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**United Nations Commission
on International Trade Law**
Forty-sixth session
Vienna, 8-26 July 2013

Provisional agenda, annotations thereto and scheduling of meetings of the forty-sixth session

I. Provisional agenda

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Consideration of issues in the area of arbitration and conciliation:
 - (a) Finalization and adoption of UNCITRAL rules on transparency in treaty-based investor-State arbitration;
 - (b) Consideration of instruments on the applicability of the UNCITRAL rules on transparency to the settlement of disputes arising under existing investment treaties;
 - (c) Preparation of a guide on the 1958 New York Convention;
 - (d) International commercial arbitration moot competitions.
5. Consideration of issues in the area of security interests:
 - (a) Finalization and adoption of the Technical Legislative Guide on the Implementation of a Security Rights Registry;
 - (b) Progress report of Working Group VI;
 - (c) Coordination in the field of security interests.
6. Consideration of issues in the area of insolvency law:
 - (a) Finalization and adoption of revisions to the Guide to Enactment of the UNCITRAL Model Law on Cross-Border Insolvency;



- (b) Finalization and adoption of legislative recommendations on directors' obligations in the period approaching insolvency;
 - (c) Finalization and adoption of revisions to The Model Law on Cross-Border Insolvency: the Judicial Perspective;
 - (d) Progress report of Working Group V.
- 7. Consideration of issues in the area of public procurement.
- 8. Online dispute resolution: progress report of Working Group III.
- 9. Electronic commerce: progress report of Working Group IV.
- 10. Technical assistance to law reform.
- 11. Promotion of ways and means of ensuring a uniform interpretation and application of UNCITRAL legal texts.
- 12. Status and promotion of UNCITRAL legal texts.
- 13. Coordination and cooperation:
 - (a) General;
 - (b) Reports of other international organizations;
 - (c) International governmental and non-governmental organizations invited to sessions of UNCITRAL and its Working Groups.
- 14. UNCITRAL regional presence.
- 15. Role of UNCITRAL in promoting the rule of law at the national and international levels.
- 16. Planned and possible future work, including in the areas of arbitration and conciliation, commercial fraud, electronic commerce, insolvency law, international contract law, microfinance, online dispute resolution, public procurement and infrastructure development, including public-private partnerships, and security interests.
- 17. Relevant General Assembly resolutions.
- 18. Other business.
- 19. Date and place of future meetings.
- 20. Adoption of the report of the Commission.

II. Annotations

1. Opening of the session

1. The forty-sixth session of the Commission will be held at the Vienna International Centre in Vienna, from 8 to 26 July 2013.¹ The session will be opened

¹ *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 17 (A/67/17)*, para. 259.

on Monday, 8 July 2013, at 10 a.m. (see below, section III, paragraphs 92-98, for more details about the scheduling of meetings). As at 8 July 2013, the United Nations Commission on International Trade Law will be composed of the following member States: Algeria (2016), Argentina (2016), Armenia (2019), Australia (2016), Austria (2016), Belarus (2016), Botswana (2016), Brazil (2016), Bulgaria (2019), Cameroon (2019), Canada (2019), China (2019), Côte d'Ivoire (2019), Colombia (2016), Croatia (2016), Denmark (2019), Ecuador (2019), El Salvador (2019), Fiji (2016), France (2019), Gabon (2016), Georgia (2015), Germany (2019), Greece (2019), Honduras (2019), Hungary (2019), India (2016), Indonesia (2019), Iran (Islamic Republic of) (2016), Israel (2016), Italy (2016), Japan (2019), Jordan (2016), Kenya (2016), Kuwait (2019), Liberia (2019), Malaysia (2019), Mauritania (2019), Mauritius (2016), Mexico (2019), Namibia (2019), Nigeria (2016), Pakistan (2016), Panama (2019), Paraguay (2016), Philippines (2016), Republic of Korea (2019), Russian Federation (2019), Sierra Leone (2019), Singapore (2019), Spain (2016), Switzerland (2019), Thailand (2016), Turkey (2016), Uganda (2016), Ukraine (2014), United Kingdom of Great Britain and Northern Ireland (2019), United States of America (2016), Venezuela (Bolivarian Republic of) (2016) and Zambia (2019).

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. Consideration of issues in the area of arbitration and conciliation

(a) Finalization and adoption of UNCITRAL rules on transparency in treaty-based investor-State arbitration

4. At its forty-third session, in 2010, with respect to future work in the field of settlement of commercial disputes, the Commission recalled the decision made at its forty-first session,² in 2008, that the topic of transparency in treaty-based investor-State arbitration should be dealt with as a matter of priority immediately after completion of the revision of the UNCITRAL Arbitration Rules. The Commission entrusted its Working Group II (Arbitration and Conciliation) with the task of preparing a legal standard on that topic.³ The Working Group started its consideration of the matter at its fifty-third session (Vienna, 4-8 October 2010). At its fifty-fourth session (New York, 7-11 February 2011), the Working Group agreed that the legal standard on transparency would take the form of rules on transparency in treaty-based investor-State arbitration (A/CN.9/717, paras. 26 and 58).

² Ibid., *Sixty-third Session, Supplement No. 17* and corrigendum (A/63/17 and Corr.1), para. 314.

³ Ibid., *Sixty-fifth Session, Supplement No. 17* (A/65/17), para. 190.

5. At its forty-fifth session, in 2012, the Commission urged the Working Group to pursue its efforts and to complete its work on the draft rules on transparency for consideration by the Commission preferably at its next session.⁴ Accordingly, at its fifty-eighth session (New York, 4-8 February 2013), the Working Group completed its third reading of the draft rules on transparency. The Secretariat was requested to circulate the draft rules on transparency to Governments for their comments, with a view to consideration and adoption of the draft rules by the Commission at its forty-sixth session (A/CN.9/765, para. 14).

6. At its forty-sixth session, the Commission will have before it the reports of the fifty-seventh and fifty-eighth sessions of the Working Group (A/CN.9/760 and A/CN.9/765, respectively). The Commission will also have before it the following documents: (a) a note by the Secretariat containing the draft rules on transparency (A/CN.9/783); and (b) a compilation of comments by Governments relating to the rules on transparency (A/CN.9/787 and addenda).

(b) Consideration of instruments on the applicability of the UNCITRAL rules on transparency to the settlement of disputes arising under existing investment treaties

7. At its forty-fourth session, in 2011, the Commission confirmed that the question of applicability of the legal standard on transparency to investment treaties concluded before the date of adoption of the rules on transparency (“existing investment treaties”) was part of the mandate of the Working Group and a question of great practical interest, taking account of the high number of investment treaties currently in existence.⁵ In that context, the Working Group discussed the options of making the rules on transparency applicable to existing investment treaties either by way of a convention, whereby States could express consent to apply the rules on transparency to arbitration under their existing investment treaties, or by a recommendation urging States to make the rules applicable in the context of treaty-based investor-State dispute settlement. The possibility of making the rules on transparency applicable to existing investment treaties by joint interpretative declaration pursuant to article 31(3)(a) of the Vienna Convention on the Law of Treaties (the “Vienna Convention”), or by an amendment or modification of a relevant treaty pursuant to articles 39-41 of the Vienna Convention, was also considered by the Working Group.

