



# General Assembly

Distr.: General  
6 April 2011

Original: English

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**United Nations Commission  
on International Trade Law**  
**Forty-fourth session**  
Vienna, 27 June-8 July 2011

## **Provisional agenda, annotations thereto and scheduling of meetings of the forty-fourth session**

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## **II. Annotations**

### **1. Opening of the session**

1. The forty-fourth session of the Commission will be held at the Vienna International Centre, from 27 June to 8 July 2011. The session will be opened on Monday, 27 June 2011, at 10.30 a.m. (see below, section III, paras. 71-75 for more details about the scheduling of meetings). As at 27 June 2011, the United Nations Commission on International Trade Law will be composed of the following member States: Algeria, Argentina, Armenia, Australia, Austria, Bahrain, Benin, Bolivia (Plurinational State of), Botswana, Brazil, Bulgaria, Cameroon, Canada, Chile, China, Colombia, Czech Republic, Egypt, El Salvador, Fiji, France, Gabon, Georgia, Germany, Greece, Honduras, India, Iran (Islamic Republic of), Israel, Italy, Japan, Jordan, Kenya, Latvia, Malaysia, Malta, Mauritius, Mexico, Morocco, Namibia, Nigeria, Norway, Pakistan, Paraguay, Philippines, Poland, Republic of Korea, Russian Federation, Senegal, Singapore, South Africa, Spain, Sri Lanka, Thailand, Turkey, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America and Venezuela (Bolivarian Republic of).

2. States not members of the Commission and international governmental organizations may attend the session as observers and participate in the deliberations. In addition, invited international non-governmental organizations may attend the session as observers and represent the views of their organizations on matters where the organization concerned has expertise or international experience so as to facilitate the deliberations at the session.

## 2. Election of officers

3. Pursuant to a decision taken by the Commission at its first session, the Commission elects, for each session, a Chairperson, three Vice-Chairpersons and a Rapporteur.

## 4. Finalization and adoption of the UNCITRAL Model Law on Public Procurement

4. At its thirty-seventh session, in 2004, the Commission agreed that its 1994 Model Law on Procurement of Goods, Construction and Services<sup>1</sup> would benefit from being updated to reflect new practices, in particular those resulting from the use of electronic communications in public procurement, and the experience gained in the use of the Model Law as a basis for law reform.<sup>2</sup> It decided to entrust the drafting of proposals for the revision of the Model Law to its Working Group I (Procurement). The Working Group was given a flexible mandate to identify the issues to be addressed in its considerations.<sup>3</sup>

5. Up to the Commission's forty-third session, in 2010, the Working Group held thirteen one-week sessions at which it considered studies and drafting materials prepared by the Secretariat.<sup>4</sup> At its thirty-eighth to forty-first sessions, in 2005 to 2008, the Commission reaffirmed its support for the review being undertaken and for the inclusion of novel procurement practices in the Model Law.<sup>5</sup> At its thirty-ninth session, the Commission recommended that the Working Group, in updating the Model Law and the Guide, should take into account issues of conflicts of interest and should consider whether any specific provisions addressing those issues would be warranted in the Model Law.<sup>6</sup> At its fortieth session, the Commission recommended that the Working Group should adopt a concrete agenda for its forthcoming sessions in order to expedite progress in its work.<sup>7</sup> At its forty-first session, the Commission invited the Working Group to proceed expeditiously, with a view to permitting the finalization and adoption of the revised Model Law and Guide within a reasonable time.<sup>8</sup> At its forty-second session, the Commission established a Committee of the Whole to consider a draft revised model law, including the issues of defence sector procurement and the use of socio-economic factors in public procurement.<sup>9</sup> At that session, the Commission took note of the report of the Committee of the Whole, which in particular concluded that the revised model law was not ready for adoption at that session of the Commission, and requested the Working Group to continue its work on the review of the Model

<sup>1</sup> *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 17* and corrigendum (A/49/17 and Corr.1), annex I.

<sup>2</sup> *Ibid.*, *Fifty-ninth Session, Supplement No. 17* (A/59/17), paras. 79-82.

<sup>3</sup> *Ibid.*, paras. 81-82.

<sup>4</sup> For the reports of the Working Group on the work of its sixth to eighteenth sessions, see A/CN.9/568, A/CN.9/575, A/CN.9/590, A/CN.9/595, A/CN.9/615, A/CN.9/623, A/CN.9/640, A/CN.9/648, A/CN.9/664, A/CN.9/668, A/CN.9/672, A/CN.9/687 and A/CN.9/690, respectively.

<sup>5</sup> *Official Records of the General Assembly, Sixtieth Session, Supplement No. 17* (A/60/17), para. 172; *ibid.*, *Sixty-first Session, Supplement No. 17* (A/61/17), para. 192; *ibid.*, *Sixty-second Session, Supplement No. 17* (A/62/17), part I, para. 170; and *ibid.*, *Sixty-third Session, Supplement No. 17* and corrigendum (A/63/17 and Corr.1), para. 307.

<sup>6</sup> *Ibid.*, *Sixty-first Session, Supplement No. 17* (A/61/17), para. 192.

<sup>7</sup> *Ibid.*, *Sixty-second Session, Supplement No. 17* (A/62/17), part I, para. 170.

<sup>8</sup> *Ibid.*, *Sixty-third Session, Supplement No. 17* and corrigendum (A/63/17 and Corr.1), para. 307.

<sup>9</sup> *Ibid.*, *Sixty-fourth Session, Supplement No. 17* (A/64/17), paras. 11 and 48.

