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Chair: Ms. Al-Thani (Qatar)

Contents

Agenda item 80: Report of the United Nations Commission on International Trade Law on the work of its fifty-fourth session

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The meeting was called to order at 10 a.m.

Agenda item 80: Report of the United Nations Commission on International Trade Law on the work of its fifty-fourth session (A/76/17)

1. **Mr. Johnson** (Chair of the United Nations Commission on International Trade Law (UNCITRAL), introducing the Commission's report on the work of its fifty-fourth session (A/76/11), said that the session had been held in hybrid format, with most delegations participating remotely. Indeed, it had been the most well attended session in the Commission's history.

2. The Commission had not undertaken any legislative deliberations over the previous year but had encouraged its working groups to continue and, where possible, finalize their work. As a result, it had to consider a number of legislative texts during the session, adopting six of them. The Commission had adopted two texts concerning micro- and small enterprises: the UNCITRAL Legislative Guide on Limited Liability Enterprises and the UNCITRAL Legislative Recommendations on Insolvency of Micro- and Small Enterprises, which were expected to assist States in their economic recovery efforts following the coronavirus disease (COVID-19) pandemic. The Legislative Guide would help States provide a simplified legal form for those enterprises, in order to encourage their inclusion in the formal economy, while the Legislative Recommendations would facilitate access to expeditious, simple, flexible and low-cost insolvency proceedings them. The Commission had underscored the importance of close coordination with the World Bank Group on the development of a unified international standard in the area of insolvency law that included provisions on the insolvency of micro- and small enterprises.

3. The Commission had also adopted three texts related to mediation: the UNCITRAL Mediation Rules, the UNCITRAL Notes on Mediation, and the Guide to Enactment and Use of the UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation (2018). Those texts would complement the United Nations Convention on International Settlement Agreements Resulting from Mediation and the UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation to form a comprehensive legal framework governing mediation. Lastly, it had also adopted the UNCITRAL Expedited Arbitration Rules, an optional set of rules for a simpler, shorter and more streamlined arbitral procedure, designed to balance the

efficiency of arbitral proceedings with the right to due process and fair treatment.

4. With regard to future work, Working Group I (Micro-, Small and Medium-sized Enterprises) would address the issue of access to credit for such enterprises; Working Group II (Dispute Settlement) would begin to examine issues concerning early dismissal in international arbitration; Working Group III (Investor-State Dispute Settlement Reform) would continue its work on the reform of the investor-State dispute settlement system; Working Group IV (Electronic Commerce) would finalize the draft text on identity management and trust services, in time for it to be submitted to the Committee at the seventy-seventh session of the General Assembly, and begin to consider the use of artificial intelligence and automation in contracting; Working Group V (Insolvency Law) would begin its work on civil asset tracing and recovery and on applicable law in insolvency proceedings; and Working Group VI (Judicial Sale of Ships) would continue to prepare a draft international instrument on the topic, with a view to its consideration by the Committee at the seventy-seventh session of the General Assembly.

5. The Commission had requested its secretariat to continue with the preparatory work for the development of a model law on the private law aspects of warehouse receipts, in coordination with the International Institute for the Unification of Private Law (UNIDROIT), and to continue its work on negotiable multimodal transport documents, including the preparation of a preliminary draft of a new instrument on negotiable multimodal transport documents. It had also requested the secretariat to continue its consideration of legal issues related to the digital economy and digital trade, including with regard to the legal taxonomy of emerging technologies and their applications. The secretariat's work on the legal regime governing data transactions would be expanded to include dispute resolution in the digital economy.

6. The Commission had further requested the secretariat to continue its exploratory work on legal issues related to the impact of COVID-19 on international trade law and on options for the establishment of an online platform for the exchange of information among States. Following a proposal that the Commission examine how its existing texts could be aligned with climate change mitigation, adaptation and resilience goals, and whether it could do further work to facilitate those goals in the implementation of those texts or through the development of new texts, the Commission had requested the secretariat to consult with interested States with a view to developing a more detailed proposal.

7. The Commission had decided to recommend to the General Assembly that additional conference and supporting resources be allocated to the secretariat for a single period of four years, from 2022 to 2025, to enable the implementation of the work programme developed by Working Group III. The work would be completed no later than 2026. The Commission was grateful to France, Germany and the European Union for the support that they had provided to enable Working Group III to hold intersessional meetings in different regions of the world. The Commission had also decided to recommend to the General Assembly that the membership of UNCITRAL be enlarged from 60 to 70 States, .

8. The Commission's work programme also included a wide range of non-legislative activities. As a result of the move to an online format for technical cooperation and assistance activities, the number of participants in such activities had tripled as compared with 2018, reaching more than 24,000 in 2020, and the proportion of participants from Africa, Asia and Latin America and the Caribbean had increased. The Commission had expanded its engagement with academic partners, including through the UNCITRAL Asia-Pacific Day and the inaugural UNCITRAL Latin America and the Caribbean Day. The Commission had increased its online and social media presence and made greater use of videoconferences and webinars, in response to the emerging interest in UNCITRAL from a broader audience. An online course entitled "Introduction to the United Nations Commission on International Trade Law" had also been developed. The Commission was grateful to those States and organizations that had contributed to the UNCITRAL trust funds and the repository of published information under the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration (the "transparency repository").

9. The Commission had held two virtual panel discussions on technical assistance activities, one related to post-pandemic recovery for micro-, small and medium-sized enterprises and the other celebrating the UNCITRAL Asia-Pacific Day and the inaugural UNCITRAL Latin America and the Caribbean Day. He had called upon States to host an inaugural series of UNCITRAL Africa Day in 2022.

10. The Commission had emphasized the benefits of the Case Law on UNCITRAL Texts (CLOUT) system as a tool to support continued and sustained capacity-building in the use and implementation of UNCITRAL texts, welcomed the secretariat's ongoing efforts to implement measures to rejuvenate CLOUT, and expressed its gratitude to the secretariat for compiling cases and establishing CLOUT partnerships. It had also expressed appreciation to the secretariat for its

continued efforts to update the existing digests of case law on UNCITRAL texts and ensure their wide dissemination. The Commission had decided that, in its comments to the General Assembly pursuant to the Assembly's resolution 75/141, it would highlight its role in the promotion of the rule of law and the achievement of the Sustainable Development Goals.

11. The side events of the session had included an African forum, in which 50 representatives of African States had come together to share their thoughts on areas of commercial law that were particularly relevant to the region, such as the digitization of the economy and the establishment of a harmonized legal framework for the fair and efficient settlement of international investment disputes. Participants had highlighted the critical importance of transparency, accountability and good governance in the commercial law framework and agreed that it was critical to enhance the participation of African countries in the work of UNCITRAL, in order to ensure that regional interests were reflected in the Commission's work.

