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## Sixth Committee

### Summary record of the 5th meeting

Held at Headquarters, New York, on 30 September 2002, at 3 p.m.

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

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*The meeting was called to order at 3.10 p.m.*

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

1. **Mr. Medrek** (Morocco) recalled that his country participated regularly in the meetings of the United Nations Commission on International Trade Law (UNCITRAL) and its various working groups, particularly those on arbitration, insolvency, security interests and transport law. With regard to the Model Law on International Commercial Conciliation and the Draft Guide to Enactment and Use of the Model Law, the Moroccan delegation endorsed the Commission's recommendation that the General Assembly should approve those two texts, which would enable States to strengthen their legislation on the use of modern conciliation or mediation techniques and to draft laws in that area when they had not yet done so.

2. His country was in favour of enlarging the UNCITRAL membership, provided that the distribution of seats among the regional groups respected the principle of equitable representation and did not impair the effectiveness of its work. The increase in the number of its members would give UNCITRAL greater visibility within the Organization, would enable it to draw on a broader pool of experts, and would reflect the increased importance of international trade law for economic development. His delegation thus believed that the membership should be enlarged as soon as possible, and found the proposals contained in the Coordinator's document useful in that regard.

3. His delegation attached great importance to training and technical assistance activities for developing countries. While it was satisfied with the number of seminars and briefing missions organized since the last session of UNCITRAL, it nevertheless regretted that the African continent had only hosted two out of 13 of those seminars and missions, although it was in Africa that the needs were most acute. Accordingly, it called for an increase in the financial resources for training and technical assistance, and thanked the States and organizations which had contributed to those activities by providing funds and personnel or by hosting seminars.

4. **Mr. Simon** (Hungary) said that UNCITRAL was one of the most efficient and successful bodies within

the United Nations. Its Model Law on International Commercial Conciliation and its Draft Guide to Enactment and Use of the Model Law were excellent examples. The Model Law was indeed an effective tool for States, particularly for developing countries and countries in transition. His Government was currently drafting a new bill on conciliation procedure that would incorporate the provisions of the UNCITRAL Model Law and its Guide. The Hungarian Parliament would probably place that item on its agenda in autumn 2002.

5. In recent years, his country had launched a substantial economic reform, incorporating in its Civil Code, inter alia, new provisions concerning insolvency and security interests. The codification of Hungarian law would find a source of inspiration in the work of UNCITRAL's working groups on security interests and insolvency.

6. His delegation accepted in principle the need to enlarge UNCITRAL's membership. It believed nevertheless that further consultations were needed in order to determine the criteria and the exact ratio of such an enlargement. In that connection, it extended its gratitude to the delegation of Austria for the preparation of a useful memorandum on the subject, and stated that it was ready to participate in the informal consultations under the guidance of the Austrian delegation.

7. His delegation expressed its appreciation to the UNCITRAL secretariat for the activities it had undertaken in the field of training and technical assistance, the promotion of public awareness and the dissemination of information regarding the legal documents prepared by the Commission. It felt the system for the collection and dissemination of case law on UNCITRAL texts (CLOUT) to be extremely useful, and encouraged the secretariat to extend the scope of CLOUT by including cases and arbitral decisions interpreting other UNCITRAL texts, such as the Model Law on Electronic Commerce, the Hamburg Rules, and the Model Procurement Law.

8. Given the increased work programme of UNCITRAL and the greater need for technical assistance and the further development of case law, his delegation believed that the secretariat of the Commission should be strengthened 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, in conformity with the recommendation adopted by UNCITRAL.

9. **Mr. Ekedede** (Nigeria) noted with appreciation the adoption of the Model Law on International Commercial Conciliation, which would help States to formulate legislation governing the use of modern conciliation and mediation techniques. His delegation therefore invited the secretariat of the Commission to finalize the Draft Guide to Enactment and Use of the Model Law, so that the Model Law and the Guide could be transmitted to Governments and relevant institutions.

10. His delegation took note of the progress reports by the various UNCITRAL working groups on arbitration, insolvency law, security interests, electronic commerce, transport law, and privately financed infrastructure projects. With respect to insolvency law, it believed that there was an urgent need for UNCITRAL to develop a model law on corporate insolvency and a guide for its incorporation in national legislation. Regarding electronic commerce, the text on that question should not interfere with the law on the formulation of contracts, but should rather promote international trade by providing increased legal certainty as to the conclusion of contracts by electronic means.