Law.<sup>10</sup> At its forty-third session, the Commission requested the Working Group to complete its work on the revision of the Model Law during the next two sessions of the Working Group and present a draft revised model law for finalization and adoption by the Commission at its forty-fourth session, in 2011. The Commission instructed the Working Group to exercise restraint in revisiting issues on which decisions had already been taken.<sup>11</sup>

6. At its forty-fourth session, the Commission will have before it: (a) a draft Model Law on Public Procurement with an accompanying note by the Secretariat (A/CN.9/729 and Add.1 to 8); (b) comments from Governments and international organizations on that draft Model Law (A/CN.9/730 and addenda); (c) a working draft Guide to Enactment to accompany the draft Model Law (A/CN.9/731 and addenda and A/CN.9/WG.I/WP.77 and Add.1 to 9); and (d) the reports of the nineteenth and twentieth sessions of the Working Group (A/CN.9/713 and A/CN.9/718).

(For suggested scheduling of meetings to consider this agenda item, see para. 71 below.)

## **5. Finalization and adoption of judicial materials on the UNCITRAL Model Law on Cross-Border Insolvency**

7. At its forty-third session, in 2010, the Commission heard a proposal by the Secretariat which noted that participants in the judicial colloquiums that had been held by UNCITRAL in cooperation with the International Association of Restructuring, Insolvency and Bankruptcy Professionals (INSOL International) and the World Bank had indicated a desire for information and guidance for judges on cross-border-related issues and in particular on the UNCITRAL Model Law on Cross-Border Insolvency.<sup>12</sup> To that end, the Commission was informed that the Secretariat had been working on the preparation of a draft text that provided a judicial perspective on the use and interpretation of the Model Law. At that session, the Commission mandated the Secretariat to develop that text in the same flexible manner, as was achieved with respect to the *UNCITRAL Practice Guide on Cross-Border Insolvency Cooperation*,<sup>13</sup> involving consultation, principally with judges, but also with insolvency practitioners and professionals, consideration of the draft text, at an appropriate stage, by UNCITRAL Working Group V (Insolvency Law), and finalization and adoption of the text by the Commission, possibly in 2011.<sup>14</sup>

8. The Working Group, at its thirty-ninth session (Vienna, 6-10 December 2010), considered a draft text setting forth judicial materials on the Model Law that responded to that mandate and was developed in consultation with judges and insolvency experts (A/CN.9/715, paras. 110-116). At that session, the Working Group invited comments from States on their experience with the Model Law to be submitted to the Secretariat for possible consideration in the preparation of a revised draft (see A/CN.9/715, para. 116).

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<sup>10</sup> Ibid., paras. 283 and 284.

<sup>11</sup> Ibid., *Sixty-fifth Session, Supplement No. 17* (A/65/17), para. 239.

<sup>12</sup> United Nations publication, Sales No. E.99.V.3.

<sup>13</sup> United Nations publication, Sales No. E.10.V.6.

<sup>14</sup> *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 17* (A/65/17), para. 261.

9. At its forty-fourth session, the Commission will have before it: (a) a draft of the judicial materials further revised following the thirty-ninth session of the Working Group (A/CN.9/732 and Add.1-2); (b) any comments received from States on the draft judicial materials (A/CN.9/733 and any addenda); and (c) the report of the thirty-ninth session of the Working Group (A/CN.9/715, paras. 110-116).

(For suggested scheduling of meetings to consider this agenda item, see para. 72 below.)

## **6. Arbitration and conciliation**

### **(a) Progress reports of Working Group II**

10. In accordance with a decision of the Commission at its forty-third session, in 2010,<sup>15</sup> Working Group II (Arbitration and Conciliation) commenced its work on the preparation of a legal standard on transparency in treaty-based investor-State arbitration at its fifty-third session (Vienna, 4-8 October 2010) and continued it at its fifty-fourth session (New York, 7-11 February 2011).

11. At its fifty-fourth session, the Working Group agreed to seek guidance from the Commission on whether the topic of the possible intervention in the arbitral proceedings of another State party to the investment treaty at issue that was not a party to the dispute could be dealt with by the Working Group in the context of its current work (A/CN.9/712, para. 103). During its discussion of that matter, the Working Group noted that a non-disputing State party to the investment treaty often had important information to provide, such as information on travaux préparatoires, thus preventing one-sided treaty interpretation. It was also pointed out that an intervention by a non-disputing State, of which the investor was a national, could raise issues of diplomatic protection and was to be given careful consideration (A/CN.9/712, para. 49).

12. At its forty-fourth session, the Commission will have before it the reports of the fifty-third and fifty-fourth sessions of the Working Group (A/CN.9/712 and A/CN.9/717).

### **(b) Mediation in the context of settlement of investor-State disputes**

13. At its forty-fourth session, the Commission will have before it a note by the Secretariat transmitting information received from the United Nations Conference on Trade and Development (UNCTAD) on alternative methods for preventing and managing investor-State disputes effectively (A/CN.9/734). The Commission may wish to consider steps that may need to be taken to foster the use of mediation in the context of investor-State dispute settlement.

(For suggested scheduling of meetings to consider this agenda item, see para. 73 below.)

## **7. Online dispute resolution: progress reports of Working Group III**

14. In accordance with a decision of the Commission at its forty-third session, in 2010,<sup>16</sup> Working Group III (Online Dispute Resolution) commenced its work on the

<sup>15</sup> Ibid., paras. 190-191.

<sup>16</sup> Ibid., para. 257.

preparation of legal standards on online dispute resolution for cross-border electronic commerce transactions at its twenty-second session (Vienna, 13-17 December 2010) and continued it at its twenty-third session (New York, 23-27 May 2011).

15. At its forty-fourth session, the Commission will have before it the reports of the twenty-second and twenty-third sessions of the Working Group (A/CN.9/716 and A/CN.9/721).