8. In accordance with the decisions of the Working Group at its fifty-eighth session (A/CN.9/765, para. 14), the Secretariat has prepared the draft text of a convention on transparency, as well as a draft recommendation, in order to provide possible means of application of the rules on transparency to disputes arising under existing investment treaties, for the consideration of the Commission.

9. At its forty-sixth session, the Commission will have before it a note by the Secretariat containing the draft text of a convention on transparency as well as the draft text of a recommendation on the application of the rules on transparency (A/CN.9/784).

⁴ Ibid., *Sixty-seventh Session, Supplement No. 17* (A/67/17), para. 69.

⁵ Ibid., *Sixty-sixth Session, Supplement No. 17* (A/66/17), para. 200.

(c) Preparation of a guide on the 1958 New York Convention

10. 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 1958⁶ (the “New York Convention”).⁷

11. 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 on 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. Also at that session, the Commission agreed that, resources permitting, the activities of the Secretariat in the context of its technical assistance programme could include dissemination of information on the judicial interpretation of the New York Convention, which would usefully complement other activities in support of the Convention.⁸

12. The Commission may wish to recall that it had been informed, at its forty-fourth and forty-fifth sessions, in 2011 and 2012, that the Secretariat was carrying out the project related to the preparation of a guide on the New York Convention, in close cooperation with G. Bermann (Columbia University School of Law) and E. Gaillard (Paris XII), who had established research teams to work on the project. The Commission was informed that Mr. Gaillard, with his research team, in conjunction with Mr. Bermann and his research team, and with the support of the Secretariat, had established a website (www.newyorkconvention1958.org) in order to make the information gathered in preparation of the guide on the New York Convention publicly available. The Commission was informed that the website was aimed at promoting the uniform and effective application of the Convention by making available details on its judicial interpretation by States parties. The Commission was also informed that the UNCITRAL secretariat planned to maintain close connection between the cases collected in the CLOUT system and the cases available on the website dedicated to the preparation of the guide on the New York

⁶ United Nations, *Treaty Series*, vol. 330, No. 4739.

⁷ *Official Records of the General Assembly, Fiftieth Session, Supplement No. 17* (A/50/17), paras. 401-404.

⁸ *Ibid.*, *Sixty-third Session, Supplement No. 17* and corrigendum (A/63/17 and Corr.1), paras. 355 and 360.

Convention.⁹ At its forty-fifth session, the Commission expressed its appreciation for the establishment of the website and the work done by the Secretariat, as well as by the professors and their research teams, and requested the Secretariat to pursue efforts regarding the preparation of the guide on the New York Convention.¹⁰

13. At its forty-sixth session, the Commission will have before it excerpts of the guide on the New York Convention for its consideration (A/CN.9/786).

(d) International commercial arbitration moot competitions

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

(For suggested scheduling of meetings to consider this agenda item, see para. 92 below.)

5. Consideration of issues in the area of security interests

(a) Finalization and adoption of the Technical Legislative Guide on the Implementation of a Security Rights Registry

15. 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.¹¹ 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.¹² At that session, the Commission agreed that the text could draw on the UNCITRAL Legislative Guide on Secured Transactions¹³ (the "Secured Transactions Guide"), texts prepared by other organizations and national law regimes that have introduced security rights registries similar to the registry recommended in the Secured Transactions Guide.¹⁴

16. At its forty-sixth session, the Commission will have before it: (a) the draft Technical Legislative Guide on the Implementation of a Security Rights Registry (the "draft Registry Guide"; A/CN.9/WG.VI/WP.54 and addenda 1 to 4, as well as A/CN.9/781 and addenda 1 and 2); and (b) the reports of the twenty-second and twenty-third sessions of the Working Group (A/CN.9/764 and A/CN.9/767).

⁹ Ibid., *Sixty-sixth Session, Supplement No. 17* (A/66/17), para. 252; and *ibid.*, *Sixty-seventh Session, Supplement No. 17* (A/67/17), para. 135.

¹⁰ Ibid., *Sixty-seventh Session, Supplement No. 17* (A/67/17), para. 136.

¹¹ Ibid., *Sixty-fifth Session, Supplement No. 17* (A/65/17), paras. 265 and 268.

¹² Ibid., para. 265.

¹³ 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-lg/e/09-82670_Ebook-Guide_09-04-10English.pdf.

¹⁴ *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 17* (A/65/17), para. 266.

(b) Progress report of Working Group VI

17. The Working Group continued its work at its twenty-second (Vienna, 10-14 December 2012) and twenty-third sessions (New York, 8-12 April 2013). At the close of its twenty-third session, the Working Group adopted the draft Registry Guide (A/CN.9/WG.VI/WP.54 and Add.1-6) (A/CN.9/767, para. 15). At that session, the Working Group also had before it a note by the Secretariat entitled “Draft Model Law on Secured Transactions” (A/CN.9/WG.VI/WP.55 and Add.1-4). The Commission may wish to recall in this respect that at its forty-fifth session, in 2012, it agreed that upon the Working Group’s completion of the draft Registry Guide, the Working Group should undertake work to prepare a simple, short and concise model law on secured transactions based on the general recommendations of the Secured Transactions Guide and consistent with all texts prepared by UNCITRAL on secured transactions.¹⁵

(c) Coordination in the field of security interests

18. At its forty-sixth session, the Commission may wish to recall that, at its forty-fifth session, in 2012, it had noted with appreciation that the Secretariat had prepared and was in the process of discussing with the World Bank a joint set of principles on effective secured transactions regimes.¹⁶ The drafting process has been initiated and progress is being made in the elaboration of these principles. In addition, the Commission may wish to note that, at that session, it had requested the Secretariat to continue its coordination efforts with the European Commission with a view to ensuring a coordinated approach to the law applicable to the third-party effects of assignments of receivables, taking into account the approach followed in the United Nations Convention on the Assignment of Receivables in International Trade¹⁷ and the Secured Transactions Guide.¹⁸ At its forty-sixth session, the Commission may wish to take note of the oral report by the Secretariat on those two projects and renew the mandate given to the Secretariat to continue with these coordination efforts.

(For suggested scheduling of meetings to consider this agenda item, see para. 93 below.)

6. Consideration of issues in the area of insolvency law**(a) Finalization and adoption of revisions to the Guide to Enactment of the UNCITRAL Model Law on Cross-Border Insolvency**

19. At its forty-third session, in 2010, the Commission gave its Working Group V (Insolvency Law) a mandate to develop two topics, the first of which concerned a proposal by the United States of America, as described in document A/CN.9/WG.V/WP.93/Add.1, paragraph 8, to provide guidance on the interpretation and application of selected concepts of the UNCITRAL Model Law

¹⁵ Ibid., *Sixty-seventh Session, Supplement No. 17* (A/67/17), para. 105.