12. He urged all Member States to continue to support the Commission, whose work was more relevant than ever, given the need to continue harmonizing and modernizing international trade law in the light of the COVID-19 pandemic, evolving business practices, the digital revolution and the potentially disruptive effects of new technologies.

13. **Ms. Tolstoi** (Representative of the European Union, in its capacity as observer), speaking also on behalf of the candidate countries Albania, Montenegro, North Macedonia and Serbia; the stabilization and association process country Bosnia and Herzegovina; and, in addition, Georgia, the Republic of Moldova and Ukraine, said that the Commission's work on investor-State dispute settlement reform should be a priority. The European Union considered that, where dispute resolution involved public matters, a standing body and a multilateral approach were best suited to addressing all the issues at stake. Working Group III (Investor-State Dispute Settlement Reform) should therefore be given more meeting time and resources for its work. In that connection, her delegation supported the Commission's recommendation to the General Assembly that additional conference and supporting resources be allocated to cover one additional one-week session per year and supporting resources for Working Group III.

14. Considering the significant advantages that the Commission presented in terms of transparency, openness and accessibility, the European Union and its member States encouraged all countries, international organizations and observers to participate actively in the

discussions. The European Union, France and Germany had contributed to the trust fund established to provide travel assistance to developing countries that were members of the Commission, in an effort to make the process as inclusive as possible, and encouraged others to make contributions as well. The European Union and its member States continued to hope that, with the active engagement of all countries and interested organizations, a satisfactory outcome could be reached in a timely manner.

15. Her delegation was that pleased the proposal it had made on behalf of its member States for possible future work by UNCITRAL on applicable law in insolvency proceedings would be taken up by Working Group V (Insolvency Law).

16. **Ms. Laukannen** (Finland), speaking on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), said that those delegations supported the Commission's role in promoting rules-based cooperation in an increasingly economically interdependent world. They appreciated the Commission's valuable efforts to cooperate closely with other international organizations working in international trade law. They also welcomed its efforts to continue working in a flexible and constructive spirit, despite the exceptional circumstances resulting from the COVID-19 pandemic.

17. With regard to the texts adopted by the Commission, the Nordic countries believed that the UNCITRAL Legislative Guide on Limited Liability Enterprises and the UNCITRAL Legislative Recommendations on Insolvency of Micro- and Small Enterprises would promote stable small-scale economic activity, in particular in developing countries, and that the UNCITRAL Expedited Arbitration Rules would encourage the cost- and time-effective resolution of commercial disputes. The UNCITRAL Mediation Rules, the UNCITRAL Notes on Mediation and the Guide to Enactment and Use of the UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation (2018) would foster access to justice through mediation.

18. The Nordic countries welcomed the commencement of work by Working Group I on access to credit for micro-, small and medium-sized enterprises, and were pleased that Working Group II would take up the questions of early dismissal and adjudication. They commended Working Group III for addressing a number of concrete aspects of investor-State dispute settlement reform, such as the means to address frivolous claims. The informal consultations

held on drafts produced by Working Group III had been very useful. The Nordic countries welcomed the work carried out by Working Group VI (Judicial Sale of Ships) and would follow its progress closely. Those delegations supported the conduct of further exploratory work on negotiable multimodal transport documents and legal issues related to the digital economy.

19. **Mr. Khng** (Singapore) said that his Government had continued to build awareness of the United Nations Convention on International Settlement Agreements Resulting from Mediation, also known as the Singapore Convention on Mediation, which offered a viable option for non-adversarial cross-border dispute resolution and was of particular importance in the current time of economic uncertainty. His delegation welcomed the recent signings and ratifications of the Convention and stood ready to provide more information on the Convention to interested delegations. In 2021, Singapore had transposed the UNCITRAL Model Law on Electronic Transferable Records into its domestic law. The creation and use of transferable documents and instruments as provided for in the Model Law would result in greater efficiencies, lower the risk of fraud and promote innovative business models. Singapore and the UNCITRAL secretariat had organized the inaugural UNCITRAL Academy, which had been held as part of the Singapore Convention Week 2021.

20. His delegation commended the Commission for the adoption of the UNCITRAL Legislative Guide on Limited Liability Enterprises, which strengthened the Commission's body of work aimed at reducing legal obstacles faced by micro, small and medium-sized enterprises, and the three texts on mediation, which had completed the UNCITRAL mediation framework. The UNCITRAL Expedited Arbitration Rules were particularly useful, as they provided a reliable option for cost- and time-efficient dispute resolution. His delegation also welcomed the adoption of the UNCITRAL Legislative Recommendations on Insolvency of Micro- and Small Enterprises, which provided for an effective simplified policy framework to address the financial distress of micro and small enterprises. Their adoption was particularly timely, given that the number of insolvencies of such enterprises was expected to increase owing to the impact of the pandemic.

21. Singapore supported the Commission's work programme, in particular with regard to the work to be undertaken by Working Group I on access to credit for micro, small and medium-sized enterprises and the plans for Working Group V to consider the topics of civil asset tracing and recovery and applicable law in insolvency proceedings. His delegation also supported the

Commission's recommendation concerning the allocation of additional resources to Working Group III, which reflected the need to ensure inclusive and effective participation in the work on investor-State dispute settlement reform.

22. **Ms. Cerrato** (Honduras) said that her delegation commended the Commission for adjusting its working methods in order to be able to carry out its work during the COVID-19 pandemic. It also welcomed the secretariat's efforts to ensure transparency, inclusiveness, flexibility, effectiveness and equality. Honduras had been one of the first countries to sign the Singapore Convention on Mediation and had ratified it in September 2021. The Convention reflected the recognition of the value of mediation, which was being used more and more in international trade as an alternative to judicial proceedings.

23. Honduras placed great importance on the technical cooperation and assistance provided by the Commission to developing countries and, in that connection, welcomed the launch of the Latin American and Caribbean Day event. Her delegation hoped that UNCITRAL would help improve the entire legal framework applicable to micro-, small and medium-sized enterprises, throughout their life cycles. In her country, such enterprises provided an alternative to migration, helped reduce income inequality and promoted the achievement of the Sustainable Development Goals. They would also play a crucial role in the recovery of the Honduran economy following the COVID-19 pandemic and the devastation caused by Hurricane Eta and Hurricane Iota. Her delegation welcomed the legislative texts adopted or approved by the Commission at the session.