11. Training and technical assistance represented a feature of UNCITRAL's mandate that was particularly important for Nigeria. Given that those activities depended on extrabudgetary funding, his delegation urged all States, international organizations and other interested entities to make contributions to UNCITRAL's trust funds to enable it to meet increasing demands in developing countries. It noted with satisfaction that some countries had already made contributions to those funds.

12. His delegation was favourable to the enlargement of UNCITRAL's membership, as that would allow UNCITRAL to remain representative of all legal traditions and economic systems, as well as to draw on a pool of experts from an increased number of countries.

13. Reiterating the importance that Nigeria attached to the work of UNCITRAL, he indicated that his country had put in place a legal system that recognized the important role of foreign direct investment in the overall development of the economy, and gave priority to legal security, stability, transparency, investment

protection, continuity of service and adequate monitoring of project performance, core elements which were emphasized in UNCITRAL's Legislative Guide on Privately Financed Infrastructure Projects.

14. **Mr. Jalang'o** (Kenya) commended UNCITRAL for the progress made in its work on arbitration, insolvency law, electronic commerce, privately financed infrastructure projects, security interests and transport law. Its working groups had discharged their functions quite commendably, although with considerable resource constraints.

15. His delegation was for the enlargement of UNCITRAL's membership in a way that would reflect the increase in the number of the Organization's Members. In that regard, it was important to guarantee the participation of developing countries in UNCITRAL meetings. An increase in contributions to the voluntary trust fund to grant travel assistance to developing country members would ensure inclusive discussion between the developed and developing countries, in accordance with UNCITRAL's mandate of furthering the progressive harmonization and unification of international trade law bearing in mind the interests of peoples, in particular those of developing countries. He therefore supported the invitation made to donors and international development organizations to give more to the funds. He believed, however, that more needed to be done.

16. His country appreciated the superb work of the Commission on training and technical assistance, particularly the symposiums, colloquiums, seminars and briefing missions which enabled developing countries such as Kenya, which did not have the necessary expertise, to familiarize themselves with UNCITRAL model laws and guides so as to draft their own trade legislation. Training and technical assistance contributed to higher standards of living, social progress, sustainable economic development and to the rule of law, goals that had become more pertinent since they had been set out in the Millennium Declaration.

17. The strengthening of the UNCITRAL secretariat was a crucial issue on which the success or failure of the Commission would depend. While recognizing the concerns expressed by some delegations, he noted that UNCITRAL's resources were the same as in 1968, while the workload of the Commission and the number of its working groups had doubled, and that the demands for training and technical assistance from

developing countries continued to rise. Of the two options mentioned in paragraph 264 of the UNCITRAL report, either to reduce drastically the current programme of the work of the Commission or to increase significantly the resources of its secretariat, his delegation favoured the latter option. It recalled, in that regard, the report of the Office of Internal Oversight Services (E/AC.51/2002/5), as well as the conclusion of the Office of Legal Affairs that a sustainable solution for enhancing the efficiency of the Commission's work might not bear fruit if it was not accompanied by a significant strengthening of the Commission's secretariat. It therefore hoped that the resolution on the subject would be well received in the Sixth Committee and Fifth Committee.

18. **Mr. Gandhi** (India) said his delegation was pleased to note that the thirty-fifth session of UNCITRAL had been a very productive one. It welcomed the adoption of the Model Law of International Commercial Conciliation together with the Draft Guide to Enactment and Use of the Model Law. He considered that the work of the new working groups on insolvency law, security interests and transport law had been most opportune in view of the many legislative and regulatory initiatives under way at both national and international levels. The work done by the working groups on electronic commerce and insolvency law was of particular importance to countries like India, which were in the process of bringing their laws into conformity with international practice in respect of corporate law.

19. His country was considering the amendment of its own insolvency law with a view to having a new statutory regime relating to rehabilitation of sick companies, and a new institutional mechanism with consolidated jurisdiction.

20. With regard to financial assets held by banks and financial institutions, his country proposed to enact a new law allowing the enforcement of securities held by banks and financial institutions without the intervention of the courts. The creation of a central registry to ensure security transparency was also contemplated. His delegation believed that UNCITRAL's work was of crucial importance in providing States with comprehensive and consistent guidance in that area.