¹⁶ Ibid., para. 167.

¹⁷ General Assembly resolution 56/81, annex.

¹⁸ *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 17* (A/67/17), para. 168.

on Cross-Border Insolvency¹⁹ (the “Model Law on Cross-Border Insolvency”) relating to centre of main interests (COMI) and possibly to develop a model law or provisions on insolvency law addressing selected international issues, including jurisdiction, access and recognition, in a manner that would not preclude the development of a convention.²⁰

20. The Working Group has undertaken the first part of that mandate by revising and enriching the Guide to Enactment of the Model Law on Cross-Border Insolvency.²¹ The Commission will have before it: (a) a draft of the proposed revisions to the Guide to Enactment (A/CN.9/WG.V/WP.112); and (b) the report of the forty-third session of the Working Group (A/CN.9/766) setting forth further revisions made at that session.

(b) Finalization and adoption of legislative recommendations on directors’ obligations in the period approaching insolvency

21. At its forty-third session, in 2010, the Commission gave its Working Group V (Insolvency Law) a mandate to develop two topics, the second of which concerned a proposal by the United Kingdom of Great Britain and Northern Ireland (A/CN.9/WG.V/WP.93/Add.4), INSOL International (A/CN.9/WG.V/WP.93/Add.3) and the International Insolvency Institute (A/CN.9/582/Add.6), concerning the obligations of directors and officers of an enterprise in the period approaching insolvency. The focus of the work undertaken on that topic has been upon the obligations that arise in the period approaching insolvency, but only became enforceable once insolvency proceedings commence.

22. In accordance with the working assumption adopted by the Working Group that the draft text would form part of the UNCITRAL Legislative Guide on Insolvency Law,²² the draft text includes commentary and a set of legislative recommendations.

23. The Commission will have before it: (a) a draft of the proposed text on directors obligations in the period approaching insolvency (A/CN.9/WG.V/WP.113); and (b) the report of the forty-third session of the Working Group (A/CN.9/766) setting forth revisions made to that draft text at that session.

(c) Finalization and adoption of revisions to The Model Law on Cross-Border Insolvency: the Judicial Perspective

24. At its forty-fourth session, in 2011, the Commission finalised and adopted The Model Law on Cross-Border Insolvency: the Judicial Perspective²³ and requested that the Secretariat establish a mechanism for updating The Judicial Perspective on

¹⁹ United Nations publication, Sales No. E.99.V.3; also available at the date of this document from www.uncitral.org/uncitral/en/uncitral_texts/insolvency/1997Model.html.

²⁰ *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 17 (A/65/17)*, para. 259.

²¹ United Nations publication, Sales No. E.99.V.3; also available at the date of this document from www.uncitral.org/uncitral/en/uncitral_texts/insolvency/1997Model.html.

²² Available at the date of this document from www.uncitral.org/uncitral/en/uncitral_texts/insolvency.html.

²³ Available at the date of this document from www.uncitral.org/uncitral/uncitral_texts/insolvency/2011Judicial_Perspective.html.

an ongoing basis in the same flexible manner as it was developed, ensuring that its neutral tone is maintained and that it continues to meet its stated purpose.²⁴

25. The Secretariat established a board of experts to advise on updating The Judicial Perspective to take account of recent jurisprudence interpreting the Model Law on Cross-Border Insolvency and to reflect revisions to the Guide to Enactment of the Model Law on Cross-Border Insolvency.

26. At its forty-sixth session, the Commission will have before it: (a) a draft of the updates to The Judicial Perspective (A/CN.9/778); and (b) the report of the forty-third session of the Working Group (A/CN.9/766).

(d) Progress report of Working Group V

27. At its forty-sixth session, the Commission will have before it the reports of the forty-second and forty-third sessions of the Working Group (A/CN.9/763 and A/CN.9/766). At its forty-third session (New York, 15-19 April 2013), the Working Group discussed remaining elements of the mandate noted above under agenda item 6(a), particularly as it related to the applicability of the concept of COMI to enterprise groups, together with additional topics for possible future work.

(For suggested scheduling of meetings to consider this agenda item, see para. 94 below.)

7. Consideration of issues in the area of public procurement

28. At its forty-fifth session, in 2012, the Commission agreed to explore the possibility of issuing guidance papers on several topics to support the implementation and use of the UNCITRAL Model Law on Public Procurement,²⁵ and instructed the Secretariat to undertake a study of topics that might warrant such guidance papers.²⁶ The Commission may wish to recall that its Working Group I (Procurement) had previously recommended the issue of two guidance papers: a glossary of procurement-related terms used in the UNCITRAL Model Law on Public Procurement and a paper highlighting the main issues for the procurement regulations to be promulgated in accordance with article 4 of the UNCITRAL Model Law on Public Procurement. The Guide to Enactment of the UNCITRAL Model Law on Public Procurement, adopted by the Commission at its forty-fifth session, in 2012,²⁷ refers to the issuance by UNCITRAL of these two documents in due course. In consultations by the Secretariat the need for material on these issues was emphasized.

29. At its forty-sixth session, the Commission will have before it: (a) a note by the Secretariat consolidating the provisions of the Model Law and the Guide highlighting the main issues for the procurement regulations (A/CN.9/770); and (b) a note by the Secretariat containing a glossary of procurement-related terms used in the UNCITRAL Model Law on Public Procurement (A/CN.9/771). In addition,

²⁴ *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 17* (A/66/17), para. 198.

²⁵ *Ibid.*, annex I. Also available at the date of this document from www.uncitral.org/uncitral/en/uncitral_texts/procurement_infrastructure/2011Model.html.

²⁶ *Ibid.*, *Sixty-seventh Session, Supplement No. 17* (A/67/17), paras. 109, 110 and 114.

²⁷ *Ibid.*, para. 46.

under agenda item 16 below, the Commission will hear an oral report by the Secretariat on progress on the other procurement-related topics considered by the Commission at its forty-fifth session.

(For suggested scheduling of meetings to consider this agenda item, see para. 96 below.)

8. Online dispute resolution: progress report of Working Group III

30. In accordance with a decision of the Commission at its forty-third session, in 2010,²⁸ Working Group III (Online Dispute Resolution) commenced its work on the preparation of a legal standard on online dispute resolution for cross-border electronic transactions at its twenty-second session (Vienna, 13-17 December 2010) and continued that work at its twenty-third (New York, 23-27 May 2011), twenty-fourth (Vienna, 14-18 November 2011), twenty-fifth (New York, 21-25 May 2012), twenty-sixth (Vienna, 5-9 November 2012) and twenty-seventh (New York, 20-24 May 2013) sessions.

31. At its forty-sixth session, the Commission will have before it the reports of the Working Group on the work of its twenty-sixth and twenty-seventh sessions (A/CN.9/762 and A/CN.9/769).

(For suggested scheduling of meetings to consider this agenda item, see para. 96 below.)