24. Honduras had adopted a number of laws that reflected the content of some of the Commission's texts, including laws governing the development of micro-, small and medium-sized enterprises, conciliation and arbitration, electronic signatures and electronic trade. It had also acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards and ratified the United Nations Convention on the Use of Electronic Communications in International Contracts.

25. **Mr. Kanu** (Sierra Leone) said that his delegation welcomed the business continuity and progress achieved by the Commission despite the continuing challenges of the COVID-19 pandemic, including the adoption of a number of texts that would help address the legal ramifications of disruptions to international trade resulting from the pandemic.

26. Sierra Leone commended the progress made by Working Group I, the procedural issues that had arisen

at its thirty-fifth session notwithstanding, and took note of its consideration of issues concerning access to credit for micro-, small and medium-sized enterprises at its thirty-sixth session. In accordance with its mandate to prepare legal standards aimed at reducing the legal obstacles encountered by those enterprises throughout their life cycle. His delegation supported the work of the Working Group, which was in line with the principle of "think small first", and agreed with the suggestion that the secretariat prepare a future text on access to credit for micro-, small and medium-sized enterprises, with assistance from a representative group of experts and giving due regard to the need for the text to be balanced.

27. His delegation took note of the progress made by Working Group III on investor-State dispute settlement reform. Given the importance of the topic to Member States, in particular developing countries, a speedy pace of work should not come at the expense of an outcome that was legitimate and ensured the uniform application and interpretation of the "multiple reform solutions" envisaged by the Working Group. In that regard, his delegation was gravely concerned about the idea of adopting reform options on a rolling basis, as that would disrupt efforts to take a holistic approach to reform.

28. His delegation supported the suggestion that Working Group III conduct a periodic review of the workplan to monitor and evaluate its progress and ensure the full and effective participation of all States and other interested stakeholders. Given that the Working Group was to ensure that the deliberations, while benefiting from the widest possible breadth of available expertise from all stakeholders, would be government-led, with high-level input from all Governments, consensus-based and fully transparent, it was crucial and appropriate to enhance and facilitate the participation of developing countries in its activities. His delegation therefore urged the Commission to implement paragraph 17 of General Assembly resolution [75/133](#) by clarifying and simplifying the process for participating in meetings of Working Group III.

29. Sierra Leone welcomed the Commission's provisional decision to hold its fifty-fifth session in New York and took note of the schedule for the working group sessions. Notwithstanding the ongoing pandemic, every effort must be made to ensure that in-person meetings scheduled for New York were actually held in New York. His delegation also supported the Commission's recommendation concerning the enlargement of its membership and endorsed the Chair's call for States to host an inaugural series of events for the UNCITRAL African Day in 2022.

30. In a significant step towards providing adequate capacity-building on the implementation of UNCITRAL texts, the secretariat of the Commission had begun preliminary engagement with Sierra Leone in relation to the enactment, implementation and uniform interpretation of legislative texts adopted by UNCITRAL. His delegation was grateful to those States that had contributed to the trust fund for granting travel assistance to developing countries members of UNCITRAL, and joined the Commission in calling upon States, relevant bodies of the United Nations system, organizations, institutions and individuals to consider making contributions to the UNCITRAL trust funds in order to facilitate planning and enable the secretariat to meet the increasing number of requests for technical assistance and cooperation and travel assistance activities.

31. **Mr. Ghorbanpour Najafabadi** (Islamic Republic of Iran) said that his delegation was grateful to the Chair and secretariat of UNCITRAL for their professional and efficient work in facilitating the Commission's session, despite the challenges posed by the COVID-19 pandemic. It welcomed the holding of the first UNCITRAL Academy and commended the secretariat for the launch of the online introductory course on UNCITRAL. His delegation appreciated the continuing efforts of UNCITRAL on the regulation of various matters concerning micro-, small and medium-sized enterprises and believed that the UNCITRAL Legislative Guide on Limited Liability Enterprises would be beneficial, provided that it was properly promoted. The three recently adopted texts on mediation would also be very useful.

32. While the discussions on the work of Working Group III (Investor-State Dispute Settlement Reform) had the potential to become somewhat controversial and challenging, his delegation believed that the Working Group would be able to overcome the difficulties it might face through the support of the secretariat and good leadership. His delegation attached great importance to issues related to the digital economy and looked forward to receiving analytical reports from the secretariat on aspects that would be taken up by Working Group IV. It appreciated that Working Group V had worked diligently to develop a simplified insolvency regime and looked forward to fruitful discussions in the near future on civil asset tracing and recovery. With regard to the work of Working Group VI, his delegation reiterated its concerns about the potential negative impact of the unprecedented practice of developing a draft United Nations convention on the basis of a text prepared by a non-governmental organization.

33. His delegation welcomed the long-standing collaboration among UNCITRAL, the Hague Conference on Private International Law and UNIDROIT and would appreciate greater clarification regarding the interaction between the instruments produced by the three organizations.

34. The discussions on enlarging the membership of the Commission had not resulted in equitable geographical distribution, and countries from Africa and Asia remained underrepresented. States opposing that outcome had agreed to the text of the draft resolution to be submitted to the General Assembly in a spirit of compromise. The Islamic Republic of Iran therefore encouraged and expected the Commission to continue to explore the issue of inequitable representation. Lastly, while the pandemic had had negative consequences for trade and led to the imposition of worldwide trade restrictions, it should be noted that unilateral coercive measures had impeded trade between States on a much broader multinational scale.

35. **Ms. Arumpac-Marte** (Philippines) said that her delegation recognized the Commission's role in promoting the rule of law at the international and national levels and its contribution to the achievement of the Sustainable Development Goals through the establishment and facilitation of fair, stable and predictable legal frameworks. The Philippines was therefore pleased that UNCITRAL continued to effectively discharge its mandate despite the constraints imposed by the pandemic, as evidenced by the number of instruments it had adopted during the session.

36. The working groups, in particular Working Group III (Investor-State Dispute Settlement Reform), had made satisfactory progress during the session. Her delegation commended the Commission's continued robust engagement with other stakeholders, including international governmental and non-governmental organizations, such as the Hague Conference on Private International Law, UNIDROIT and the Permanent Court of Arbitration, and its recognition of their contributions to international trade law, in particular the work of UNIDROIT on general rules for international commercial contracts.

37. Her delegation hoped to see progress on the preparation of a model law on warehouse receipts and the development of a new international instrument on negotiable multimodal transport documents, and looked forward to future discussions on dispute resolution in the digital economy and the use of artificial intelligence and automation in contracting. Her delegation welcomed the secretariat's exploratory work on legal issues related to the impact of COVID-19 on

international trade law. It looked forward to the establishment of an online platform for information exchange by States on that matter and hoped to see progress regarding the proposal to consider the topic of climate change mitigation, adaptation and resilience.