21. His delegation noted with satisfaction that the Working Group on Transport Law would review the

current practices and laws in the area of international carriage of goods by sea, and hoped that suitable solutions would be found in order to address the gaps in the existing laws that hindered the free flow of goods and increased the cost of transactions.

22. In an environment characterized by an increased demand for uniform trade law standards and by globalization of the economy, and in view of the increased workload of UNCITRAL, his country supported the recommendation for a significant strengthening of the UNCITRAL secretariat within the bounds of resources available to the Organization. In support of that position, his delegation recalled the contributions made by UNCITRAL in areas such as facilitating electronic commerce, infrastructure development, modernization of legislation on public procurement and access to credit, including cross-border credit.

23. His delegation fully supported the enlargement of the membership of the Commission, which would make it a more representative body reflective of all legal traditions and economic systems, thus enhancing its effectiveness. It observed, however, that the representation of the group of Asian States within the Commission was insufficient, insofar as that group currently represented 28.3 per cent of the total number of States Members of the United Nations. To become a truly representative body, UNCITRAL must have additional membership from the Asian region on the basis of the principle of equitable geographical representation.

24. **Mr. Adamhar** (Indonesia) recalled that international trade could prove to be a powerful engine of growth, particularly in developing countries, and that it played an important role in terms of development and poverty eradication. His delegation therefore supported the mandate of UNCITRAL, which consisted in encouraging the harmonization and unification of international law, while taking into consideration the interests and needs of developing countries. It hoped that the programmes of training and technical assistance offered by UNCITRAL would not only be sustained, but also enhanced. It was gratified by the report of UNCITRAL regarding the progress made with CLOUT.

25. His delegation commended UNCITRAL for the progress made on privately financed infrastructure projects, insolvency law and transport law. It believed

that the Model Law on International Commercial Conciliation was particularly important for developing nations such as Indonesia, and supported the recommendation to request the Secretary-General to transmit the text of the UNCITRAL Model Law on International Commercial Conciliation to Governments and other interested bodies.

26. Turning to privately financed infrastructure projects, his delegation hoped that the Commission would endeavour to give even more concrete guidance to countries in transition and to developing countries. With regard to insolvency law, it endorsed UNCITRAL's decision to have the Working Group continue its work with a view to producing a draft legislative guide on the subject.

27. His delegation, like those of other Asian States was in favour of the enlargement of UNCITRAL's membership, on condition that the principle of equitable geographical distribution was respected.

28. **Mr. Florent** (France) welcomed the effectiveness of UNCITRAL at its most recent session in drawing up the Model Law on International Commercial Conciliation. He particularly urged States that did not have legislation on the subject to refer to that text, which included flexible ways of settling disputes and embodied widely accepted general principles.

29. The discussions in the newly established working groups on security interests, transport law and privately financed infrastructure projects had been intense and fruitful, even if the progress achieved was not always obvious. Given the ongoing projects, his country believed that it was important to strengthen UNCITRAL's secretariat within the limits of available resources. Alternatively, UNCITRAL would benefit from focusing its attention on a limited number of topics that should not take long to complete.

30. In order to facilitate preparation for the session and the activities of the working groups, the system of official languages and working languages of the United Nations should be respected. It was important for delegations to be able to comment in due time on projects that required thorough examination.

31. As regards the enlargement of the Commission's membership, France had always maintained that the representation of some regional groups should be enlarged without, however, upsetting the current balance. His country thanked UNCITRAL for the work

it was doing for the business world, especially in developing countries.

32. **Mr. Ascencio** (Mexico) said that the Model Law on International Commercial Conciliation should help reduce the workload of legal and administrative institutions, improve dispute settlement systems and encourage the participation of civil society. That was all the more important because the number of international trade litigations and investment conflicts was rising in an increasingly populated and interdependent world.

33. With regard to arbitration, the current trend was to avoid the requirement of written form for arbitration agreements, in violation of the New York Convention and the Model Law on Arbitration. That complicated the enforcement of awards and required an amendment to the New York Convention. Given the trend towards non-execution of arbitral awards, his country approved UNCITRAL's decision to pursue consultations with a view to settling that issue rapidly, either by drafting a protocol or by amending the New York Convention. It hoped that UNCITRAL would soon submit its conclusions to the Sixth Committee. Furthermore, he welcomed the progress achieved with respect to the enforcement of interim measures ordered by arbitration tribunals.