9. Electronic commerce: progress report of Working Group IV

32. At its forty-fourth session, in 2011, the Commission agreed that Working Group IV (Electronic Commerce) should be convened to undertake work in the field of electronic transferable records.²⁹ It was recalled that such work would be beneficial not only for the generic promotion of electronic communications in international trade, but also to address some specific issues, such as assisting in the implementation of the United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea³⁰ (the Rotterdam Rules).³¹

33. The Working Group commenced its work at its forty-fifth session (Vienna, 10-14 October 2011). At its forty-sixth session (Vienna, 29 October-2 November 2012), it was widely felt that generic rules based on a functional approach should be developed encompassing various types of electronic transferable records and broad support was expressed for the preparation of draft provisions to be presented in the form of a model law, without prejudice to the decision on the form of its work to be made by the Working Group (A/CN.9/761, paras. 18 and 93). At its forty-seventh session (New York, 13-17 May 2013), the Working Group continued its consideration of draft provisions on electronic transferable records.

34. At its forty-sixth session, the Commission will have before it the reports of the Working Group on the work of its forty-sixth and forty-seventh sessions (A/CN.9/761 and A/CN.9/768).

²⁸ Ibid., *Sixty-fifth Session, Supplement No. 17* (A/65/17), para. 257.

²⁹ Ibid., *Sixty-sixth Session, Supplement No. 17* (A/66/17), para. 238.

³⁰ General Assembly resolution 63/122, annex.

³¹ *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 17* (A/66/17), para. 235.

(For suggested scheduling of meetings to consider this agenda item, see para. 96 below.)

10. Technical assistance to law reform

35. At its forty-sixth session, the Commission will have before it a note by the Secretariat on technical assistance activities undertaken since the Commission's forty-fifth session and on the technical assistance resources, including UNCITRAL publications and the UNCITRAL website (A/CN.9/775).

36. The Commission will also have before it a bibliography of recent writings related to its work (A/CN.9/772).

(For suggested scheduling of meetings to consider this agenda item, see para. 96 below.)

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

(a) Case Law on UNCITRAL texts (CLOUT)

37. 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)".³² The system intends 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. CLOUT relies on a network of national correspondents designated by States parties to a convention emanating from the work of the Commission or that have enacted legislation based on an UNCITRAL model law. The Secretariat has regularly reported to the Commission on the performance of the system since its establishment.

38. At its forty-sixth session, the Commission will have before it a note by the Secretariat on the status and progress of CLOUT (A/CN.9/777).

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

39. At its thirty-fourth session, in 2001, the Commission, further to consideration of a note by the Secretariat (A/CN.9/498), requested the Secretariat to prepare a digest of case law on the United Nations Convention on Contracts for the International Sale of Goods³³ (Vienna, 1980). It was noted at that session that such analytical digest of court and arbitration cases, identifying trends in interpretation of the Convention, would be useful to foster its uniform interpretation. It was further noted at that session that, in drafting the digest, the Secretariat should avail itself of the help of the network of CLOUT national correspondents and avoid criticism of

³² Ibid., *Forty-third Session, Supplement No. 17* (A/43/17), paras. 98-109.

³³ United Nations, *Treaty Series*, vol. 1489, No. 25567.

the decisions of national courts.³⁴ At its thirty-fifth session, in 2002, the Commission requested the Secretariat to prepare a similar digest of case law on the UNCITRAL Model Law on International Commercial Arbitration.³⁵

40. Since 2004, the Commission has regularly been informed by the Secretariat on the progress of work on both digests. At its forty-fifth session, in 2012, the Commission was informed about the publication of the third revision of the *UNCITRAL Digest of Case Law on the United Nations Convention on Contracts for the International Sale of Goods: 2012 Edition*³⁶ and the *UNCITRAL 2012 Digest of Case Law on the Model Law on International Commercial Arbitration*.^{37,38} The General Assembly, in its resolutions, has repeatedly expressed support for the work on digests.³⁹

41. At its forty-sixth session, the Commission will have before it a note by the Secretariat (A/CN.9/777) (see para. 38 above), which will provide updates on the current activities concerning the digests.

(For suggested scheduling of meetings to consider this agenda item, see para. 96 below.)

12. Status and promotion of UNCITRAL legal texts

42. At its forty-sixth 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.9/773).

(For suggested scheduling of meetings to consider this agenda item, see para. 96 below.)

13. Coordination and cooperation

(a) General

43. At its forty-sixth session, the Commission will have before it a note by the Secretariat (A/CN.9/776) providing a brief survey of the activities undertaken by the Secretariat since the Commission's forty-fifth session to ensure coordination with the work of other organizations active in the field of international trade law.

(b) Reports of other international organizations

44. At its forty-sixth session, the Commission will hear a presentation by the European Commission as regards its proposal for a Common European Sales Law.

³⁴ *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 17* and corrigendum (A/56/17 and Corr.3), paras. 386-395.

³⁵ *Ibid.*, *Fifty-seventh Session, Supplement No. 17* (A/57/17), para. 243.

³⁶ Available at the date of this document from www.uncitral.org/uncitral/en/case_law/digests.html.

³⁷ United Nations publication, Sales No. E.12.V.9. Also available at the date of this document from www.uncitral.org/uncitral/en/case_law/digests.html.

³⁸ *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 17* (A/67/17), paras. 153 and 154.

³⁹ Most recently, resolution 67/89, para. 24.

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

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

46. At its forty-sixth session, the Commission will hear an oral report concerning intergovernmental and non-governmental organizations invited to sessions of UNCITRAL.

(For suggested scheduling of meetings to consider this agenda item, see para. 96 below.)

14. UNCITRAL regional presence

47. At its forty-sixth session, the Commission will have before it a note by the Secretariat providing, inter alia, a survey of the activities undertaken by the UNCITRAL Regional Centre for Asia and the Pacific since the Commission's forty-fifth session (A/CN.9/775).

48. At its forty-sixth session, the Commission will hear an oral report on the progress made in establishing UNCITRAL's presence in other regions.

(For suggested scheduling of meetings to consider this agenda item, see para. 96 below.)

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

49. The item has been on the agenda of the Commission since its forty-first session, in 2008,⁴⁰ in response to the General Assembly's invitation to the Commission to comment, in its report to the General Assembly, on the Commission's current role in promoting the rule of law.⁴¹ At its forty-first to forty-fifth sessions, in 2008 to 2012, respectively, the Commission, in its annual reports to the General Assembly, transmitted comments on its role in promoting the rule of law at the national and international levels, including in the post-conflict reconstruction context. It expressed 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 Coordination and Resource Group supported by

⁴⁰ For the decision of the Commission to include the item on its agenda, see *Official Records of the General Assembly, Sixty-second Session, Supplement No. 17 (A/62/17)*, part two, paras. 111-113.