38. UNCITRAL should receive sufficient, adequate and predictable resources to enable it to implement its ambitious future programme of work; Working Group III, in particular, would benefit from certainty and predictability in that regard. Her delegation urged Member States to consider favourably the recommendation that additional conference time and supporting resources be allocated to the secretariat for the work on investor-State dispute settlement for the period 2022–2025.

39. Her delegation supported the proposal to enlarge the membership of UNCITRAL. While it considered that equal and balanced representation of Member States should be ensured with the inclusion of a proportionate number of members from the Group of 77 and China, it was prepared to engage constructively on the matter on the basis of the draft resolution proposed in the Commission's report (A/76/17). Lastly, the Philippines was grateful to the UNCITRAL Regional Centre for Asia and the Pacific which, with significant support from the Republic of Korea, had done much to raise awareness of UNCITRAL and build regional capacities in relation to international trade law.

40. **Mr. Abdelaziz** (Egypt) said that his delegation supported the proposal that the secretariat be given additional means to support the work of Working Group III (Investor-State Dispute Settlement Reform), which it hoped would lead to a comprehensive reform of the legal regime to protect developing States from certain harmful practices, including frivolous suits and third-party funding. Such an outcome would also improve predictability in the interpretation and application of international investment agreements. It was therefore important to strengthen alternative dispute resolution mechanisms, including mediation, which had proved effective in preventing disputes and facilitating their resolution. Efforts should be made to strengthen States' capacities in investor-State dispute resolution, which would help foster international trade without undermining the rights of developing States.

41. With regard to the proposal that the membership of the Commission be increased from 60 to 70 States, his delegation believed that it was important to ensure the equitable and proportionate representation of all legal cultures and systems, and to increase the representation of developing States, particularly African States.

42. **Mr. Evseenko** (Belarus) said that the Commission played an important role in the development of authoritative standard-setting documents, such as universal international agreements and soft law instruments related to international trade. In particular, his delegation appreciated the Commission's adoption of a number of texts during the session and its efforts to develop ethical standards for international arbitration, address the issue of parallel proceedings in the context of investment arbitration and develop public-private partnerships. It also valued the efforts of the Commission's secretariat and national correspondents to introduce the CLOUT system and noted that examples of best practices contributed by Belarusian experts had been included in the database.

43. His delegation supported the Commission's efforts to provide Member States with technical assistance in updating laws related to international trade and bringing them in line with the Commission's guidance. It supported the consensus decision to enlarge the Commission's membership. Doing so would advance the work of the Commission and enhance its international standing. The Commission's depoliticized nature and high level of expertise were largely responsible for its success and that of the international legal standards it had developed. His delegation hoped that other multilateral forums would learn from the Commission's example.

44. **Ms. Solano Ramirez** (Colombia) said that her delegation had participated actively in the work of all the UNCITRAL working groups. It welcomed the legislative texts finalized and adopted by the Commission during the session and the progress made by Working Group III (Investor-State Dispute Settlement Reform), Working Group IV (Electronic Commerce) and Working Group VI (Judicial Sale of Ships) during the session. Colombia was pleased that the Commission was considering the impact of COVID-19 on international trade law and strongly supported further work on the topic of climate change mitigation, adaptation and resilience. Her delegation welcomed the celebration of the UNCITRAL Latin America and the Caribbean Day and commended the secretariat for its technical cooperation and assistance activities and its increased interaction with the academic sector.

45. Her delegation agreed that it was necessary to enlarge the membership of the Commission and welcomed the broader geographical reach of the Commission's support activities, which had been facilitated by the secretariat's commitment to multilingualism. Colombia stood ready to engage in dialogue concerning all mechanisms necessary to facilitate the Commission's work, including those

related to its budget, and to engage in technical discussions within all the working groups.

46. **Mr. Simonoff** (United States of America) said that his delegation commended the member States, observers and secretariat of UNCITRAL for their efforts to promote the development and harmonization of international commercial law. The secretariat should be commended for its tireless efforts to facilitate productive meetings in spite of the challenges presented by the COVID-19 crisis. The Commission's new procedural rules for expedited arbitration and the new instruments concerning mediation would bring important efficiencies and benefits to cross-border dispute settlement, while the new legislative guides on access to credit and insolvency of micro-, small and medium-sized enterprises would help those enterprises to thrive during and after the pandemic.

47. His delegation noted with satisfaction that the Commission had approved work on a number of new projects, including work on asset tracing and recovery and applicable law in insolvency proceedings, and a colloquium to explore potentially fruitful areas for further work on dispute resolution in the digital economy. The United States looked forward to further discussions with the secretariat and other delegations on ways to shape the project on artificial intelligence and automation in contracting.

48. Although the United States had strong reservations about the allocation of additional conference time and resources to Working Group III as a general matter, it did not object to the consensus to provide additional resources on a one-time basis for a period of four years, subject to annual review by the Commission. That review would be key to ensuring that the Working Group used its time efficiently and would be able to present the Commission with completed reform options on a rolling basis. The United States appreciated that the enlargement of the Commission's membership had raised a number of important questions on the appropriate size and composition of UNCITRAL, and it welcomed the consensus decision that had been reached.

49. His delegation hoped to see continued progress on the joint project of UNCITRAL and UNIDROIT on warehouse receipts and looked forward to the assignment of that project to a working group in the near future. The United States would continue to engage productively with UNCITRAL and hoped that the Commission would continue to develop and promote effective, usable instruments supporting stable and predictable legal outcomes for citizens and businesses.

50. **Mr. Milano** (Italy) said that his delegation welcomed the progress that UNCITRAL had made at its

session despite the difficulties stemming from the pandemic. The working groups had also carried out profitable work during their informal meetings. His delegation looked forward to the resumption of in-person sessions but encouraged the Commission to take into account the lessons learned through its recent experience with the use of online tools.

51. Italy was pleased to see that the Commission remained an effective forum for deliberations on mutually agreed tools to improve the rules and regulations in respect of international trade law. The Commission had an expanding role to play in assisting Member States as they adapted their legislation to changing needs, including in connection with new technologies and the specific characteristics of micro-, small and medium-sized enterprises, as well as in relation to sustainable development. His delegation particularly welcomed the adoption of the UNCITRAL Legislative Guide on Limited Liability Enterprises which, together with other instruments developed by Working Group I, would help States establish a more inclusive legal environment for micro-, small and medium-sized enterprises.