(For suggested scheduling of meetings to consider this agenda item, see para. 73 below.)

#### **8. Insolvency law: progress report of Working Group V**

16. At its forty-third session, in 2010, the Commission had endorsed the recommendation by Working Group V (Insolvency Law) contained in document A/CN.9/691, paragraph 104, that activity be initiated on two topics, both of which were of current importance, and where a greater degree of harmonization of national approaches would be beneficial in delivering certainty and predictability. Those topics were: (a) guidance on the interpretation and application of selected concepts of the UNCITRAL Model Law on Cross-Border Insolvency relating to centre of main interests and possible development of a model law or provisions on insolvency law addressing selected international issues, such as jurisdictions, access and recognition, in a manner that would not preclude the development of a convention; and (b) responsibility and liability of directors and officers of an enterprise in insolvency and pre-insolvency cases.<sup>17</sup>

17. The Working Group commenced its work on both topics at its thirty-ninth session (Vienna, 6-10 December 2010).

18. At its forty-fourth session, the Commission will have before it the report of the thirty-ninth session of the Working Group (A/CN.9/715). The Commission will also hear an oral report on the Ninth Multinational Judicial Colloquium on Insolvency (Singapore, 12-13 March 2011), sponsored by UNCITRAL, INSOL International and the World Bank.

(For suggested scheduling of meetings to consider this agenda item, see para. 72 below.)

#### **9. Security interests: progress reports of Working Group VI**

19. At its forty-third session, in 2010, the Commission decided that Working Group VI (Security Interests) should be entrusted with the preparation of a text on registration of security rights in movable assets, which would usefully supplement the Commission's work on secured transactions.<sup>18</sup> It was widely felt that secured transactions law reform could not be effectively implemented without the establishment of an efficient publicly accessible security rights registry and that States urgently needed guidance with respect to the establishment and operation of such registries.<sup>19</sup> The Commission agreed that, while the specific form and structure

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<sup>17</sup> Ibid., para. 259.

<sup>18</sup> Ibid., paras. 265 and 268.

<sup>19</sup> Ibid., para. 265.

of the text could be left to the Working Group, the text could: (a) include principles, guidelines, commentary, recommendations and model regulations; and (b) draw on the *UNCITRAL Legislative Guide on Secured Transactions*,<sup>20</sup> texts prepared by other organizations and national law regimes that have introduced security rights registries similar to the registry recommended in the *Guide*.<sup>21</sup>

20. The Working Group began its work at its eighteenth session (Vienna, 8-12 November 2010) based on a note prepared by the Secretariat entitled "Registration of security rights in movable assets" (A/CN.9/WG.VI/WP.44 and Add.1 and 2). At that session, the Working Group considered certain issues arising from the use of electronic communications in security rights registries to ensure that the text on registration would be consistent with the UNCITRAL texts on electronic communications (A/CN.9/714, paras. 34-47). The Working Group continued its work on the preparation of a text on registration of security rights in movable assets at its nineteenth session (New York, 11-15 April 2011).

21. At its forty-fourth session, the Commission will have before it the reports of the eighteenth and nineteenth sessions of the Working Group (A/CN.9/714 and A/CN.9/719).

(For suggested scheduling of meetings to consider this agenda item, see para. 73 below.)

#### **10. Current and possible future work in the area of electronic commerce**

22. At the first part of its fortieth session, in 2007, the Commission requested the Secretariat to continue to follow closely legal developments in the area of electronic commerce, with a view to making appropriate suggestions about the Commission's possible future work in that area in due course.<sup>22</sup> At its forty-first session, in 2008, the Commission requested the Secretariat to engage actively, in cooperation with the World Customs Organization (WCO) and the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT), and with the assistance of experts, as appropriate, in the study of the legal aspects involved in implementing a cross-border single window facility with a view to formulating a comprehensive international reference document on legal aspects of creating and managing a single window, and to report to the Commission on the progress of that work.<sup>23</sup> That request was reiterated by the Commission at its forty-second session, in 2009,<sup>24</sup> and again at its forty-third session, in 2010.<sup>25</sup>

23. At its forty-third session, in 2010, the Commission requested the Secretariat to organize a colloquium on the topics discussed in document A/CN.9/692, namely electronic transferable records, identity management and electronic commerce

<sup>20</sup> United Nations publication, Sales No. E.09.V.12; also available at the date of this document from [www.uncitral.org/pdf/english/texts/security-ig/e/09-82670\\_Ebook-Guide\\_09-04-10English.pdf](http://www.uncitral.org/pdf/english/texts/security-ig/e/09-82670_Ebook-Guide_09-04-10English.pdf).

<sup>21</sup> *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 17* (A/65/17), para. 266.

<sup>22</sup> *Ibid.*, *Sixty-second Session, Supplement No. 17* (A/62/17), part I, para. 195.

<sup>23</sup> *Ibid.*, *Sixty-third Session, Supplement No. 17* and corrigendum (A/63/17 and Corr.1), paras. 333-338.

<sup>24</sup> *Ibid.*, *Sixty-fourth Session, Supplement No. 17* (A/64/17), para. 340.

<sup>25</sup> *Ibid.*, *Sixty-fifth Session, Supplement No. 17* (A/65/17), para. 244.

conducted with mobile devices, and to prepare a note summarizing the discussion at that colloquium and possibly identifying a road map for future work by the Commission in the area of electronic commerce.<sup>26</sup> It was agreed that that note should provide sufficient information for the Commission to make an informed decision and to give a clearly defined mandate to a working group, if deemed appropriate.<sup>27</sup>

24. At its forty-fourth session, the Commission will have before it a note by the Secretariat informing on the outcome of the colloquium on possible future work of UNCITRAL in the field of electronic commerce (New York, 14-16 February 2011) (A/CN.9/728 and any addenda thereto).