⁴¹ General Assembly resolutions 62/70, para. 3; 63/128, para. 7; 64/116, para. 9; 65/32, para. 10; and 66/102, para. 12.

the Rule of Law Unit in the Executive Office of the United Nations Secretary-General.⁴² This view was endorsed by the General Assembly.⁴³

50. The Commission considered it essential to keep a regular dialogue with the Rule of Law Coordination and Resource 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 organize briefings by the Rule of Law Unit biannually, when sessions of the Commission were held in New York.⁴⁴ The briefing consequently took place at the Commission's forty-fifth session, in 2012.⁴⁵

51. At that session, the Commission was informed about the progress made in achieving increased awareness about the work of UNCITRAL and integration of that work into the rule of law activities of the United Nations and other organizations. The Commission was also informed of the preparations for the September 2012 high-level meeting of the General Assembly on the rule of law at the national and international levels and expected outcomes of that meeting. The Commission formulated its position as regards ways and means of ensuring that aspects of the work of UNCITRAL were duly reflected at the high-level meeting and its outcome document, and the message to the high-level meeting itself.

52. At its forty-sixth session, the Commission will hear an oral report by the Chairman of its forty-fifth session and by the Secretariat on the implementation of the relevant decisions taken by the Commission at its forty-fifth session. It may wish to take note in this context of the Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels.⁴⁶

53. The Commission may also wish to take note of General Assembly resolution 67/97, on the rule of law at the national and international levels, by paragraph 14 of which the General Assembly invited the 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 paragraph 17 of that resolution, the General Assembly decided to focus the upcoming Sixth Committee debates under the agenda item "The rule of law at the national and international levels" on subtopics "The rule of law and the peaceful settlement of international disputes" (at the sixty-eighth session of the General Assembly, in 2013) and "Sharing States' national practices in strengthening the rule of law through access to justice" (at the sixty-ninth session of the General Assembly, in 2014).

54. At its forty-sixth session, the Commission, in formulating its comments to the General Assembly on its current role in promoting the rule of law, may therefore

⁴² *Official Records of the General Assembly, 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; *ibid.*, *Sixty-fifth Session, Supplement No. 17* (A/65/17), paras. 313-336; *ibid.*, *Sixty-sixth Session, Supplement No. 17* (A/66/17), paras. 299-321; and *ibid.*, *Sixty-seventh Session, Supplement No. 17* (A/67/17), paras. 195-227.

⁴³ Resolutions 63/120, para. 11; 64/111, para. 14; 65/21 paras. 12 to 14; 66/94, paras. 15 to 17 and 67/89, paras. 16-18.

⁴⁴ *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 17* (A/65/17), para. 335.

⁴⁵ *Ibid.*, *Sixty-seventh Session, Supplement No. 17* (A/67/17), paras. 195-227.

⁴⁶ General Assembly resolution 67/1.

wish to focus on the first subtopic: “The rule of law and the peaceful settlement of international disputes”. To facilitate the formulation by the Commission of the comments on that subtopic pursuant to the above-referred invitation by the General Assembly, a panel discussion will be organized by the Secretariat with participation of experts in the areas of UNCITRAL work related to that subtopic (arbitration and conciliation and online dispute resolution).

55. The Commission may wish to invite States and observer organizations to submit their possible comments and studies on the second subtopic, “Sharing States’ national practices in strengthening the rule of law through access to justice”, to the Secretariat for consideration by the Commission at its forty-seventh session, in 2014.

(For suggested scheduling of meetings to consider this agenda item, see para. 96 below.)

16. Planned and possible future work, including in the areas of arbitration and conciliation, commercial fraud, electronic commerce, insolvency law, international contract law, microfinance, online dispute resolution, public procurement and infrastructure development, including public-private partnerships, and security interests

56. The Commission may wish to recall that at its forty-fourth session, in 2011, it requested the Secretariat to prepare for the next session of the Commission a note on strategic planning, with possible options and an assessment of their financial implications.⁴⁷ At its forty-fifth session, in 2012, the Commission had before it a note by the Secretariat (A/CN.9/752 and Add.1) submitted pursuant to that request. The Commission agreed to consider and provide guidance on UNCITRAL’s strategic direction at its forty-sixth session.⁴⁸

57. At its forty-sixth session, the Commission will have before it the above-referred note by the Secretariat (A/CN.9/752 and Add.1) and an additional note by the Secretariat on planned and possible future work by UNCITRAL (A/CN.9/774). The latter refers to background materials that the Commission may wish to consider in planning and prioritising the future work of UNCITRAL, including its legislative activity, technical assistance to law reform, promotion of uniform interpretation and application of UNCITRAL texts, status and promotion of those texts, coordination and cooperation with other organizations active in its field of activity and promoting the rule of law.

58. The Commission may wish to consider the issues of UNCITRAL’s strategic direction in the context of areas that may form future work for UNCITRAL, such as: (a) arbitration and conciliation; (b) commercial fraud; (c) electronic commerce; (d) insolvency law; (e) international contract law; (f) microfinance; (g) online dispute resolution; (h) public procurement and infrastructure development, including public-private partnerships; and (i) security interests. The Commission may wish therefore to consider this agenda item taking into account, in addition to the notes by the Secretariat referred to in the preceding paragraph, progress reports

⁴⁷ *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 17 (A/66/17)*, para. 343.

⁴⁸ *Ibid.*, *Sixty-seventh Session, Supplement No. 17 (A/67/17)*, paras. 228-232.

of its Working Groups referred to above and additional documents and oral reports referred to below.

A. Current, planned and possible future work in the existing Working Groups

(a) Working Group II (Arbitration and Conciliation)

59. In planning the future activities in the area of commercial dispute settlement, the Commission may wish to recall the conclusions reached at its forty-fifth session, in 2012, that the 1996 UNCITRAL Notes on Organizing Arbitral Proceedings⁴⁹ needed to be updated.⁵⁰ The Commission agreed to decide at a future session whether the draft revised Notes should be first examined by the Working Group before being considered by the Commission.⁵¹ The Commission may also wish to recall that, as decided at its thirty-ninth session, in 2006,⁵² the issue of arbitrability has been maintained by the Working Group on its agenda.⁵³ The Commission may also wish to note that the Secretariat had consultations on matters that may require work by the Commission in the area of commercial dispute settlement. In that respect, the question of concurrent proceedings in the field of investment arbitration was seen as an increasingly important matter.

60. Items already considered by the Commission for possible future work, as well as matters that have been brought to the attention of the Secretariat will be presented to the Commission, at its forty-sixth session. To that end, the Commission will have before it a note by the Secretariat on possible future work in the field of dispute settlement (A/CN.9/785).

(b) Working Group III (Online Dispute Resolution)

61. The Working Group is expected to continue work on the preparation of draft procedural rules for online dispute resolution for cross-border electronic transactions in 2013 and 2014. Future work is expected to encompass: guidelines and minimum requirements for online dispute resolution providers and neutrals; substantive legal principles for resolving disputes; and a cross-border enforcement mechanism.⁵⁴

(c) Working Group IV (Electronic Commerce)

62. The Working Group continues work in the field of electronic transferable records. The Commission agreed that work regarding electronic transferable records might include certain aspects of other topics such as identity management, use of

⁴⁹ Ibid., *Fifty-first Session, Supplement No. 17* (A/51/17), chap. II.