52. Italy was pleased that the Commission intended to consider the early dismissal of claims in international arbitration, the use of artificial intelligence and automation in contracting, and the alignment of UNCITRAL texts with climate change mitigation and adaptation policies. The Commission must be able to address effectively issues that would be critical in the future governance of international trade law, such as investor-State dispute settlement reform. That topic had attracted the interest of a large number of delegations from around the world, as well as legal practitioners, academics and other observers. His delegation would continue to support the implementation of the Commission's projects.

53. **Ms. Flores Soto** (El Salvador) said that her delegation commended the secretariat for the work it had carried out in 2020 and 2021 despite being faced with unprecedented obstacles, in particular the holding of the first "Introduction to the United Nations Commission on International Trade Law" course. Similar courses should be held in the future.

54. The UNCITRAL working groups made an invaluable contribution to the codification of international trade law. Her delegation particularly welcomed the adoption of the UNCITRAL Legislative Recommendations on Insolvency of Micro- and Small Enterprises and the UNCITRAL Legislative Guide on Limited Liability Enterprises, which would contribute to the establishment of simple, expeditious and low-cost

mechanisms for dealing with insolvency in the very important sector of micro-, small and medium-sized enterprises. Support for such enterprises was crucial for economic development, and the Legislative Recommendations would help promote economic recovery.

55. Her delegation also welcomed the updated dispute settlement framework provided by the various texts on mediation and arbitration adopted by the Commission during the session, owing largely to the work of Working Group II (Dispute Settlement). El Salvador supported the mandate of Working Group IV (Electronic Commerce) to prepare a draft text on the use and cross-border recognition of identity management and trust services. Her delegation supported the Commission's expression of satisfaction with the progress made by the Working Group and its request that the Working Group finalize its work and submit it for the consideration of the Commission at its fifty-fifth session.

56. El Salvador also shared the Commission's satisfaction with the secretariat's efforts to cooperate and coordinate work with other organizations and entities, within and outside the United Nations system, as such cooperation would help prevent duplication of work and promote efficiency, uniformity and coherence in the unification and harmonization of international trade law. Her delegation remained committed to working with UNCITRAL to promote the adoption and use of legislative and non-legislative instruments in the field of international trade law and strengthen national legal systems. It believed that enlarging the membership of the Commission was important.

57. **Ms. Hackman** (Ghana) said that her delegation commended the secretariat's efforts to limit disruption to the work of the Commission during the COVID-19 pandemic. The remarkable cooperation of States members of UNCITRAL during the session had made it possible for the Commission to finalize six legislative texts, in spite of the difficult circumstances.

58. Her delegation took note of the progress made by Working Groups IV and VI and supported the call for Working Group III (Investor-State Dispute Resolution Reform) to be afforded additional time and resources. The work of Working Group III should not be unduly delayed, nor should it be conditioned – expressly or de facto – on the attainment of a prior consensus on the incremental reform proposals being discussed within the Working Group.. Investor-State dispute resolution reform was important to developing countries, in particular African countries. Moreover, the workplan of Working Group III should be treated with the flexibility necessary to allow the Working Group to adapt to

changes and new developments. Ghana therefore urged all delegations to consider granting the Commission's request.

59. The development of an investment protocol for the African Continental Free Trade Area was ongoing. An instrument reforming investor-State dispute resolution that addressed the prevailing realities would help facilitate the satisfactory resolution of the large number of disputes that had characterized relations between States and investors in recent years and thereby greatly enhance trade and development, especially in Africa. Her delegation commended the Commission for the development of the UNCITRAL Legislative Guide on Limited Liability Enterprises and would support further work in that regard.

60. Ghana would have preferred the proposed enlargement of the membership of the Commission to reflect equitable geographical representation. It hoped that the proposed expansion would not set a precedent for the future. Although the draft resolution on the enlargement of the membership did not meet the aspirations of all members of the Commission, in particular developing countries, it was a crucial step forward. Ghana therefore urged all delegations to support the adoption of the draft resolution. Lastly, her delegation urged the secretariat to enhance capacity-building on international commercial law, within the Commission's mandate, and to ensure the participation of African States in the work of the Commission.

61. **Mr. Hernandez Chavez** (Chile) said that, at the current stage of its work, the Commission needed to strengthen transparency, inclusion, effectiveness and discipline and to embrace new working methods and incorporate new topics in its work programme. The Commission's coherence and flexibility in carrying out its work in an increasingly integrated and cross-cutting manner and in seeking greater complementarity with the work of other organizations were reflected in its report (A/76/17). Chile reaffirmed the Commission's leadership in developing new legal frameworks and reviewing existing ones to bring them into line with new realities and better address and facilitate recovery from crises.

62. As part of its ongoing support for the work of the Commission, Chile had chaired Working Group II (Dispute Settlement). It believed that the UNCITRAL Expedited Arbitration Rules and the explanatory note thereto addressed the need for simpler procedures that preserved the autonomy of parties and reflected procedural safeguards in arbitration proceedings. Chile had also participated actively in the other working groups and intended to continue contributing to the

Commission's work on the basis of equality, equity, shared interest, and respect for and promotion of the rule of law with a view to achieving greater harmonization of international trade law, bearing in mind the different realities, traditions and approaches of States. It hoped to retain its seat on the Commission in the period from 2022 to 2028.

63. Chile had incorporated valuable elements of the Commission's work on insolvency law into its domestic laws, thereby strengthening protection for small and medium-sized enterprises, especially in crisis situations, and strengthening the entrepreneurial sector as a driver of the economy and creator of jobs. His delegation appreciated the enormous efforts made by Working Group III (Investor-State Dispute Settlement Reform) in relation to the UNCITRAL Mediation Rules, which included provisions that would facilitate negotiated solutions and help avoid the escalation of disputes. In an increasingly globalized world, issues of global interest required harmonized legal approaches. UNCITRAL was tasked with developing model instruments aimed at deepening the study of matters relating to the digital economy, the use of artificial intelligence and trade platforms and proposing effective solutions to address trade disputes through streamlined instruments such as those related to mediation, expedited arbitration and investor-State dispute settlement.

64. His delegation attached special importance to the conclusions of the exploratory work undertaken by the UNCITRAL secretariat to evaluate the measures implemented by States to mitigate the effects of the pandemic in the areas of investment and cross-border trade, which should be read in conjunction with similar studies conducted by organizations such as the World Trade Organization and the Organisation for Economic Co-operation and Development. The proposal to increase the membership of UNCITRAL reflected States' interest in participating in the work of the Commission. There was a collective responsibility to maintain a regional balance in UNCITRAL membership and thus ensure effective and more active participation in the working groups and in the advancement of the Commission's work. Lastly, Chile was committed to maintaining the high academic level that had characterized the first UNCITRAL Latin America and the Caribbean Day, an event that had helped to heighten the visibility of the Commission's work in the region and contributed to the exchange of best practices at the global level.