(For suggested scheduling of meetings to consider this agenda item, see para. 73 below.)

#### **11. Possible future work in the area of microfinance**

25. At its forty-second session, in 2009, the Commission heard a suggestion that it would be timely for UNCITRAL to carry out a study on microfinance with the purpose of identifying the need for a legal and regulatory framework aimed at protecting and developing the microfinance sector so as to allow its continuous development. After discussion at that session, the Commission requested the Secretariat to prepare a detailed study on the legal and regulatory issues of microfinance as well as proposals as to the form and nature of a reference document that the Commission might in the future consider preparing with a view to assisting legislators and policymakers around the world in establishing a favourable legal framework for microfinance.<sup>28</sup>

26. At its forty-third session, in 2010, the Commission had before it a note by the Secretariat containing a study and proposals as requested (A/CN.9/698). After discussion at that session, the Commission agreed that the Secretariat should convene a colloquium, with the possible participation of experts from other organizations working actively in that field, to explore the legal and regulatory issues surrounding microfinance that fell within the mandate of UNCITRAL. The colloquium should result in a report to the Commission at its next session, outlining the issues at stake and containing recommendations on work that UNCITRAL might usefully undertake in the field.<sup>29</sup>

27. The colloquium was held in Vienna, on 12-13 January 2011. Speakers, panellists and participants included microfinance specialists from Governments, international organizations, non-governmental organizations, the private sector and academia from all parts of the world.<sup>30</sup>

28. At its forty-fourth session, the Commission will have before it a note by the Secretariat containing a summary of the colloquium proceedings and of the key

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<sup>26</sup> Ibid., para. 250.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid., *Sixty-fourth Session, Supplement No. 17* (A/64/17), paras. 432-433.

<sup>29</sup> Ibid., *Sixty-fifth Session, Supplement No. 17* (A/65/17), para. 280.

<sup>30</sup> The agenda and the papers of the colloquium are available at the date of this document from [www.uncitral.org/uncitral/en/commission/colloquia/microfinance-2011.html](http://www.uncitral.org/uncitral/en/commission/colloquia/microfinance-2011.html).



issues that were identified as well as an outline of legal and regulatory issues raised, for consideration by the Commission (A/CN.9/727).

(For suggested scheduling of meetings to consider this agenda item, see para. 73 below.)

## 12. Monitoring implementation of the 1958 New York Convention

29. At its twenty-eighth session, in 1995, the Commission approved a project, undertaken jointly with Committee D (now known as the Arbitration Committee) of the International Bar Association, aimed at monitoring the legislative implementation of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, on 10 June 1958<sup>31</sup> (the “New York Convention”).<sup>32</sup>

30. At its forty-first session, in 2008, the Commission considered a written report in respect of the project, covering implementation of the New York Convention by States, its interpretation and application, and the requirements and procedures put in place by States for enforcing an award under the New York Convention, based on replies sent by 108 States parties to the New York Convention (A/CN.9/656 and Add.1). At that session, the Commission welcomed the recommendations and conclusions contained in the report, noting that they highlighted areas where additional work might need to be undertaken to enhance uniform interpretation and effective implementation of the New York Convention. The Commission agreed that work should be undertaken to eliminate or limit the effect of legal disharmony in that field. The Commission was generally of the view that the outcome of the project should consist in the development of a guide to enactment of the New York Convention, with a view to promoting a uniform interpretation and application of the Convention, thus avoiding uncertainty resulting from its imperfect or partial implementation and limiting the risk that practices of States diverge from the spirit of the Convention. The Commission requested the Secretariat to study the feasibility of preparing such a guide. The Commission also requested the Secretariat to publish on the UNCITRAL website the information collected during the project implementation, in the language in which it was received, and urged States to provide the Secretariat with accurate information to ensure that the data published on the UNCITRAL website remained up to date.<sup>33</sup>

31. Also at that session, the Commission agreed that, resources permitting, the activities of the Secretariat in the context of its technical assistance programme could usefully include dissemination of information on the judicial interpretation of the New York Convention, which would usefully complement other activities in support of the Convention.<sup>34</sup>

32. At its forty-second and forty-third sessions, in 2009 and 2010, respectively, the Commission heard oral reports by the Secretariat on the project. It was agreed at

<sup>31</sup> United Nations, *Treaty Series*, vol. 330, No. 4739.

<sup>32</sup> *Official Records of the General Assembly, Fiftieth Session, Supplement No. 17* (A/50/17), paras. 401-404.

<sup>33</sup> *Ibid.*, *Sixty-third Session, Supplement No. 17* and corrigendum (A/63/17 and Corr.1), paras. 355-356.

<sup>34</sup> *Ibid.*, para. 360.

those sessions that a more substantive presentation of the progress on the project regarding the implementation of the New York Convention should be made at a future session of the Commission.<sup>35</sup>

33. At its forty-fourth session, the Secretariat will present an oral progress report on the project to the Commission.

(For suggested scheduling of meetings to consider this agenda item, see para. 73 below.)

**13. Technical assistance to law reform**

34. At its forty-fourth session, the Commission will have before it a note by the Secretariat on technical assistance activities undertaken since the Commission's forty-third session and on the technical assistance resources, including UNCITRAL publications and the UNCITRAL website (A/CN.9/724).

35. The Commission will also have before it a bibliography of recent writings related to its work (A/CN.9/722).

(For suggested scheduling of meetings to consider this agenda item, see para. 73 below.)

