legislation on electronic commerce was in its infancy; his delegation was therefore following with interest the consideration by the Working Group on Electronic Commerce of a possible international instrument dealing with electronic contracting. On the whole, his delegation shared the view that such an instrument could lay the groundwork for the drafting of an international convention which would, in turn, be an important step towards the establishment of a legal regime for electronic commerce that was uniform and clear. At the same time, his delegation believed that the concerns expressed in the Working Group and the Commission regarding the possibility of establishing mutually exclusive regimes on electronic contracting were well founded.

23. His delegation welcomed the commencement by the Working Group on Transport Law at its ninth session of work on a draft instrument on transport law. Because of his country's geographical situation, his delegation hoped that the convention to be elaborated on the basis of that document would cover not only maritime transport, but also so-called combined

transport (door-to-door) operations. While it might be difficult to establish links between the document being drafted and the existing international agreements governing domestic transport, successful resolution of that issue would make it possible to fill substantial gaps in international transport law while promoting the development of door-to-door transport operations.

24. His delegation continued to believe that an increase in the membership of UNCITRAL was justified. It was prepared to discuss the matter further at the current session of the General Assembly, on the understanding that the Commission's membership should remain relatively small in order to safeguard its effectiveness, while taking into account the interests of all regional groups.

25. **Mr. Marschik** (Austria) welcomed the Commission's adoption of the UNCITRAL Model Law on International Commercial Conciliation. Austria had also followed with great interest the debate on the other items of the Commission's work. With regard to privately financed infrastructure projects, Austria remained interested in the elaboration of a model law on the subject, which would give a reassuring signal to potential private investors. The Commission should ensure that the different working groups coordinated their work and that duplication with other organizations active in the same field was avoided.

26. He commended the role of the UNCITRAL secretariat in collecting and disseminating case law on UNCITRAL texts and in organizing training and technical assistance seminars and regretted that limited resources put constraints on such activities. In view of the upsurge of interest in commercial law reform and the increased workload of the Commission, his delegation was pleased that the Office of Internal Oversight Services (OIOS) had recognized the need for a reappraisal of the requirements in terms of staff and other support. Austria supported the Commission's recommendation requesting the Secretary-General to strengthen significantly the UNCITRAL secretariat within the bounds of available resources. As for enlarging the membership of UNCITRAL, his Government supported the idea in principle and felt confident that agreement could be reached on a precise formula for doing so.

27. **Mr. Mirzaee-Yengejeh** (Islamic Republic of Iran) commended the Commission on another productive session, in particular, it supported the

decision taken by the Commission with regard to the UNCITRAL Model Law on International Commercial Conciliation and its Guide to Enactment and Use.

28. His delegation believed that the Committee should decide at the current session to enlarge the membership of the Commission, in order to increase active participation in its activities, maintain its representative character and enhance the acceptability of UNCITRAL texts. A Commission composed of 60 or 65 Member States could be representative while remaining efficient. The distribution of seats among the regional groups should reflect the principle of equitable geographical representation. In the light of the recent addition of Timor-Leste to the Group of Asian States, that Group expected that its current membership as well as its important role in international trade would be taken into consideration in the apportioning of seats. His Government also hoped that, with the enlargement of the membership, the participation of developing countries in the work of the Commission would be enhanced.

29. Preliminary observations indicated that the formation of six working groups dealing with six separate projects at the same time overburdened the UNCITRAL secretariat. His delegation therefore supported the recommendation that the Secretariat should be strengthened within the bounds of the resources available in the Organization. His Government appreciated the efforts made by the secretariat in the fields of training and technical assistance and wished to emphasize that such activities should continue in the future.

30. **Mr. Cannon** (United Kingdom) expressed satisfaction at the outcome of work on the UNCITRAL Model Law on International Commercial Conciliation, which avoided over-regulation of an essentially informal process. The United Kingdom was pleased to participate in the Working Groups on arbitration and on insolvency law. It saw the value of taking a consistent approach to the insolvency and the security interests texts, but he cautioned that efforts to ensure consistency should not impede progress on the legislative guide on insolvency. The Working Group on Security Interests should work towards a flexible legislative guide rather than a prescriptive convention or model law. His Government was preparing to consult interests in the United Kingdom on the work on transport law.