65. **Ms. Falconi** (Peru) said that the Commission's work in modernizing and harmonizing international trade law played a vital role in facilitating transactions that promoted economic, political and social

development. Her delegation considered it essential to continue exploring good practices and instruments to mitigate the disruption of international trade and business in the context of COVID-19, stimulate economic recovery and strengthen and modernize the legal frameworks of States.

66. Her delegation wished to highlight the progress made in relation to micro-, small and medium-sized enterprises, in particular the finalization of the UNCITRAL Legislative Guide on Limited Liability Enterprises and the adoption of the Legislative Recommendations on Insolvency of Micro- and Small Enterprises. As small and medium-sized enterprises were the cornerstone of many economies, including that of Peru, her delegation supported efforts to encourage their formal organization and growth. Peru appreciated the adoption of the UNCITRAL Mediation Rules and the UNCITRAL Expedited Arbitration Rules. Those instruments would be fundamental in efforts to promote the speedy, efficient and amicable settlement of disputes in international trade relations.

67. Her delegation continued to follow closely the work of Working Group III, given the presence of major foreign investment flows in Peru and the need to reform the current investor-State dispute settlement system. It was vital to support the Working Group so that it could complete its work in a reasonable period of time. Her delegation therefore wished to highlight the Commission's recommendation to allocate additional conference time and supporting resources for that work in the period from 2022 to 2025. Peru reaffirmed its view that it would be a good idea to establish an advisory centre on investor-State dispute law, similar to the Advisory Centre on World Trade Organization Law. The work of Working Group IV (Electronic Commerce) was also of particular interest to Peru, which noted the progress made in the first review of the draft provisions on identity management and trust services.

68. Her delegation was grateful to the secretariat for its flexibility and ability to innovate in order to facilitate the work of the Commission during the COVID-19 pandemic. It reiterated its support for the organization of virtual events, which enabled the working groups to make continued progress and also kept all delegations and regional actors abreast of their work, especially those unable to attend meetings in New York or Vienna because of COVID-19 travel restrictions and social distancing requirements.

69. **Ms. Ishibashi** (Japan) said that, overall, Japan was satisfied with the work carried out by UNCITRAL during the session and appreciated its role in promoting the progressive harmonization and unification of

international trade law. It was grateful to the secretariat for the support provided to enable the Commission to make progress in its work notwithstanding the challenges posed by the COVID-19 pandemic.

70. Japan was gratified by the broad support for its proposal on stocktaking of developments in dispute resolution in the digital economy and was pleased to contribute the financial resources necessary to implement the project in its entirety. It was convinced that the project would yield meaningful outcomes and looked forward to collaborating with the secretariat, other States and relevant stakeholders in its implementation.

71. With respect to the initiative to enlarge the UNCITRAL membership, Japan had organized 11 rounds of open-ended informal consultations, most held in a hybrid or virtual format, as part of the Vienna-based consultation process. It had also held regional group meetings with all five regional groups. The discussions had focused mainly on the number of additional seats and their regional distribution. Extensive negotiations had been conducted in a transparent and inclusive manner. States had been able to overcome their differences and, in a spirit of consensus, come to an agreement to increase the membership from 60 to 70 States. The additional 10 seats would be distributed evenly among the five regional groups. Half of the 10, one per regional group, would be elected during the current session of the General Assembly. Her delegation believed that the relevant draft resolution to be submitted to the General Assembly was reflective of the interests of all Member States and that the work of UNCITRAL would be more visible, inclusive and universal as a result of its adoption.

72. **Ms. Bhat** (India) said that her delegation was pleased to note the progress made by the Commission and its working groups, including the adoption of a number of texts, such as the UNCITRAL Expedited Arbitration Rules and the new article 1, paragraph 5, of the UNCITRAL Arbitration Rules, which would be helpful to States in settling disputes in a timely and cost-effective manner. Her delegation welcomed the outcome of the deliberations on the possible reform of investor-State dispute settlement and believed that Member States should take a balanced approach in order to arrive at a consensus on granting additional resources to enable Working Group III to complete that work by 2026. The UNCITRAL Mediation Rules and the Guide to Enactment and Use of the UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation (2018) would have added value for parties to mediation,

mediators and mediation institutions and for academic and training purposes.

73. Her delegation supported the view that Working Group IV (Electronic Commerce) and Working Group VI (Judicial Sale of Ships) should be given sufficient time for their deliberations and that Member States should have ample time to hold internal and regional consultations. It affirmed the importance of technical assistance to developing countries, particularly on matters relating to the adoption and use of UNCITRAL texts at the national level. The secretariat's organization of webinars and informal events to raise awareness about the applicability of UNCITRAL texts was a welcome initiative. The continuing work on digests of case law and the dissemination of information through the Case Law on UNCITRAL Texts (CLOUT) system had proved useful for building the capacity of judges, arbitrators and other legal practitioners at the local level.

74. **Mr. Nyanid** (Cameroon) said that his delegation wished to commend the Commission and its various working groups on the progress made in modernizing and harmonizing international trade law. It welcomed the finalization and adoption of a number of legislative texts, including the UNCITRAL Model Legislative Provisions on Public-Private Partnerships and the related Legislative Guide. Cameroon was a party to the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration, the aim of which was to enhance transparency in the settlement of disputes between investors and States. It appreciated the approach being taken by Working Group III to incorporate the views of all stakeholders in its work on investor-State dispute settlement reform. His delegation hoped that the Working Group's ongoing discussions would be even more inclusive, bearing in mind the increasing interdependence that characterized the global economy. Given the rapid development of finance and trade, Cameroon would like to see procedural improvements that reduced the length and cost of arbitration proceedings, facilitated rapid and fair dispute settlement and fostered increased investment. It saw no need to make a distinction between commercial arbitration and arbitration between investors.

75. The Commission had made noteworthy progress in the areas of micro-, small and medium-sized enterprises, dispute resolution, investor-State dispute settlement reform, electronic commerce, insolvency law and the judicial sale of ships. His delegation particularly welcomed the results achieved by Working Group I on micro-, small and medium-sized enterprises, especially its work on the Legislative Guide on Limited Liability Enterprises, the aim of which was to reduce the legal

obstacles encountered by such businesses throughout their life cycle.