**14. Promotion of ways and means of ensuring a uniform interpretation and application of UNCITRAL legal texts**

**(a) Case Law on UNCITRAL texts (CLOUT)**

36. At its twenty-first session, in 1988, the Commission decided to establish a system for collecting and disseminating information on court decisions and arbitral awards relating to conventions and model laws that had emanated from the work of the Commission, known as the "Case Law on UNCITRAL texts (CLOUT)".<sup>36</sup> The purpose of the system has been to promote international awareness of such legal texts to enable judges, arbitrators, lawyers, parties to commercial transactions and other interested persons to take decisions and awards relating to those texts into account in dealing with matters within their responsibilities and to promote the uniform interpretation and application of those texts. The system has relied on a network of national correspondents designated by States parties to a convention emanated from the work of the Commission or that have enacted legislation based on a UNCITRAL model law. Since the establishment of the CLOUT system, the Secretariat has regularly reported to the Commission on the development of the system.

37. At its forty-fourth session, the Commission will have before it a note by the Secretariat on the development of CLOUT (A/CN.9/726).

**(b) Digests of case law relating to UNCITRAL legal texts**

38. At its thirty-fourth session, in 2001, the Commission considered a note by the Secretariat (A/CN.9/498), in which the Secretariat informed the Commission that,

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<sup>35</sup> Ibid., *Sixty-fourth Session, Supplement No. 17* (A/64/17), paras. 360-361; and *ibid.*, *Sixty-fifth Session, Supplement No. 17* (A/65/17), para. 284.

<sup>36</sup> Ibid., *Forty-third Session, Supplement No. 17* (A/43/17), paras. 98-109.

since the establishment of the CLOUT system, 393 cases had been reported, including more than 250 cases on the United Nations Convention on Contracts for the International Sale of Goods (the “Sales Convention”).<sup>37</sup> In light of the fact that divergences in the interpretation of the Sales Convention had been noted, it had been suggested by users of CLOUT that appropriate advice and guidance would be useful to foster a more uniform interpretation of that Convention. It was considered that the preparation of an analytical digest of court and arbitration cases, identifying trends in interpretation, would be one way of providing such advice and guidance. In the same note, the Secretariat suggested that the reasons for which the Commission might wish to take steps to foster uniform interpretation of the Sales Convention applied similarly to the UNCITRAL Model Law on International Commercial Arbitration (the “Model Law on Arbitration”).<sup>38</sup> After discussion, the Commission requested the Secretariat to draft a digest of case law on the Sales Convention. It was noted that, in doing so, the Secretariat should avail itself of the help of the network of CLOUT national correspondents and avoid criticism of the decisions of national courts.<sup>39</sup> At its thirty-fifth session, in 2002, the Commission requested the Secretariat to prepare a digest of case law on the Model Law on Arbitration.<sup>40</sup>

39. Since 2004, the Commission has regularly been informed by the Secretariat on the progress of work on both digests,<sup>41</sup> noting in particular that the first edition of the digest of case law on the Sales Convention was published in December 2004<sup>42</sup> and the second edition of that digest was published in 2008.<sup>43</sup> The General Assembly, in its resolutions, has repeatedly expressed support for the work on digests.<sup>44</sup>

40. At its forty-fourth session, the Commission will have before it a note by the Secretariat (A/CN.9/726) (see para. 37 above). In that note, the Secretariat will also refer to the work on preparation of the third edition of the digest of case law on the Sales Convention and of a digest of case law on the Model Law on Arbitration.

(For suggested scheduling of meetings to consider this agenda item, see para. 73 below.)

<sup>37</sup> United Nations, *Treaty Series*, vol. 1489, No. 25567.

<sup>38</sup> United Nations publication, Sales No. E.08.V.4.

<sup>39</sup> *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 17* and corrigendum (A/56/17 and Corr.3), paras. 386-395.

<sup>40</sup> *Ibid.*, *Fifty-seventh Session, Supplement No. 17* (A/57/17), para. 243.

<sup>41</sup> *Ibid.*, *Sixtieth Session, Supplement No. 17* (A/60/17), para. 194; *ibid.*, *Sixty-first Session, Supplement No. 17* (A/61/17), para. 226; *ibid.*, *Sixty-second Session, Supplement No. 17* (A/62/17), part I, para. 220; *ibid.*, *Sixty-third Session, Supplement No. 17* and corrigendum (A/63/17 and Corr.1), para. 367; *ibid.*, *Sixty-fourth Session, Supplement No. 17* (A/64/17), para. 373; and *ibid.*, *Sixty-fifth Session, Supplement No. 17* (A/65/17), paras. 290-293.

<sup>42</sup> A/CN.9/SER.C/DIGEST/CISG, available at the date of this document from [www.uncitral.org/uncitral/en/case\\_law/digests/cisg.html](http://www.uncitral.org/uncitral/en/case_law/digests/cisg.html).

<sup>43</sup> United Nations publication, Sales No. E.08.V.15; also available at the date of this document from [www.uncitral.org/uncitral/en/case\\_law/digests/cisg.html](http://www.uncitral.org/uncitral/en/case_law/digests/cisg.html).

<sup>44</sup> Resolutions 59/39, para. 13; 60/20, para. 13; 61/32, para. 15; 62/64, para. 14; 63/120, para. 18; 64/111, para. 21; and 65/21, para. 22.

**15. Status and promotion of UNCITRAL legal texts**

41. At its forty-fourth session, the Commission will have before it a note by the Secretariat concerning the status of the conventions and model laws resulting from its work as well as the status of the New York Convention (A/CN.9/723).

(For suggested scheduling of meetings to consider this agenda item, see para. 73 below.)

**16. Coordination and cooperation****(a) General**

42. At its forty-fourth session, the Commission will have before it a note by the Secretariat providing a brief survey of the activities undertaken by the Secretariat since the Commission's forty-third session to ensure coordination with other organizations active in the field of international trade law (A/CN.9/725).