31. His delegation supported proposals to increase the membership of UNCITRAL and favoured doubling the membership and retaining the current geographical distribution. It also supported in principle the proposals to strengthen the UNCITRAL secretariat within the bounds of available resources.

32. **Mr. Akamatsu** (Japan) welcomed the significant progress made by the Commission at its thirty-fifth session, in particular the adoption of the UNCITRAL Model Law on International Commercial Conciliation, which should have a genuine impact on practice and enhance stability in the area of international transactions. Since Japan was in the process of enacting domestic legislation along the lines of the UNCITRAL Model Law on International Commercial Arbitration, his delegation was also following with interest the debates in the Working Group on the written form of an arbitration agreement and on interim measures of protection.

33. Uniformity of laws on carriage of goods by sea was also of great interest to Japan. Through its experience with legislation on consumer contracts through electronic means it hoped to contribute to the Commission's work on electronic commerce. In the area of insolvency law, it welcomed the Working Group's efforts to formulate a legislative guide, thus permitting a flexible approach that would be valuable in dealing with the diversity that existed from country to country in related areas of law. It was likewise appropriate for the Working Group on Security Interests to construct a flexible legal framework.

34. His delegation welcomed the recommendation to enlarge the membership of the Commission, but wished to underscore the importance of equitable geographical distribution and the reality of international trade insofar as the allocation of new seats was concerned. Since Timor-Leste had joined the United Nations, the Group of Asian States equalled the Group of African States; moreover, the Asian countries had come to play an increasingly significant role in the world economy. For those reasons, the proportional representation of the Asian Group on the Commission should be increased.

35. **Mr. Lim** (Singapore) said that developments in international commercial relations and new technologies had made the work of the Commission even more important. Singapore, which was committed to the Commission's goal of harmonizing international

trade law, had been represented at the thirty-fifth session of the Commission and was contributing actively to the work of several working groups. Singapore was proud that it had been able to assist and support UNCITRAL in the area of training and technical assistance by contributing members of training teams and organizing a conference on the harmonization of international trade laws. In the light of its vastly expanded workload, which was a result of the rapid development of globalized trade and the increasing demand for uniformity in trade legislation, the Commission would require resources commensurate with its work.

36. His delegation supported enlarging the membership of the Commission to enable more countries to participate in an area of key importance to their economic advancement and hoped that the matter would be decided at the current session of the General Assembly.

37. **Ms. Miller** (Sweden), speaking also on behalf of Denmark, Finland, Iceland and Norway, said that the thirty-fifth session of the Commission had been very productive, and the reported achievements demonstrated that revised working methods had made it possible to conduct the ambitious new work programme. The Nordic countries agreed that enlarging the membership of the Commission would increase its effectiveness, but feared that doubling the membership might have undesired financial implications and undermine efficiency. They would therefore prefer a more moderate increase, but would go along with the consensus on that point.

38. **Mr. Su Wei** (China) noted that UNCITRAL had continued to make headway over the past year in its forward-looking and authoritative work. Thanks to a more rational arrangement of its agenda, the Commission had been able to complete consideration of all items on its agenda, allotting a reasonable time to each, and reach consensus on its follow-up work. In addition, meetings had been convened on time, improving the Commission's efficiency and utilization rate of resources.

39. The Commission should continue to strengthen its technical assistance and training activities in developing countries, taking fully into account their varying levels of development and legislation. In drafting, it should strive harder to reflect the views of all sides and the actual conditions and needs of

different countries, so that its conventions and model laws would be more widely accepted.

40. His delegation believed that enlargement of the membership of the Commission was necessary to ensure that it was representative of all the legal traditions and economic systems of the world. Given the current composition, the number of seats on the Commission occupied by certain regions was disproportionate to their representation in the United Nations. His delegation hoped that consensus could be reached on enlargement during the current session of the General Assembly.

41. **Ms. Semambo Kalema** (Uganda) welcomed the achievements of the Commission's thirty-fifth session, and especially the adoption of the UNCITRAL Model Law on International Commercial Conciliation. While the Model Law was intended to apply to the settlement of international commercial disputes, it could easily be modified to apply to domestic commercial conciliation as well, and she encouraged States to adopt it with as few changes as possible in order to ensure uniformity and avoid potential conflicts of laws. While more work remained to be done with regard to interim measures for arbitration protection and their enforceability, the Commission was to be commended for its progress to date in the area of international commercial arbitration.