76. His delegation saw a need to step up efforts to better regulate the swiftly expanding digital economy. In particular, it called for intensified measures to combat cybercrime, which affected all countries. Countries that had resources and proven experience in that area should provide other countries, at their request, with capacity-building assistance. As in other matters related to the security and credibility of financial transactions, it was important to strengthen the weakest links in the chain in order to enhance security for all. The issue of access to big data remained a sensitive one. Protectionism posed a major threat to the equity and fairness of international trade, and obstacles to free competition and free trade severely hindered the development of low-income countries.

77. His Government had put in place a legal and institutional framework for public-private partnership projects and a specific tax regime applicable to them. It would continue to support the mandate of UNCITRAL to progressively harmonize international trade law, taking into consideration the interests of all peoples, in particular those in developing countries.

78. **Mr. Pieris** (Sri Lanka) said that his delegation recognized the role of UNCITRAL in harmonizing and modernizing international trade law and contributing to good governance. It welcomed the work of Working Group III on investor-State dispute settlement reform, in particular possible reforms to the rules on third-party funding. Sri Lanka had certain concerns, however, which it felt the Working Group should bear in mind when considering such reforms. It was concerned, for example, that all the proposed reforms, left the determination of third-party-funded arbitration claims to the arbitral tribunal, which would mean that in cases where such funding was prohibited or restricted, the determination would be based on jurisdiction rather than on rather than on admissibility. His delegation believed, however, that admissibility should be determined at the outset, before the claim was registered and the respondent notified. His delegation also hoped that States would not have to incur arbitral costs in challenging third-party funding permitted by an arbitral tribunal when such funding was prohibited by treaty.

79. His delegation would continue to study the matter of third-party funding with care, to ensure that any new practice adopted was consonant with the domestic law of Sri Lanka. It believed that the work of UNCITRAL should be based on a solid understanding of different legal systems and would support any initiative to enhance such an understanding. His delegation would

also give careful consideration to the initiative to enlarge the membership of UNCITRAL, provided such an increase was of substantial benefit to international commercial arbitration and trade law, particularly for developing States such as Sri Lanka.

80. **Ms. Lito** (United Kingdom) said that the United Kingdom had been pleased to participate in the consultations on the enlargement of UNCITRAL membership and welcomed the draft resolution on the issue. It welcomed the work of Working Group I to support micro-, small and medium-sized enterprises in accessing credit. Her delegation had participated in the discussions of Working Group II and continued to consider whether to participate in the Singapore Convention on Mediation.

81. Her delegation had participated in the work of Working Group III on investor-State dispute settlement reform during the Group's fortieth session and looked forward to continuing that work at the forty-first session. It welcomed the approach taken by the secretariat in considering the views of a wide variety of stakeholders and incorporating revisions. It continued to support such engagement, including with the business community.

82. The United Kingdom continued to support the work of Working Group IV in developing a model law for cross-border recognition of identity management and trust services and looked forward to the continued consideration of the topic. It had participated in the fifty-eighth session of Working Group V (Insolvency Law) and noted the adoption of the UNCITRAL Legislative Recommendations on Insolvency of Micro- and Small Enterprises. Her delegation looked forward to reviewing the draft commentary to the Recommendations. It welcomed the Commission's referral of the topics of civil asset tracing and recovery and applicable law in insolvency proceedings to Working Group V. Lastly, the United Kingdom welcomed the progress made by Working Group VI on the development of an international instrument on the judicial sale of ships and looked forward to a successful outcome of that work.

83. **Ms. Weiss Ma'udi** (Israel) said that the great efforts of the UNCITRAL secretariat to adapt to the challenges posed by the COVID-19 pandemic had enabled the Commission to make significant progress on various projects, including the adoption of the UNCITRAL Legislative Recommendations on Insolvency of Micro- and Small Enterprises. Her delegation supported the ongoing work on that initiative, including the revisions to the draft commentary, and the adoption of the UNCITRAL

Mediation Rules, the UNCITRAL Notes on Mediation and the UNCITRAL Expedited Arbitration Rules.

84. Since 2019 her delegation had been working with the delegations of Japan and other countries on the important project on technology-related dispute resolution, to lay the groundwork for a legal framework to address the specific needs of technology-related industries. Such a framework might include provisions addressing the need for more detailed confidentiality standards, improved case management, and expert input and shorter time frames to support the timely resolution of disputes. Her delegation welcomed the Commission's decision to hold a colloquium in 2022 on topics related to dispute resolution in the digital economy and hoped that the colloquium would result in a recommendation that the Commission commence formal work on technology-related disputes.

85. Israel wished to congratulate the Commission on reaching consensus on the enlargement of its membership, which would allow for increased participation in the work of UNCITRAL.

86. **Ms. Anaf** (Belgium) said that her delegation attached great importance to the efforts of UNCITRAL to harmonize and develop international trade law, and to ensure an international order anchored in international law and the rule of law. The challenges posed by the COVID-19 pandemic must be factored into the work of the Commission and all its working groups.

87. Her delegation supported the work of Working Group I concerning micro-, small and medium-sized enterprises, which played a vital role in the Belgian economy. It also fully supported the current focus of Working Group II and welcomed the adoption of the new UNCITRAL Expedited Arbitration Rules, which would afford new opportunities for the effective use of arbitration in dispute resolution. Belgium would take an active part in the discussions on early dismissal and the draft provision on pleas as to the merits and preliminary determination. The early dismissal and preliminary determination mechanisms could usefully be incorporated into the UNCITRAL Arbitration Rules, albeit in a form yet to be decided. In examining the matter, the Working Group should give particular attention to the requirements for procedural fairness and respect for the rights of the defence. It should also ensure that the amendments to be made to the Rules provided for the possibility of using modern means of communication and remote meetings, including videoconferencing. Belgium looked forward to participating in the colloquium on future topics to be addressed by Working Group II.

88. With regard to Working Group III, her delegation was in favour of in-depth investor-State dispute settlement reform and strongly supported the establishment of a multilateral investment court. It was important to ensure that the process remained inclusive and that the challenges associated with the current pandemic did not prevent delegations from participating effectively in the discussions. Belgium supported the allocation of additional resources and conference time to enable the Working Group to complete its work within a reasonable period of time.

89. The work of Working Group IV could greatly facilitate international electronic commerce, particularly during the current health crisis. Her delegation was open to discussing potential areas of future work, including artificial intelligence, the data economy and online platforms, which would require the allocation of substantial resources. Her delegation wished to highlight the growing importance of the work of Working Group V, which sought to provide small and medium-sized enterprises with an effective and appropriate legal framework in relation to insolvency. As a result of the economic crisis caused by the pandemic, insolvency would become a major challenge for the economy in general and for small and medium-sized enterprises in particular.