**(b) Coordination in the field of security interests**

43. Further to a decision by the Commission at its forty-third session, in 2010,<sup>45</sup> the secretariats of the Hague Conference on Private International Law, the International Institute for the Unification of Private Law (Unidroit) and UNCITRAL prepared a coordination paper on security interests (A/CN.9/720). As noted by the Commission at its forty-first session, in 2008,<sup>46</sup> the purpose of this paper is to explain the inter-relationship among the security interests texts prepared by the three organizations and thus to assist States in understanding how these texts fit together and may be all adopted by States to establish a comprehensive and consistent regime on security interests in movable assets. It is envisaged that this paper be issued as a publication by the three organizations to assist States considering security interests texts for adoption. At its forty-fourth session, the Commission may wish to consider and approve this paper and its publication.

**(c) Reports of other international organizations**

44. Representatives of other international organizations will be given an opportunity to apprise the Commission of their current activities and possible means of strengthening cooperation.

**(d) International governmental and non-governmental organizations invited to sessions of UNCITRAL and its Working Groups**

45. At its forty-fourth session, the Commission will hear an oral report by the Secretariat on the implementation of paragraph 9 of the Summary of conclusions on UNCITRAL rules of procedure and methods of work<sup>47</sup> as regards the international governmental and non-governmental organizations invited to sessions of the Commission and its Working Groups.

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<sup>45</sup> *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 17* (A/65/17), para. 287.

<sup>46</sup> *Ibid.*, *Sixty-third Session, Supplement No. 17* and corrigendum (A/63/17 and Corr.1), para. 384.

<sup>47</sup> *Ibid.*, *Sixty-fifth Session, Supplement No. 17* (A/65/17), annex III.

(For suggested scheduling of meetings to consider this agenda item, see para. 73 below.)

**17. Role of UNCITRAL in promoting the rule of law at the national and international levels**

46. At its resumed fortieth session, in 2007, the Commission took note of General Assembly resolution 62/70 on the rule of law at the national and international levels, of 6 December 2007. The Commission in particular noted that, by paragraph 3 of that resolution, the General Assembly invited the Commission to comment, in its report to the General Assembly, on the Commission's current role in promoting the rule of law. At that session, the Commission decided to include the item "Role of UNCITRAL in promoting the rule of law" in the agenda of its forty-first session and invited all States members of UNCITRAL and observers to exchange their views on this agenda item at that session.<sup>48</sup>

47. At its forty-first to forty-third sessions, in 2008 to 2010, respectively, the Commission, in its annual reports to the General Assembly, transmitted comments on its role in promoting the rule of law, as requested by the General Assembly in its resolutions 62/70, 63/128 and 64/116.<sup>49</sup> At its forty-second session, the Commission in addition noted that, by operative paragraphs 4 and 6 of General Assembly resolution 63/128, the General Assembly called upon the United Nations system to systematically address aspects of the rule of law in relevant activities, and encouraged the Secretary-General and the United Nations system to accord high priority to rule of law activities.<sup>50</sup> The Commission reiterated in this regard its concern that successful continuation of its programme of technical assistance with domestic law reforms was jeopardized by the lack of sufficient resources. It therefore recalled its requests for additional resources to be allocated to meet the increased demand from developing countries and countries with economies in transition for technical assistance with the implementation of international commercial law.<sup>51</sup>

48. At its forty-third session, in 2010, after holding a panel discussion on the sub-topic "Laws and practices of Member States in implementing UNCITRAL texts,"<sup>52</sup> the Commission reiterated its conviction that the promotion of the rule of law in commercial relations should be an integral part of the broader agenda of the United Nations to promote the rule of law at the national and international levels, including through the Rule of Law Group supported by the Rule of Law Unit. The Commission looked forward to being part of strengthened and coordinated rule of law activities of the Organization. The Commission considered it essential to keep a regular dialogue with the Rule of Law Group through the Rule of Law Unit and to keep abreast of progress made in the integration of the work of UNCITRAL into the United Nations joint rule of law activities. To that end, it requested the Secretariat to

<sup>48</sup> Ibid., *Sixty-second Session, Supplement No. 17* (A/62/17), part II, paras. 111-113.

<sup>49</sup> Ibid., *Sixty-third Session, Supplement No. 17* and corrigendum (A/63/17 and Corr.1), para. 386; *ibid.*, *Sixty-fourth Session, Supplement No. 17* (A/64/17), paras. 413-419; and *ibid.*, *Sixty-fifth Session, Supplement No. 17* (A/65/17), paras. 313-336.

<sup>50</sup> Reiterated in General Assembly resolution 65/32, paras. 5 and 9.

<sup>51</sup> *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 17* (A/64/17), paras. 413 and 418.

<sup>52</sup> Ibid., *Sixty-fifth Session, Supplement No. 17* (A/65/17), paras. 316-333.

organize briefings by the Rule of Law Unit biannually, when sessions of the Commission were held in New York. The Commission requested the Secretariat to initiate surveys and studies of the impact of the standards and activities of UNCITRAL on the rule of law and development, in cooperation with the World Bank and other partner organizations that would have the required research capacities in those areas. The Commission also requested the Secretariat to review its experience with the operation of the technical cooperation and assistance programme conducted on behalf of the Commission, with a view to identifying lessons learned, best practices and major problems encountered, and to suggesting ways of enhancing technical cooperation and assistance and capacity-building in the field of commercial law and mechanisms for evaluating their effectiveness. The Commission also requested the Secretariat to consider ways of better integrating its technical cooperation and assistance activities into activities conducted on the ground by the United Nations in particular through United Nations Development Programme or other country offices of the United Nations.<sup>53</sup>