⁵⁰ Ibid., *Sixty-seventh Session, Supplement No. 17* (A/67/17), para. 70.

⁵¹ Ibid.

⁵² Ibid., *Sixty-first Session, Supplement No. 17* (A/61/17), para. 187.

⁵³ Ibid., *Sixty-second Session, Supplement No. 17* (A/62/17), part one, para. 177; *Sixty-third Session, Supplement No. 17* and corrigendum (A/63/17 and Corr.1), para. 316; *ibid.*, *Sixty-fourth Session, Supplement No. 17* (A/64/17), para. 299; and *ibid.*, *Sixty-sixth Session, Supplement No. 17* (A/66/17), para. 203.

⁵⁴ Ibid., *Sixty-sixth Session, Supplement No. 17* (A/66/17), paras. 213-214; *ibid.*, *Sixty-seventh Session, Supplement No. 17* (A/67/17), para. 73; and A/CN.9/716, para. 115.

mobile devices in electronic commerce and electronic single window facilities.⁵⁵ However, as to the extension of the mandate of the Working Group to such topics as discrete subjects (and not incidental to electronic transferable records), the Commission agreed to discuss it at a future session.⁵⁶

(d) Working Group V (Insolvency Law)

63. As noted in paragraphs 19 to 26, the Working Group has completed work on some of the topics assigned to it by the Commission. The work on updating The Model Law on Cross-Border Insolvency: the Judicial Perspective and monitoring the developments with respect to financial institution insolvency to assess the continuing relevance of the approach and solutions provided by the UNCITRAL Legislative Guide on Insolvency Law is ongoing.

64. The Commission is to discuss the remaining elements of the mandate given to the Working Group as regards a proposal by the United States of America, as described in document A/CN.9/WG.V/WP.93/Add.1, paragraph 8, to provide the guidance on the interpretation and application of selected concepts of the UNCITRAL Model Law on Cross-Border Insolvency relating to COMI and possibly to develop a model law or provisions on insolvency law addressing selected international issues, including jurisdiction, access and recognition, in a manner that would not preclude the development of a convention. In particular, the Working Group, at its forty-second session (Vienna, 26-30 November 2012), recommended that the Commission should confirm the Working Group's view that the scope of the Working Group's mandate on COMI as originally approved included COMI in the context of enterprise groups (A/CN.9/763, para. 13). Regarding the timing of consideration of that topic, it was agreed by the Working Group that that topic should be handled upon completion of the current revisions proposed for the Guide to Enactment of the UNCITRAL Model Law on Cross-Border Insolvency relating to centre of main interests of individual debtors (A/CN.9/763, para. 14). At its forty-sixth session, the Commission may have other conclusions of the Working Group as regards other additional topics for possible future work in the area of insolvency law that will be included in the report of the forty-third session of the Working Group (A/CN.9/766; not available at the date of this document).

(e) Working Group VI (Security Interests)

65. As noted in paragraph 17 above, Working Group VI (Security Interests), at its twenty-third session (New York, 8-12 April 2013), completed its work on the draft Registry Guide. Pursuant to the decision of the Commission at its forty-fifth session, in 2012, the Working Group is about to begin work to prepare a simple, short and concise model law on secured transactions. In addition, the Commission agreed to retain on the future work programme for further consideration the topic of security rights in non-intermediated securities, in the sense of securities other than those credited in a securities account.⁵⁷

⁵⁵ *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 17 (A/66/17)*, para. 235.

⁵⁶ *Ibid.*, para. 239.

⁵⁷ *Ibid.*, *Sixty-seventh Session, Supplement No. 17 (A/67/17)*, para. 105.

B. Planned or possible future work in other areas

(a) Possible future work in the area of public procurement and related areas

66. At its forty-fifth session, in 2012, the Commission agreed to explore the possibility of issuing guidance topics on several topics to support the implementation and use of the Model Law,⁵⁸ instructed the Secretariat to undertake a study of topics that were not yet adequately covered and that might warrant such guidance papers. The Commission also instructed the Secretariat to explore options for publishing and publicizing the various resources and papers themselves.⁵⁹ The Commission will hear an oral report by the Secretariat on progress of work on the topics considered by the Commission at its forty-fifth session in addition to those covered by agenda item 7 above (see paras. 28 and 29 above).

67. At its forty-fifth session, in 2012, the Commission, noting that further consideration of whether future work in public-private partnerships would be warranted would require additional research and a detailed study by the Secretariat, agreed that holding a colloquium to identify the scope of possible work and primary issues to be addressed would be helpful. It emphasized the importance of defining the scope of the colloquium in advance, using the provisions of the UNCITRAL instruments on privately financed infrastructure projects to identify needs for possible additional work. In preparation for a colloquium, the Secretariat would therefore need to define the possible topics for discussion at the colloquium itself, drawing on the resources of other bodies, including those that had offered to assist in that regard, and based on the deliberations at the current session. The results of the colloquium would thereafter be presented to the Commission for its consideration. In that regard, it was also agreed that it would be essential for there to be a clear mandate for any future work in that area.⁶⁰

68. At its forty-sixth session, the Commission will have before it the report of a colloquium on public-private partnerships, held in Vienna from 2-3 May 2013 (A/CN.9/779), and a discussion paper prepared by the Secretariat for the colloquium (A/CN.9/782).

(b) Possible future work in the area of microfinance

69. In accordance with a decision of the Commission at its forty-second session, in 2009,⁶¹ the Secretariat prepared a detailed study on microfinance (A/CN.9/698) with the purpose of identifying the need for a legal and regulatory framework aimed at supporting the microfinance sector so as to allow its continuous development. As requested by UNCITRAL, the study also included 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.

⁵⁸ Ibid., para. 110.

⁵⁹ Ibid., para. 114.

⁶⁰ Ibid., para. 120.

⁶¹ Ibid., *Sixty-fourth Session, Supplement No. 17* (A/64/17), para. 433.

70. The study and the proposals were considered by the Commission at its forty-third session, in 2010.⁶² At its forty-fourth session, in 2011, the Commission had before it the report (A/CN.9/727) of the colloquium on microfinance that the Secretariat had organized in January 2011 further to the request of the Commission. After discussion, the Commission agreed to include microfinance as an item for its future work and to further consider the matter at its next session, in 2012. In order to assist the Commission to define the areas where work was needed, the Commission requested the Secretariat to circulate to all States a short questionnaire regarding their experience with the establishment of a legislative and regulatory framework for microfinance, including any obstacles they may have encountered in that regard. Further, the Commission agreed that among the topics identified at the Colloquium, the Secretariat should, resources permitting, undertake research on the following items: (a) overcollateralization and the use of collateral with no economic value; (b) electronic money, including its status as savings, whether its “issuers” are engaged in banking (and hence what type of regulation they are subject to) and the coverage of such funds by deposit insurance schemes; (c) fair, rapid, transparent and inexpensive processes for the resolution of disputes arising from microfinance transactions; and (d) facilitating the use of, and ensuring transparency in, secured lending to microenterprises and small and medium-sized enterprises.⁶³

71. At the forty-fifth session, in 2012, the Commission had before it a note by the Secretariat (A/CN.9/756) considering these subjects as well as recommendations for further work of UNCITRAL. It also heard a short oral report by the Secretariat on the information it received from States in response to the questionnaire referred to in the preceding paragraph.⁶⁴ At that session, the Commission unanimously agreed that one or more colloquiums on microfinance and related matters would be held with a focus on topics related to creating an enabling legal environment for micro-businesses and small and medium-sized enterprises.⁶⁵

72. At its forty-sixth session, the Commission will have before it a note by the Secretariat (A/CN.9/780) outlining the key findings of the colloquium, organized by the Secretariat in Vienna on 16-18 January 2013, as well as recommendations for consideration by the Commission. The Commission will also consider a short report (A/CN.9/780/Add.1) on the States’ replies to the questionnaire circulated in 2011-2012.