42. She noted with satisfaction that the Commission had decided to develop a corporate insolvency regime in the form of a legislative guide rather than a model law, in view of the difficulties associated with that topic at the international level involving sensitive and potentially divergent socio-political choices. She looked forward to a final outcome that would incorporate the views of intergovernmental and non-governmental organizations with expertise in that area.

43. She agreed that a close link existed between security interests and the Commission's ongoing work on insolvency law, and recommended that the two processes should be coordinated. Modern secured credit legislation offered benefits to both developed and developing countries, and the increased economic growth such laws made possible was very attractive to countries like Uganda. She called on the Commission to continue its work on the preliminary draft of the legislative guide on secured transactions.

44. Her delegation looked forward to the outcome of the Commission's ongoing consultations on international instruments dealing with electronic

contracting, as well as of the survey on possible legal barriers to the development of electronic commerce in international trade-related instruments. She also expressed satisfaction with the work done by the Commission to date on an instrument governing the international transport of goods by sea; however, her delegation was of the view that such an instrument should cover port-to-port as well as door-to-door transport operations, given the importance of the free flow of goods and reduced transaction costs for landlocked countries like Uganda.

45. Enlargement of the membership of the Commission would provide the benefit of a larger pool of experts from different legal and economic systems without involving further financial implications. A membership of at least 48 States with a wide and equitable geographical distribution would be preferable.

46. Lastly, she noted with appreciation the contributions that had been made to the training and assistance programme and to the trust fund for travel assistance to developing States members of the Commission. Her delegation supported the secretariat's appeal for further contributions and called on the General Assembly once again to request the intervention of the Secretary-General so that the Commission secretariat could continue to carry out the Commission's programme and publish its work.

47. **Mr. Lobatch** (Russian Federation) welcomed the adoption of the draft Model Law on International Commercial Conciliation, which was balanced and took into account contemporary trends and State practice. It had succeeded in avoiding excessive conciliation procedures and ensuring the autonomy of the parties, and his delegation hoped that when it was adopted at the national level it would not undergo substantial change, so that the uniformity of national trade law standards would be guaranteed.

48. His delegation noted with satisfaction the continuation of the Commission's work on privately financed infrastructure projects, an area of particular interest to his Government. The progress made in developing a set of draft model legislative provisions raised hopes that such provisions would soon become an important addendum to the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects

49. With the advent of the information age, there had been a marked intensification in all areas of human activity, including international trade. Under those new

conditions, the development of international legal norms governing electronic commerce was acquiring ever greater significance for cross-border commercial transactions. His delegation therefore supported the efforts of UNCITRAL and its relevant working groups to elaborate an international instrument on electronic contracting.

50. In view of the recent increase in the Commission's programme of work, his delegation believed that the financial and human resources of the UNCITRAL secretariat should be strengthened within the bounds of available resources. His delegation also supported an enlargement of the membership of UNCITRAL, which would help to strengthen the Commission's authority.

51. **Mr. Hafrad** (Algeria) welcomed the adoption of the UNCITRAL Model Law on International Commercial Conciliation, which would contribute greatly to the establishment of a unified legislative framework for the fair and efficient resolution of international commercial disputes. He also welcomed progress achieved by the Commission in the areas of arbitration, insolvency law, electronic commerce, privately financed infrastructure projects, security interests and transport law. It was clear that the ongoing coordination among the Working Groups on insolvency law and security interests would enhance the work of the Commission and promote the uniformity and harmonization of international commercial law.

52. He called for the membership of the Commission to be expanded as quickly as possible, in order to allow the Commission to continue representing all legal traditions and economic systems, and to fulfil its mandate more effectively. His delegation favoured a Commission of 60 member States, apportioned equitably among the regional groups. Lastly, he called for the allocation of additional financial resources for the Commission's programmes in the areas of training and technical assistance, especially those aimed at developing countries and countries with economies in transition.

53. **Ms. Williams** (Canada) said that, in addition to completing the UNCITRAL Model Law on International Commercial Conciliation, the Commission was doing necessary and timely work on arbitration and making valuable headway on the other issues before it. Canada looked forward to the

discussions on legal barriers to the development of electronic commerce and international trade instruments and on the drafting of an international instrument dealing with electronic contracting, and to completion of the legislative provisions on privately financed infrastructure projects. She urged States to participate in those deliberations to ensure that the final outcome met their needs and interests.