49. At its forty-fourth session, the Commission may wish to take note of General Assembly resolution 65/32 on the rule of law at the national and international levels. In particular, the General Assembly, by operative paragraph 10 of that resolution, invited the Commission (and the International Court of Justice and the International Law Commission) to continue to comment, in its reports to the General Assembly, on its current role in promoting the rule of law. The Commission may also wish to note that, by operative paragraph 14 of that resolution, the General Assembly decided that the debate on the agenda item on the rule of law at the sixty-sixth session of the General Assembly, in 2011, would focus on the sub-topic “Rule of law and transitional justice in conflict and post-conflict situations”. The Sixth Committee reached the understanding<sup>54</sup> that comments related to this sub-topic should address, among others, the role and future of national and international transitional justice and accountability mechanisms and informal justice systems. In its comments to the General Assembly this year, the Commission may therefore wish to note the relevance of its work, in particular in the fields of arbitration and conciliation and public procurement, and possible future work in the area of microfinance, to post-conflict reconstruction in general and to some of the specific subjects identified by the Sixth Committee in this sub-topic. The Secretariat will organize during the session an informal panel discussion of the relevant issues.

50. The Commission may also wish to draw the attention of its member States and observers to paragraph 13 of General Assembly resolution 65/32, by which the General Assembly decided to convene a high-level meeting of the General Assembly on the rule of law at the national and international levels during the high-level segment of its sixty-seventh session, in 2012, the modalities of which will be finalized during its sixty-sixth session. (Copies of resolution 65/32 and the relevant report of the Sixth Committee (A/65/473) will be made available at the forty-fourth session of the Commission.)

(For suggested scheduling of meetings to consider this agenda item, see para. 73 below.)

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<sup>53</sup> Ibid., paras. 334-336.

<sup>54</sup> See the note by the Chairman of the Sixth Committee (A/C.6/63/L.23), para. 3.

**18. International commercial arbitration moot competitions**

51. An oral report will be presented on the Eighteenth Annual Willem C. Vis International Commercial Arbitration Moot competition.

(For suggested scheduling of meetings to consider this agenda item, see para. 73 below.)

**19. Relevant General Assembly resolutions**

52. The Commission may wish to take note of the following four General Assembly resolutions of 6 December 2010, adopted on the recommendation of the Sixth Committee: resolution 65/21 on the report of the United Nations Commission on International Trade Law on the work of its forty-third session; resolution 65/22 on UNCITRAL Arbitration Rules as revised in 2010; resolution 65/23 on UNCITRAL Legislative Guide on Secured Transactions: Supplement on Security Rights in Intellectual Property; and resolution 65/24 on Part three of the UNCITRAL Legislative Guide on Insolvency Law. Copies of the resolutions and the relevant report of the Sixth Committee (A/65/465) will be made available at the forty-fourth session of the Commission.

(For suggested scheduling of meetings to consider this agenda item, see para. 73 below.)

**20. Other business**

53. An oral report will be presented on the internship programme in the Commission's secretariat.

54. The Commission will hear an oral report from the Secretariat on the results of evaluation by UNCITRAL at its forty-third session of the role of the Secretariat in facilitating the work of the Commission.

(For suggested scheduling of meetings to consider this agenda item, see para. 73 below.)

**21. Date and place of future meetings**

55. The Commission may wish to consider a proposal made by the Secretary-General to the end of cutting administrative costs involved in servicing UNCITRAL sessions, in particular the travel costs of staff members of the UNCITRAL secretariat to service UNCITRAL meetings in New York. The effect of the Secretary-General's proposal would be that the long-established practice of holding sessions of the Commission and its Working Groups alternately in New York and Vienna would be discontinued. As of the year of 2012, all sessions of the Commission and its Working Groups would be held in Vienna. For that proposal to come into effect, however, decisions must be made by the Commission and the General Assembly.

*Forty-fifth session of the Commission*

56. The forty-fifth session of the Commission was expected to be held in New York. Tentative arrangements have been made for the session to be held in New York from 18 June to 6 July 2012. To accommodate the situation where it

would be decided that the session will be held in Vienna, tentative arrangements have also been made for the session to be held in Vienna from 9 to 27 July 2012.

*Sessions of working groups*

57. At its thirty-sixth session, in 2003, the Commission agreed that: (a) working groups should normally meet for a one-week session twice a year; (b) extra time, if required, could be allocated from the unused entitlement of another working group provided that such arrangement would not result in the increase of the total number of 12 weeks of conference services per year currently allotted to sessions of all six working groups of the Commission; and (c) if any request by a working group for extra time would result in the increase of the 12-week allotment, it should be reviewed by the Commission, with proper justification being given by that working group regarding the reasons for which a change in the meeting pattern was needed.<sup>55</sup>

*Sessions of working groups up to the forty-fifth session of the Commission*

*Working Group I (Procurement)*

58. The twenty-first session of the Working Group could be held in Vienna, from 17 to 21 October 2011. Tentative arrangements have been made for the twenty-second session of the Working Group to be held in New York from 9 to 13 April 2012. To accommodate the situation where it would be decided that, as of 2012, all Working Group sessions would be held in Vienna, tentative arrangements have also been made for the session to be held in Vienna from 27 February to 2 March 2012.

*Working Group II (Arbitration and Conciliation)*

59. The fifty-fifth session of the Working Group could be held in Vienna, from 3 to 7 October 2011. Tentative arrangements have been made for the fifty-sixth session of the Working Group to be held in New York from 6 to 10 February 2012. To accommodate the situation where it would be decided that, as of 2012, all Working Group sessions would be held in Vienna, tentative arrangements have also been made for the session to be held in Vienna from 30 January to 3 February 2012.