(c) Possible future work in the area of international contract law

73. At its forty-fifth session, in 2012, the Commission considered the desirability of work in the area of international contract law on the basis of a proposal by Switzerland (A/CN.9/758). It was determined that there was a prevailing view in support of requesting the Secretariat to organize symposiums and other meetings, including at the regional level and within available resources, maintaining close cooperation with Unidroit, with a view to compiling further information to assist the

⁶² Ibid., *Sixty-fifth Session, Supplement No. 17* (A/65/17), paras. 274-280.

⁶³ Ibid., *Sixty-sixth Session, Supplement No. 17* (A/66/17), para. 246.

⁶⁴ Ibid., *Sixty-seventh Session, Supplement No. 17* (A/67/17), para. 125.

⁶⁵ Ibid., para. 126.

Commission in the assessment of the desirability and feasibility of future work in the field of general contract law at a future session.⁶⁶

74. For lack of resources, the Secretariat was not in the position to organize a symposium but participated in various events held on this topic. At its forty-sixth session, the Secretariat will present an oral report on this topic to the Commission.

(d) Possible future in the area of commercial fraud

75. The Commission may wish to recall that it considered the subject of commercial fraud at its thirty-fifth to forty-second sessions, from 2002 to 2009, respectively.⁶⁷ At its forty-fifth session, in 2012, the Commission took note of previous work that had been completed in the area of commercial fraud, and of a proposal that the Secretariat could organize a colloquium on the topic, resources permitting.⁶⁸ The Commission may wish to recall that previous work on this topic included a colloquium which was held in April 2004,⁶⁹ after which the Commission approved the preparation of a study intended to assist governments and the international commercial community in fighting commercial fraud.⁷⁰ Two meetings of a group of experts on commercial fraud were held in 2005 and 2007, which contributed to the preparation of the study, referred to as the “Indicators of commercial fraud” (A/CN.9/624 and addenda 1 and 2), and served to identify common characteristics in typical fraudulent schemes that provided warning of their nature, and explained those characteristics. At the request of the Commission, the “Indicators of commercial fraud” were circulated to Governments and international organizations for comment in 2007,⁷¹ following which the Commission in 2008 requested the Secretariat to make such adjustments and additions as were advisable to improve the materials and then to publish the materials as a Secretariat informational note for educational purposes and fraud prevention. The Commission also expressed its view that the materials could be incorporated by the Secretariat as a component of its broader technical assistance work, which could include dissemination and explanation to Governments and international organizations intended to enhance the educational and preventive advantages of the materials. Further, Governments and international organizations could be encouraged in turn to

⁶⁶ Ibid., paras. 127-132.

⁶⁷ Ibid., *Fifty-seventh Session, Supplement No. 17* (A/57/17), paras. 279-290; *ibid.*, *Fifty-eighth Session, Supplement No. 17* (A/58/17), paras. 231-241; *ibid.*, *Fifty-ninth Session, Supplement No. 17* (A/59/17), paras. 108-112; *ibid.*, *Sixtieth Session, Supplement No. 17* (A/60/17), paras. 216-220; *ibid.*, *Sixty-first Session, Supplement No. 17* (A/61/17), paras. 211-217; *ibid.*, *Sixty-second Session, Supplement No. 17* (A/62/17), part one, paras. 196-203; *ibid.*, *Sixty-third Session, Supplement No. 17* and corrigendum (A/63/17 and Corr.1), paras. 339-347; and *ibid.*, *Sixty-fourth Session, Supplement No. 17* (A/64/17), paras. 345-355.

⁶⁸ Ibid., *Sixty-seventh Session, Supplement No. 17* (A/67/17), para. 232.

⁶⁹ The report of the colloquium may be found in document A/CN.9/555.

⁷⁰ *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 17* (A/59/17), paras. 108-112.

⁷¹ The compilation of comments received from Governments and international organizations may be found in documents A/CN.9/659 and addenda 1 and 2.

publicise the materials and make use of them in whatever manner was appropriate, including tailoring them to meet the needs of various audiences or industries.⁷²

76. The Commission also requested the Secretariat to continue its efforts at cooperation and collaboration with the United Nations Office on Drugs and Crime (UNODC) in its work on economic fraud and identity-related crime.⁷³ In particular, the UNCITRAL secretariat has participated in UNODC's core group of experts on identity-related crime, which was formed to bring together on a regular basis representatives from Governments, private sector entities, international and regional organizations and academia to pool experience, develop strategies, facilitate further research and agree on practical action against identity-related crime. The most recent meeting of the UNODC core group of experts took place in January 2013.

77. At its forty-sixth session, the Commission will have before it a note on commercial fraud (A/CN.9/788) outlining the findings of an expert group meeting, organized by the Secretariat in Vienna on 29-30 April 2013, as well as possible recommendations for the consideration of the Commission.

(For suggested scheduling of meetings to consider this agenda item, see para. 96 below.)

17. Relevant General Assembly resolutions

78. The Commission may wish to take note of the following two General Assembly resolutions adopted on the recommendation of the Sixth Committee: resolution 67/89 on the report of the United Nations Commission on International Trade Law on the work of its forty-fifth session; and resolution 67/90 on Recommendations to assist arbitral institutions and other interested bodies with regard to arbitration under the Arbitration Rules of the United Nations Commission on International Trade Law as revised in 2010. Copies of the resolutions and the relevant report of the Sixth Committee (A/67/465) will be made available at the forty-sixth session of the Commission.

(For suggested scheduling of meetings to consider this agenda item, see para. 96 below.)

18. Other business

79. The Commission may wish to recall that at its forty-fifth session, in 2012, it decided, while not relinquishing its entitlement to summary records under General Assembly resolution 49/221, to request that digital recordings continue to be provided at its forty-sixth and forty-seventh sessions, in 2013 and 2014, on a trial basis, in addition to summary records, as was done for the forty-fifth session. The Commission agreed that at its forty-seventh session, in 2014, it would assess the experience of using digital recordings and, on the basis of that assessment, take a decision regarding the possible replacement of summary records by digital

⁷² *Official Records of the General Assembly, Sixty-third Session, Supplement No. 17* and corrigendum (A/63/17 and Corr.1), paras. 342-343; and *ibid.*, *Sixty-fourth Session, Supplement No. 17* (A/64/17), para. 348.