34. The existence of a solid system with respect to insolvency had a direct effect on the cost of credit and the level of foreign investments. That was why the work done by the Commission in that area was of particular interest to developing countries. Noting with satisfaction the progress achieved in drafting the legislative guide, he invited the Working Group on Insolvency Law and the Working Group on Security Interests to continue coordinating their work in order to facilitate the recovery of loans. It would also be useful to pursue exchanges of views on insolvency and security interests with the legal institutions of different countries, through the organization of colloquiums.

35. Underscoring the great potential offered by electronic commerce, he said that UNCITRAL should set itself clearer guidelines in order to advance in the preparation of a uniform system.

36. Welcoming the opening and transparency demonstrated in UNCITRAL's work, he said that his country was favourable to the enlargement of UNCITRAL, while underlining that that measure should not call in question the representativeness and

the effectiveness of the Commission. The number of UNCITRAL's members should not exceed 60, and the solution arrived at must satisfy all regional groups.

37. He welcomed the work done on CLOUT, as well as the efforts made to include other issues, such as contracts for the international sale of goods and arbitration.

38. Given the many issues dealt with by UNCITRAL and the important role it played in the area of training and technical assistance, it was important to strengthen the Commission's secretariat within the limits of available resources. For its part, UNCITRAL should review its working methods on a regular basis. He recalled that his country had already expressed concern at the increase in the number of working groups, as that could undermine the effectiveness of work.

39. **Mr. Kleber** (Venezuela) said that his country, which attached great importance to the drawing up of a regime of international trade law in the current era of globalization in a context of terrorism, intolerance and extremism, had participated actively in the meetings of UNCITRAL working groups as an observer, in view of its awareness of the usefulness of the Commission's work on drawing up model laws and legislative guides. It wished to become a member of UNCITRAL in the near future.

40. The competent Venezuelan authorities were working to publicize the model laws and legislative guides drawn up by UNCITRAL. Venezuela already had laws on arbitration and on electronic signatures which were largely inspired by the UNCITRAL instruments.

41. Venezuela, which was in favour of an early expansion of UNCITRAL's composition, was nevertheless concerned at the lack of resources which risked compromising the Commission's work. Urgent action was required in that respect.

42. Lastly, he emphasized that the rules drawn up by UNCITRAL in the field of international trade law and the technical assistance it provided could make a useful contribution to the process of integration of the countries of the Andean Community.

43. **Ms. Uluiviti** (Fiji) welcomed the fact that, in introducing the report of UNCITRAL, Mr. Smart (Sierra Leone) had raised issues of great importance to developing countries, emphasizing inter alia the major contribution UNCITRAL could make to sustainable

development and the attainment of the development objectives set forth in the Millennium Declaration.

44. Fiji was in favour of an enlargement of the membership of UNCITRAL in accordance with the principle of equitable geographical distribution, in that such an enlargement would encourage more active participation by the developing and least developed countries. She also noted with satisfaction that the Secretary-General had approved the recommendation for the strengthening of the International Trade Law Branch of UNCITRAL, while emphasizing that the Commission would have to redefine its priorities and reorganize its work programme and methods. Her delegation supported the constructive recommendations made in that regard in the report, and welcomed the decision by UNCITRAL not to take up new issues for the time being.

45. UNCITRAL could play a useful role in assisting the developing countries to secure a better hearing in multilateral trade negotiations, inter alia.

46. She welcomed the efforts made by UNCITRAL to promote the model laws it had drawn up, and considered that those efforts should be continued in order to ensure that Member States adopted those texts at the national level. Regional and subregional bodies could play a useful role in making UNCITRAL texts known and helping Member States derive full benefit from them.

47. **Mr. Lavalle-Valdés** (Guatemala), while welcoming the adoption of the Model Law on International Commercial Conciliation, said he had two comments to make; the first and less important one related to the passages left blank (art. 1, para. 9 (b)) or in square brackets (second part of art. 14). The other and more important comment related to the discrepancies between the Model Law and the UNCITRAL Conciliation Rules. His delegation hoped that the discrepancies between the two texts would be reconciled in the Guide to Enactment and Use of the Model Law which was in the course of preparation. Such alignment was important in order that the two texts might mutually strengthen one another, even though the Conciliation Rules would probably fall into disuse once the Model Law was enacted in the domestic law of a large number of countries.