54. The significant increase in the number of projects with which the Commission was dealing demanded that its secretariat should be given adequate resources. Canada also strongly supported the recommendation to enlarge the membership of UNCITRAL as soon as possible. States not currently able to participate could, as members, make a broader range of perspectives heard, and States would then be more likely to adopt the texts developed. An increase in seats would advance the Commission's work in international commercial law and give it and its products greater visibility within the United Nations system. In recognition of the increase in United Nations Members since 1973, the date of the Commission's last expansion, UNCITRAL should be enlarged to bring it on a par with other United Nations and non-United Nations bodies in related fields, thus facilitating coordination among such bodies and reflecting the current importance of international trade law. An enlarged Commission should maintain its working methods, including decision-making on the basis of consensus, and the expansion should not involve significant cost consequences, since far more than 36 States already attended the plenary and working group sessions.

55. **Mr. Rosand** (United States of America) expressed support for the work of the Commission and of its secretariat. His delegation also supported the resolution transmitting the UNCITRAL Model Law on International Commercial Conciliation to the fifty-seventh session of the General Assembly, and he urged States to incorporate the provisions of that text into their domestic systems.

56. He commended the Commission for the important progress it continued to make in such areas as cross-border insolvency, commercial arbitration, electronic commerce, carriage of goods and project finance, and expressed the belief that achieving positive economic results and seeking solutions that substantially benefitted the developing countries should be at the top of the Commission's priorities.

57. He noted with satisfaction the work of the secretariat to enhance law harmonization through the system for disseminating case law on UNCITRAL texts (CLOUT) in all official United Nations languages, and to expand that effort to encompass information on trends in decisions and other relevant information. The ongoing work on private law unification was also important, and he welcomed the Commission's effective division of work in areas such as secured finance.

58. The Commission had discussed the significant worldwide rise in fraudulent activity, including the fraudulent use of commercial and trade documents, that could give rise to civil liabilities as a potential topic for future work. He encouraged other States and business and trade interests in any country to participate in the preparation of a study to outline the scope of the problem, its impact on legitimate trade, its possible disproportionate impact on developing countries and the feasibility of action with a view to determining whether those topics fit within the Commission's ambit of work.

59. While determining the appropriate size of an expansion of the Commission's membership was a matter for the Sixth Committee to address, his delegation supported such an expansion at any level so long as it did not change the proportionate levels of representation of the various regions.

60. His delegation welcomed the recent initiatives of the Commission and its secretariat to test new methods of work, including the shortening of Working Group meetings where feasible. However, a crisis in resource availability appeared imminent, and he called on the Secretary-General to consider the allocation of additional resources to the UNCITRAL secretariat, within existing resources, when preparing the proposed budget for the next biennium.

61. **Mr. Jacovides** (Cyprus) said that the UNCITRAL Model Law on International Commercial Conciliation should foster efficient international trade by encouraging a more predictable use of conciliation as a method of resolving disputes and should encourage States to use modern conciliation and mediation techniques. The Commission had also continued to do constructive work in the areas of insolvency, security interests, electronic contracting, transport law and privately financed infrastructure projects.

62. The work done by the Working Group on Arbitration, especially on the implementation of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards was particularly important, because non-compliance with arbitral awards could seriously undermine the reliability of contracts and the effectiveness of arbitration, which was fast becoming an important method in international and national institutions for the settlement of disputes.

63. In the interest of ensuring the active participation of the broadest number of countries in the UNCITRAL law-making process, Cyprus supported the proposed enlargement of the Commission's membership. His delegation was flexible as to the size of the enlargement, but the primary objective should be to make the Commission representative of all legal and economic systems. His own country, an early participant in UNCITRAL and more recently a recipient of valuable technical assistance, was interested in becoming a member. Similarly, there were persuasive reasons for increasing the staff and financial resources of the UNCITRAL secretariat to allow it to deal with its increasingly heavy workload.

64. Contemporary international lawyers must have expertise in both public and private international law, and UNCITRAL was making a contribution both by promoting the harmonization and progressive development of international trade law and by providing training and technical assistance.