⁷³ *Ibid.*, *Sixty-third Session, Supplement No. 17* and corrigendum (A/63/17 and Corr.1), para. 347; and *ibid.*, *Sixty-fourth Session, Supplement No. 17* (A/64/17), para. 354.

recording. The Commission requested the Secretariat to report to the Commission on a regular basis on measures taken in the United Nations system to address possible problems with the use of digital recordings. It also requested the Secretariat to assess the possibility of providing digital recordings at sessions of UNCITRAL working groups, at their request, and to report to the Commission at its forty-seventh session, in 2014.⁷⁴ At the Commission's forty-sixth session, an oral report will be presented by the Secretariat on the experience with the use of digital recordings since the Commission's forty-fifth session.

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

81. The Commission will hear an oral report from the Secretariat on the results of evaluation by UNCITRAL of the role of the Secretariat in facilitating the work of the Commission since the start of the Commission's forty-fifth session on 25 June 2012.

(For suggested scheduling of meetings to consider this agenda item, see para. 96 below.)

19. Date and place of future meetings

Forty-seventh session of the Commission

82. The forty-seventh session of the Commission will be held in New York. Tentative arrangements have been made for the session to be held from 7 to 25 July 2014.

Sessions of working groups

83. 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.⁷⁵

84. At its forty-fifth session, in 2012, the Commission took note that the General Assembly, by paragraph 48 of its resolution 66/246 on questions relating to the proposed programme budget for the biennium 2012-2013, decided to increase non-post resources in order to provide sufficient funding for servicing the work of the Commission for fourteen weeks and to retain the rotation scheme between Vienna and New York. In the light of that decision, the Commission noted that the total number of 12 weeks of conference services per year could continue being allotted to six working groups of the Commission meeting twice a year for one week if annual sessions of the Commission were no longer than two weeks. Otherwise,

⁷⁴ Ibid., *Sixty-seventh Session, Supplement No. 17* (A/67/17), para. 249.

⁷⁵ Ibid., *Fifty-eighth Session, Supplement No. 17* (A/58/17), para. 275.

adjustments would need to be made within the current 14-week allotment for all sessions of the Commission and its working groups.⁷⁶

Sessions of working groups between the forty-sixth and the forty-seventh sessions of the Commission

Working Group I

85. The twenty-second session of the Working Group could be held in Vienna, from 23 to 27 September 2013, and the twenty-third session could be held in New York, from 10 to 14 February 2014, subject to confirmation by the conference management services of the United Nations Secretariat.

Working Group II (Arbitration and Conciliation)

86. The fifty-ninth session of the Working Group could be held in Vienna, from 16 to 20 September 2013, and the sixtieth session could be held in New York, from 3 to 7 February 2014, subject to confirmation by the conference management services of the United Nations Secretariat.

Working Group III (Online Dispute Resolution)

87. The twenty-eighth session of the Working Group could be held in Vienna, from 18 to 22 November 2013, and the twenty-ninth session could be held in New York, from 31 March to 4 April 2014, subject to confirmation by the conference management services of the United Nations Secretariat.

Working Group IV (Electronic Commerce)

88. The forty-eighth session of the Working Group could be held in Vienna, from 9 to 13 December 2013, and the forty-ninth session could be held in New York, from 28 April to 2 May 2014, subject to confirmation by the conference management services of the United Nations Secretariat.

Working Group V (Insolvency Law)

89. The forty-fourth session of the Working Group could be held in Vienna, from 16 to 20 December 2013, and the forty-fifth session could be held in New York, from 21 to 25 April 2014, subject to confirmation by the conference management services of the United Nations Secretariat.

Working Group VI (Security Interests)

90. The twenty-fourth session of the Working Group could be held in Vienna, from 7 to 11 October or 2 to 6 December 2013, and twenty-fifth session could be held in New York, from 24 to 28 March 2014, subject to confirmation by the conference management services of the United Nations Secretariat.

(For suggested scheduling of meetings to consider this agenda item, see para. 96 below.)

⁷⁶ Ibid., *Sixty-seventh Session, Supplement No. 17* (A/67/17), para. 258.

20. Adoption of the report of the Commission

91. 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,⁷⁷ 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 paragraphs 92-94 and 96 below.)

III. Scheduling of meetings and documentation

92. The Secretariat recommends that the Commission devote the time from 8 to 11 July 2013 to consideration of item 4 on the agenda. Adoption of the report of the Commission on this agenda item and of the UNCITRAL rules on transparency in treaty-based investor-State arbitration may be expected to take place on Thursday, 11 July, or Friday, 12 July 2013.

93. The Secretariat recommends that the Commission devote the time from 12 to 17 July 2013, to consideration of item 5 on the agenda. Adoption of the report of the Commission on this agenda item and of the Technical Legislative Guide on the Implementation of a Security Rights Registry may be expected to take place on Wednesday, 17 July 2013.

94. The Secretariat recommends that the Commission devote the time from 18 to 19 July 2013 to consideration of item 6 on the agenda. Adoption of the report of the Commission on this agenda item as well as the revisions to the Guide to Enactment of the UNCITRAL Model Law on Cross-Border Insolvency, the legislative recommendations on directors' obligations in the period approaching insolvency and The revised Model Law on Cross-Border Insolvency: the Judicial Perspective may be expected to take place on Friday, 19 July 2013.

95. The Secretariat recommends that the Commission devote the time from 19 to 24 July 2013 to consideration of the remaining items on its agenda. The panel discussion referred to in paragraph 54 above is suggested to take place on Tuesday afternoon, 23 July 2013. The Secretariat was requested to reserve sufficient time in the draft agenda for the forty-sixth session of UNCITRAL to allow for a detailed discussion of a strategic direction and planning for UNCITRAL.⁷⁸ The Secretariat recommends therefore that the consideration of agenda 16 will start on Wednesday morning, 24 July 2013.

96. No formal meetings will be held on Thursday, 25 July 2013, which will be used for the meeting of CLOUT national correspondents (see para. 37 above) and by the Secretariat to prepare the remaining parts of the draft report (i.e., not adopted earlier during the session, see paras. 92-94 above), which will be presented to the Commission for adoption on Friday, 26 July 2013.

⁷⁷ Ibid., *Twenty-third Session, annexes*, agenda item 88, document A/7408, para. 3.

⁷⁸ Ibid., *Sixty-seventh Session, Supplement No. 17* (A/67/17), paras. 228-232.

97. 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.

98. Meetings will be held from 9.30 a.m. to 12.30 p.m. and from 2 p.m. to 5 p.m., except on Monday, 8 July, when the morning meeting will commence at 10 a.m.

99. UNCITRAL documents are posted on the UNCITRAL website (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-sixth session by accessing the page of the forty-sixth session of the Commission in the "Commission Documents" section of the UNCITRAL website (www.uncitral.org/).