48. Despite those comments, Guatemala wished to pay tribute to the work of UNCITRAL, which was one of the finest achievements of the United Nations.

49. **Mr. Romeiro** (Brazil) said that UNCITRAL contributed to the strengthening of economic growth and hence to the reduction of poverty and the promotion of higher standards of living, two goals that were set forth in the Millennium Declaration. Modernization of business law was not sufficient to ensure that all nations would benefit from globalization, but the Commission nevertheless fostered economic activities that formed the basis of a well-ordered, open economy.

50. The process of progressive harmonization and unification of law would produce effective results only when international conventions and model laws had been implemented and disseminated to all end users. Otherwise, preparation of those texts would have been a waste of time and money for the international community.

51. He welcomed the adoption of the Model Law on International Commercial Conciliation and the progress made by the working groups on arbitration, insolvency law, electronic commerce, privately financed infrastructure projects, security interests and transport law. The intensification of international trade as a result of globalization made it necessary to increase UNCITRAL's human resources. Brazil was also in favour of enlarging the Commission's membership, which would make it more representative and dynamic, in terms of gathering information and further dissemination of the results obtained in the working groups.

52. **Mr. Corell** (Under-Secretary-General for Legal Affairs, The Legal Counsel) emphasized that it was up to Member States to take decisions in favour of the implementation of international law. Although he had continually sought to strengthen the structure of the UNCITRAL secretariat, he had been able to obtain only one additional professional post in 10 years. However, his requests now had a basis in the useful and justified recommendations formulated by the Office of Internal Oversight Services in its detailed evaluation of the work of UNCITRAL. He was seeking to ensure that the needs of UNCITRAL were duly taken into account in the context of preparation of the budget.

**Agenda item 161: Scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel (A/57/52, A/55/637)**

53. **Prince Zeid Ra'ad Zeid Al-Hussein** (Jordan), Chairman of the Ad Hoc Committee on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel, introducing the report of the Ad Hoc Committee (A/57/52), recalled that the Committee had been mandated to consider the recommendations made by the Secretary-General in his report on the subject (A/55/637).

54. Chapter III of the Ad Hoc Committee's report dealt with the issues raised in connection with the Secretary-General's recommendations; those issues were grouped into two categories, "Short-term measures" and "Other measures".

55. With regard to the short-term measures (paras. 10-21 of the report), a broad consensus had emerged from the discussions. Delegations noted that the legal basis for the incorporation of key provisions of the 1994 Convention in status-of-forces or status-of-mission and host country agreements already existed. However, it was suggested that an express endorsement of the recommendation could be formulated in a General Assembly resolution (see para. 11).

56. With respect to devising a procedure for declaring an exceptional risk to the safety of United Nations and associated personnel, the general view of the Committee had been that the Secretary-General already had the authority to request the General Assembly or the Security Council to make such a declaration. The desirability of a General Assembly resolution confirming the Secretary-General's authority in that respect was dealt with in paragraph 24 of the report.

57. In the section on other measures, views had differed on the Secretary-General's recommendations calling for amendments to the Convention (see paras. 26-31 of the report). Many delegations had felt that the issue merited consideration in greater depth.

58. The recommendation that the Secretary-General should be designated as the "certifying authority" for the purposes of attesting to a number of facts had also given rise to different views (see para. 33 of the report).

59. Generally speaking, the recommendation that the Convention should be amended to empower the Secretary-General, instead of or in addition to the

Security Council and the General Assembly, to declare that a particular operation involved exceptional risk had not met with strong support, for a variety of reasons (see paras. 38 and 39 of the report).

60. Lastly, the Committee had had an extensive discussion of the implications of amending the Convention to extend its scope to all United Nations operations and all United Nations and associated personnel, including the personnel of humanitarian non-governmental organizations, dispensing with the requirement of a “contractual” link between those organizations and the United Nations. A summary of the discussion on those issues appeared in paragraphs 40 to 60 of the report.

61. **Ms. Geddis** (New Zealand) said that as the short-term measures proposed by the Secretary-General had been favourably received, they could serve to strengthen the protection of United Nations and associated personnel until such time as issues relating to the scope of the Convention had been addressed. The Sixth Committee could advance the work on the subject by drafting a resolution under agenda item 55.