65. **Mr. Lacanilao** (Philippines), noting the Commission's commendable progress in all the areas on which it was working, pointed out that its mandate was to promote the progressive harmonization and unification of international trade law, with particular attention given to the interests of developing countries, and that it must therefore work for the removal of the legal obstacles and discrimination in international trade that were detrimental and unfair to the developing countries. As had recently been pointed out at the annual meeting of the World Bank and the International Monetary Fund, the world's poorest countries had been unable to achieve prosperity owing to the hypocrisy of the rich countries, which encouraged them to open their markets while imposing devastating agricultural subsidies and scandalous protectionist policies. The Commission's normative role in ensuring equity was thus of great importance. UNCITRAL should also expand its training and technical assistance to

developing countries in the field of international trade law, and Governments and relevant United Nations bodies should make voluntary contributions to finance its seminars and briefing missions in the developing countries.

66. The UNCITRAL secretariat must be strengthened to deal with its increased workload. His delegation likewise supported the proposed enlargement of the membership of the Commission, although it was flexible as to the actual size of the increase. The important principle was to ensure equitable regional distribution of the new seats; the current ratio was blatantly unfair to the Asian Group, the largest of the five regional groups and one with a heavy involvement in international trade. His delegation supported Austria's compromise approach to the matter.

67. **Mr. Hwang** Cheol-kyu (Republic of Korea) welcomed the success of UNCITRAL in tackling substantial international business issues and providing a sound legal framework. One major achievement was the completion of the UNCITRAL Model Law, which ought to be adopted by the General Assembly and would no doubt promote the use of conciliation and strengthen the enforcement of settlement agreements. The Commission should next seek to reach a consensus as early as possible in a way that fully respected the different legal systems, on the other substantial issues under discussion, namely, the requirement of written arbitration agreements and interim measures of protection.

68. His delegation supported the legislative-guide approach to insolvency law because it offered flexibility, although the Commission should be as specific as possible in the guidance it provided. It should endeavour to complete the draft legislative guide in the coming year and also speed up its work on electronic commerce, security interests, transport law and privately financed infrastructure projects so that States could adopt the modern legislation needed for economic development and friendly relations.

69. Enlargement of the Commission's membership was urgent and should be decided during the current session, for the Commission would then be more representative and reflective of various legal traditions and economic systems and its texts would be acceptable to all States. The expanded Commission should include at least 60 States, making membership available to those regularly attending its sessions and

working groups. The principle of equitable geographical representation should be a major consideration.

70. **Mr. Bliss** (Australia) welcomed the finalization of the UNCITRAL Model Law on International Commercial Conciliation. His delegation looked forward to the finalization of the guide to the enactment and use of the Model Law, which would be published concurrently. It also welcomed the progress achieved by the Working Group on Transport Law on the draft instrument on the carriage of goods by sea, an issue of utmost importance to island States like Australia. He noted with satisfaction that the draft text covered a broad range of issues, and he expressed gratitude for the support shown for the Australian proposal to strengthen provisions relating to the transport of temperature-sensitive goods.

71. He commended the progress achieved towards the production of a new legislative guide on insolvency; his delegation looked forward to the Commission's endorsement of a final draft at either the thirty-sixth or thirty-seventh session. He was confident that the finished product would enjoy widespread acceptance. His delegation also looked forward to continued participation in the activities of the Working Group on Electronic Commerce.

72. The current Commission's work programme placed undue pressure on the resources of the UNCITRAL secretariat, ultimately to the detriment of its staff. Failing an upgrading of the International Trade Law Branch to a Division within the Office of Legal Affairs, it was clear that some existing elements of the programme might have to be curtailed. It was hoped that any such curtailment would not impair projects close to completion, but would involve the temporary deferment of new work on such resource-intensive matters as security interests in business inventory and electronic contracting. He noted also that the holding of week-long working group meetings, a method of work adopted at the Commission's thirty-fourth session, was contributing to the pressure on secretariat resources and presented significant difficulties for countries such as Australia, whose delegates had to travel long distances for shorter meetings. The new work methods should therefore be kept under close review with those factors in mind.

73. Last, he expressed support for the enlargement of the Commission's membership, so long as that

enlargement adhered to the principle of proportionate geographical representation.

*The meeting rose at 12:25 p.m.*