



General Assembly

Distr.: General
5 June 2009
English
Original: English/French

**United Nations Commission
on International Trade Law**
Forty-second session
Vienna, 29 June-17 July 2009

UNCITRAL rules of procedure and methods of work

Comments received from Member States and interested international organizations

Note by the Secretariat*

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction	1-2	2
II. Comments received from Member States		2
France		2

* This document transmits comments by a Member State. It was submitted less than ten weeks before the opening of the session, upon receipt of the comments.



I. Introduction

1. The background information relevant to the present note may be found in paragraphs 1-4 of document A/CN.9/676/Add.1.
2. The present document reproduces the comments from France on document A/CN.9/676, as received by the Secretariat on 2 June 2009.

II. Comments received from Member States

A. Member States

France

[Original: English/French]

[2 June 2009]

The draft document on the “guidelines” drawn up by the Secretariat raises four major questions:

1. The notion of consensus needs to be clarified taking into account the varying interpretations it is given by the different UNCITRAL working groups. In its note the Secretariat made efforts to build scenarios reflecting real situations the working group chairpersons could encounter. This approach is positive in principle. However, the document sets out that working group chairpersons could consider, so as to persuade a delegate not to oppose the general opinion on an issue, that an objection made by the latter is an implicit request for a vote.

We have expressed reservations about this provision, which could be used to overpower any attempt of disagreement on the part of a delegation. The consensus requirement is especially necessary in the United Nations organs with a limited number of participants, such as UNCITRAL, where voting should be exceptional and only used as a last resort. We can refer to what is practiced in the Economic and Social Council by way of example.

The guidelines should therefore above all underscore **the need for efforts to be carried out with a view to reaching a consensus.**

2. As regards the participation of observers, the crucial distinction existing between the respective role and rights of NGOs and Member States in the decision-making process has been overlooked in many cases. It should therefore be re-established. This would in no way mean that professional associations would no longer be able to put forward their various viewpoints and interests and share their expertise with working groups.

There is a real need for the **Secretariat to inform and consult the Member States** about what organizations are invited to take part in the working groups and plenary sessions based on what is practised by many international organizations. These organizations, on the one hand, compile lists of organizations which are invited on a standing basis, given the broad interest and scope of their expertise, and on the other hand, consult the Member States when a grouping is specifically asked to participate in a given activity.

3. As regards preparatory work, there is an insufficient amount and at times a total lack of information provided to Member States.

Yet, expert meetings or other electronic consultations organized by the Secretariat are most often conducted between working group sessions, in order to step up the progression of deliberations. Participants are often active members of a working group, whether they are representing States or professional associations. Therefore these meetings are in effect informal sub-groups of the working groups.

We would very much like to see **more transparency**. Member States should be informed of the dates of meetings and the participants invited to them at the initiative of the Secretariat and not simply when the Member States request such, as currently in practice.

4. The issue of working languages is not addressed in the draft guidelines. As regards languages, we regret that there is a growing tendency at UNCITRAL to use only one language in informal meetings, within which the original version of working documents is drafted. The argument that this is the price to pay to be efficient is hardly acceptable in an institution such as the United Nations.

The use of French, a working language of the United Nations Secretariat, and where appropriate of other official languages of the United Nations practised by many UNCITRAL Member States, such as Spanish, should be strongly developed.