62. The very useful exchange of views that had taken place on the other measures to be taken to address the deficiencies in the Convention would facilitate analysis of the complex issues involved. New Zealand endorsed the distinction made by the Ad Hoc Committee between the application of the Convention to operations other than peacekeeping operations and the coverage to be afforded to personnel working alongside a United Nations operation. New Zealand was also in favour of the principle of extending the scope of the Convention to all United Nations operations.

63. **Ms. Critchlow** (Guyana) paid tribute to United Nations and associated personnel, who often worked in countries where there was a conflict or post-conflict situation, and emphasized the need to provide effective protection for them. The United Nations had a duty to establish the framework needed for such protection and to ensure respect for international law, while for their part the personnel concerned must respect the laws and regulations of the host country.

64. Although the number of casualties among personnel participating in United Nations operations had decreased, the protection and security of personnel must continue to receive the attention of the international community and be the subject of collective action. Accordingly, her delegation

supported the earliest implementation of the Secretary-General’s recommendations on expansion of the scope of the Convention and the right to protection in all situations, irrespective of the risk involved. In the case of conflicts within countries, the level of risk constantly varied over time and in the light of the situation.

65. She congratulated those States which had decided to ratify the Convention over the past year, and supported the proposal that a questionnaire on the implementation of the Convention should be circulated to all States, as that might expedite its universal ratification.

66. **Ms. Alvares-Nuñez** (Cuba) said that although Cuba was not a party to the 1994 Convention on the Safety of United Nations and Associated Personnel, Cuban legislation imposed heavy prison sentences for acts against, attack on and attempts on the life of all personnel covered by an international protection regime. Only 62 States, or less than one third of Member States, had ratified the Convention. Host States of United Nations personnel, particularly those which were in a conflict situation, could still adopt specific measures inter alia for the exchange of information and mutual assistance among the parties present on the ground. In addition, the duration and mandate of peacekeeping operations should be determined in the light of each conflict’s risks and the situation it presented. The safety of United Nations and associated personnel also depended on the impartiality with which they performed their duties and the extent to which they respected the principles of international law and the Charter of the United Nations, as well as the laws, culture and characteristics of the country in which they served.

67. Her delegation believed that the Convention regime could be strengthened by the implementation of the short-term measures proposed in the Secretary-General’s report on the safety of United Nations and associated personnel (A/55/637). For that reason, it wished the Sixth Committee to adopt a resolution calling for the relevant provisions of the Convention to be incorporated in status-of-forces, status-of-mission and host country agreements.

68. As the matter currently stood, however, it would not be wise to amend the Convention, as apart from the fact that its usefulness was barely beginning to be recognized, that would risk preventing further

ratification. Likewise, the drafting of a protocol for that purpose would risk altering the balance among its provisions and creating political and legal difficulties with respect both to its implementation and to its interpretation.

69. **Mr. Bliss** (Australia) said that the first of the short-term measures recommended by the Secretary-General in his report, namely the incorporation of key provisions of the 1994 Convention in status-of-forces or status-of-mission agreements and host country agreements, was a practical and immediate way of enhancing the legal protection of the personnel covered by such agreements. He therefore welcomed the broad support that proposal had secured in the Committee. In that connection, a number of points which had emerged during the discussions in the Ad Hoc Committee were worth emphasizing, and should be addressed in a General Assembly resolution. First, the legal basis allowing the Secretary-General to include key provisions of the Convention in the agreements in question already existed, and he could therefore take the necessary steps without delay. In addition, it would be useful to identify what was meant by “key provisions of the Convention”. In his delegation’s view they included, at a minimum, articles 6 and 8 of the Convention. Host countries should be encouraged to agree to the incorporation of such provisions in the agreements they concluded with the Organization. Lastly, the Secretary-General should be requested to report regularly to Member States on the steps taken to give effect to that proposal.

70. His delegation was of the view that the Secretary-General already had the authority to initiate a declaration of exceptional risk, and there was thus no need to devise a procedure to that end. It would however support the adoption by the General Assembly of a resolution inviting the Secretary-General to make such a declaration when the situation so required, even though the President of the Security Council and the President of the General Assembly, as well as any Member State, were already entitled to request him to do so.

71. The proposal to designate the Secretary-General as the “certifying authority” for the purposes of attesting to the existence of a declaration by the Security Council or the General Assembly, of an agreement between a non-governmental organization and the United Nations and to the status of United

Nations and associated personnel had received very little support.