*Working Group III (Online Dispute Resolution)*

60. The twenty-fourth session of the Working Group could be held in Vienna, from 14 to 18 November 2011. Tentative arrangements have been made for the twenty-fifth session of the Working Group to be held in New York from 28 May to 1 June 2012. To accommodate the situation where it would be decided that, as of 2012, all Working Group sessions would be held in Vienna, tentative arrangements have also been made for the session to be held in Vienna from 7 to 11 May 2012.

*Working Group IV (Electronic Commerce)*

61. Subject to the Commission's decision on future work in the area of electronic commerce (see paras. 22-24 above), the forty-fifth session of the Working Group

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<sup>55</sup> *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 17 (A/58/17)*, para. 275.



could be held in Vienna, from 10 to 14 October 2011. Tentative arrangements have been made for the forty-sixth session of the Working Group to be held in New York from 13 to 17 February 2012. To accommodate the situation where it would be decided that, as of 2012, all Working Group sessions would be held in Vienna, tentative arrangements have also been made for the session to be held in Vienna from 9 to 13 January 2012.

*Working Group V (Insolvency Law)*

62. The fortieth session of the Working Group could be held in Vienna, from 31 October to 4 November 2011. Tentative arrangements have been made for the forty-first session of the Working Group to be held in New York from 16 to 20 April 2012. To accommodate the situation where it would be decided that, as of 2012, all Working Group sessions would be held in Vienna, tentative arrangements have also been made for the session to be held in Vienna from 20 to 24 February 2012.

*Working Group VI (Security Interests)*

63. The twentieth session of the Working Group could be held in Vienna, from 12 to 16 December 2011. Tentative arrangements have been made for the twenty-first session of the Working Group to be held in New York from 14 to 18 May 2012. To accommodate the situation where it would be decided that, as of 2012, all Working Group sessions would be held in Vienna, tentative arrangements have also been made for the session to be held in Vienna from 5 to 9 March 2012.

*Sessions of working groups in 2012 after the forty-fifth session of the Commission*

*Working Group I (Procurement)*

64. Tentative arrangements have been made for the twenty-third session of the Working Group to be held in Vienna, from 29 October to 2 November 2012.

*Working Group II (Arbitration and Conciliation)*

65. Tentative arrangements have been made for the fifty-seventh session of the Working Group to be held in Vienna, from 1 to 5 October 2012.

*Working Group III (Online Dispute Resolution)*

66. Tentative arrangements have been made for the twenty-sixth session of the Working Group to be held in Vienna, from 10 to 14 December 2012.

*Working Group IV (Electronic Commerce)*

67. Tentative arrangements have been made for the forty-seventh session of the Working Group to be held in Vienna, from 3 to 7 December 2012.

*Working Group V (Insolvency Law)*

68. Tentative arrangements have been made for the forty-second session of the Working Group to be held in Vienna, from 26 to 30 November 2012.

*Working Group VI (Security Interests)*

69. Tentative arrangements have been made for the twenty-second session of the Working Group to be held in Vienna, from 5 to 9 November 2012.

(For suggested scheduling of meetings to consider this agenda item, see para. 73 below.)

**22. Adoption of the report of the Commission**

70. The General Assembly, in its resolution 2205 (XXI) of 17 December 1966, decided that the Commission should submit an annual report to it and that the report should be submitted simultaneously to the United Nations Conference on Trade and Development for comments. Pursuant to a decision of the Sixth Committee,<sup>56</sup> the report of the Commission is introduced to the General Assembly by the chairperson of the Commission or by another officer designated by the chairperson.

(For suggested scheduling of meetings to consider this agenda item, see paras. 71-73 below.)

**III. Scheduling of meetings and documentation**

71. The Secretariat recommends that the Commission devote the time from 27 to 30 June 2011 to consideration of item 4 on the agenda. Adoption of the report of the Commission on that agenda item and of the UNCITRAL Model Law on Public Procurement may be expected to take place upon completion of the Commission's consideration of agenda item 4.

72. The Secretariat recommends that the Commission devote Friday, 1 July 2011, for consideration of agenda items 5 and 8. Adoption of the report of the Commission on these agenda items and of judicial materials on the UNCITRAL Model Law on Cross-Border Insolvency may be expected to take place upon completion of the Commission's consideration of agenda items 5 and 8.

73. The Secretariat recommends that the Commission devote the remaining time of the session to consideration of items 6, 7, and 9-21 on the agenda. No formal meetings will be held on Thursday, 7 July 2011, which will be used by the Secretariat to prepare the parts of the draft report on those agenda items, which will be presented to the Commission for adoption on Friday, 8 July 2011. It is suggested that the Commission adopt the parts of the report of the session on those agenda items on Friday, 8 July 2011.

74. It should be noted that the above recommendations on the scheduling of meetings are intended to assist States and invited organizations in planning the attendance of their pertinent representatives; the actual scheduling will be determined by the Commission itself.

75. Meetings will be held from 9.30 a.m. to 12.30 p.m. and from 2.30 p.m. to 5.30 p.m., except on Monday, 27 June, when the morning meeting will commence at 10.00 a.m.

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<sup>56</sup> Ibid., *Twenty-third Session, annexes*, agenda item 88, document A/7408, para. 3.

76. UNCITRAL documents are posted on the UNCITRAL website ([www.uncitral.org/](http://www.uncitral.org/)) upon their issuance in all the official languages of the United Nations. Delegates may wish to check the availability of the documents for the forty-fourth session by accessing the page of the forty-fourth session of the Commission in the “Commission Documents” section of the UNCITRAL website ([www.uncitral.org/](http://www.uncitral.org/)).

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