72. Delegations had emphasized that the Secretary-General, by virtue of his position, already possessed such authority, but that such certification could not be of binding value for national courts.

73. Even though the proposed short-term measures could contribute to a strengthening of the legal regime for protecting United Nations and associated personnel, they would not be sufficient, and further study was therefore needed of what should be done.

74. Regarding long-term measures, Australia shared the view of many other delegations that the requirement for a declaration called for in the Convention should be dispensed with, so that the protection regime applied to all United Nations and associated personnel, in other words all operations established by a competent organ in accordance with the Charter of the United Nations and conducted under United Nations authority and control. In that connection, clarification was needed as to which individuals and organizations were covered by the term “associated personnel”.

75. **Mr. Mattler** (United States of America) welcomed the fact that the discussions in the Ad Hoc Committee had resulted in broad consensus on a number of issues, including the proposal for the incorporation of the key provisions of the 1994 Convention in status-of-forces or status-of-mission agreements and in the headquarters agreements concluded by the United Nations.

76. Likewise, most delegations had considered that no decision was required with regard to the devising of a procedure for declaration of exceptional risk to security personnel, the designation of the Secretary-General as the “certifying authority” and the authorization to declare that a given operation entailed exceptional risk. There seemed to be agreement that the existing authorities, namely the Secretary-General, the Security Council and the General Assembly, were sufficient in that respect. Given the almost general consensus that had emerged on those issues, he hoped that the Committee would be in a position to complete its consideration of those issues at its forthcoming sessions.

77. With regard to the proposal to expand the scope of the Convention so as to make it applicable to all

United Nations and associated personnel, his delegation felt that the drafting of a protocol open to all States, whether or not parties to the Convention, would be preferable to the option of amending the Convention, which might pose problems for States that were not parties.

78. **Mr. Bocalandro** (Argentina) said that the decision to review the means of ensuring protection of United Nations and associated personnel was a very timely one. The Ad Hoc Committee had held very fruitful discussions which had given rise to agreement regarding the short-term measures. Where the long-term measures were concerned, the Committee's discussions had revealed a broad diversity of views.

79. It remained to study and settle the pending issues, and that must be done in a spirit of consensus, as the objective was universality. He agreed with the representatives of New Zealand and Australia that it would be useful to continue work in the Sixth Committee, which had both the mandate and the duty to do so.

80. While the 1994 Convention had not produced the expected results, that was primarily because it had not been ratified by enough countries. It was therefore important to consider the issue from all angles, focus on the problems and explore all means of resolving them.

81. **Mr. Ilnytskyi** (Ukraine) associated himself with those delegations which had invited the Secretary-General to do everything possible to ensure that the key provisions of the 1994 Convention were incorporated in status-of-forces, status-of-mission and host country agreements. The current international context showed that the Convention did not suffice to ensure an adequate level of protection for United Nations personnel deployed in missions other than those expressly authorized by the Security Council and the General Assembly. Such operations (humanitarian missions and those for development, human rights monitoring, post-conflict peace-building, etc.) were often deployed in highly dangerous situations. It would thus be useful to consider how the 1994 Convention could be made automatically applicable to all personnel participating in United Nations operations, whatever their type. To that end, it was important to continue discussion of the existing problems, and Ukraine was ready to participate in drawing up a protocol which would serve to fill the gaps in the Convention. Pending

the drafting of a protocol expanding the scope of the Convention, Ukraine was in favour of the Secretary-General's proposal to recommend to the General Assembly or the Security Council, as appropriate, the issuance of a declaration of exceptional risk.

82. **Mr. Ortuzar** (Chile) said that his country was in favour of expanding the scope of the 1994 Convention to all United Nations operations. It also supported the proposals relating to short-term measures, including those for the incorporation of the key provisions of the Convention in status-of-forces, status-of-mission and headquarters agreements.

83. **Mr. Romeu González Barros** (Spain), associating himself with the delegations of Australia, New Zealand, Argentina and Chile, said that discussion could not be confined to short-term measures. Without prejudice to the eventual outcome of the Ad Hoc Committee's discussions, it was important not to close the door to any line of thought and to continue considering the issues with a view to affording United Nations and associated personnel all the protection they needed.

*The meeting rose at 5.30 p.m.*