90. As a nation that relied on maritime trade, Belgium was well positioned to contribute to the work of Working Group VI on the preparation of an international instrument on the judicial sale of ships. It would focus, in particular, on ensuring the existence of adequate legal guarantees to verify the authenticity of court decisions; on ensuring that priority was given to national laws at the time of the deletion of charges entered in a ship's registry; and on establishing a clear scope of application, which would require the concepts of a "ship" and a "judicial sale" to be clarified.

91. **Mr. Norapoompipat** (Thailand) said that it was important to promote broad participation by Member States in the work of UNCITRAL in order to constructively shape the progressive development of international trade law and help ensure that the texts adopted were properly balanced and widely accepted. Member States had taken an important step in enlarging the Commission's membership in 2002, reflecting their desire not only to broaden participation but also to promote more equitable geographical representation. The Commission's decision in 2021 to recommend another enlargement of its membership marked another step forward in increasing awareness of UNCITRAL and enhancing the visibility and acceptability of its work. His delegation stood ready to engage with other delegations on ways to further improve the

representative character of UNCITRAL. Thailand wished to continue being a member of UNCITRAL and looked forward to receiving support for its candidature for another term.

92. Thailand was pleased with the Commission's achievements during the preceding year, including the adoption of the UNCITRAL Legislative Guide on Limited Liability Enterprises, which would help to reduce the legal obstacles faced by micro-, small and medium-sized enterprises over their life cycle and enhance their competitiveness. The UNCITRAL Legislative Recommendations on Insolvency of Micro- and Small Enterprises would complement the Legislative Guide by providing for expedited insolvency proceedings with simplified mechanisms tailored to the needs of such enterprises, which might not have the resources to bear the cost and deal with the complexity of normal insolvency proceedings.

93. His delegation welcomed the continued commitment of Working Group II to advancing efficient and cost-effective resolution of international commercial disputes. The adoption of the UNCITRAL Mediation Rules and the UNCITRAL Expedited Arbitration Rules constituted an important step in that direction. As demand for alternative dispute resolution grew, Thailand would consider how its arbitration and mediation rules could be further developed on the basis of the UNCITRAL texts. It hoped to be able to accede to the Singapore Convention on Mediation in the near future.

94. With regard to Working Group III, his delegation welcomed all efforts, whether systemic or incremental, to develop a legitimate, predictable and balanced investor-State dispute resolution system. Thailand looked forward to an outcome grounded in an inclusive, accessible and transparent process, with options for reform that would effectively address States' varying concerns regarding the current mechanism without causing more fragmentation in the investment regime. Those options should include ways of promoting the use of alternative dispute resolution mechanisms and rules on ethical requirements for arbitrators to ensure their independence and impartiality. They should also address issues such as third-party funding and calculation of damages. The possibility of establishing an advisory centre on investment law to assist developing countries should be considered.

95. His delegation believed that some of the problems with the current system stemmed from divergences in the interpretation of common substantive standards found in international investment agreements. Hence, discussions on investor-State dispute resolution reform

should not be limited to procedural matters. Thailand supported any reform efforts aimed at increasing the clarity of substantive standards and entrenching a State's right to regulate.

96. Thailand, having undergone rapid digital transformation, had greatly benefited from the work of Working Group IV on identity management and trust services. It applauded the Group's recent work on judicial sale of ships and was convinced that the adoption of an instrument on the matter would immensely benefit international trade by promoting legal certainty on the international effects of such sales.

97. **Mr. Gorke** (Austria) said that the UNCITRAL secretariat was to be commended for its efficient and tireless efforts to enable the Commission to advance its work despite the ongoing challenges of the COVID-19 pandemic. His delegation valued the work accomplished at the session, including the adoption of a number of legislative texts. It noted with interest the decisions taken by the Commission with regard to the preparatory work on warehouse receipts and legal issues related to the digital economy, and welcomed the Commission's decision to consider how climate change mitigation might be facilitated in the implementation of existing and new UNCITRAL texts. Austria appreciated the Commission's recommendation to increase its membership from 60 to 70 States.

98. **Mr. Skachkov** (Russian Federation) said that his Government greatly valued the Commission's contribution to the development of economic cooperation and international private law and that the Russian Federation was party to a number of international agreements developed by UNCITRAL. His delegation hoped that the enlargement of the Commission's membership would increase the effectiveness of its work. It commended the Commission for finding a way to continue its work under difficult circumstances created by the COVID-19 pandemic, and hoped that in-person meetings would soon resume, which would ensure that consultations were as inclusive as possible and that the Commission's output continued to be of the highest quality.

99. The Russian Federation was grateful to the secretariat for working on the proposal it had put forward, along with the delegations of Armenia and Viet Nam, to update the Commission's work programme in the light of the consequences of the pandemic. Together with other international organizations, the Commission could make an important contribution to the recovery from the pandemic by establishing a more predictable legal environment that would be beneficial for the future development of international trade.

100. There was a need for a cautious and balanced approach to the discussion of investor-State dispute settlement reform in Working Group III that was based on a broad consensus and an objective analysis of existing mechanisms. The Working Group should put forward quality reform solutions and balance the number of informal sessions and formal meetings it scheduled to ensure that it did not create an excessive burden for States.

101. With regard to the future work of Working Group IV, in the light of rapid digital transformation, best practices should be taken into account, particularly in view of the potential consideration by the Working Group of issues relating to effective legal protection of cross-border electronic interaction. His delegation hoped that Working Group VI would continue making progress in its discussion of the draft instrument on the recognition of foreign judicial sales of ships.

102. His delegation recognized that the future of trade was digital. It therefore welcomed the discussion initiated by the Commission regarding legal harmonization in the areas of smart contracts, artificial intelligence, distributed ledger technologies, digital assets, online platforms and data transactions, which would facilitate the implementation of the Commission's instruments by both developed and developing countries.

103. **Mr. Mainero** (Argentina) said that Argentina, which had been a member of UNCITRAL almost continuously since 1968 and was firmly committed to its work, supported the proposed enlargement of the Commission's membership. It commended the Commission on the work accomplished during its session, including the adoption of a number of legislative texts, and welcomed the secretariat's exploratory work on the impact of COVID-19 on international trade law. His Government had provided information on the measures it had taken to mitigate the negative impact of the pandemic on business, including through assistance to small and medium-sized enterprises and support to other businesses. Consideration should be given to undertaking a more in-depth study of COVID-19 response and recovery measures.

104. Argentina appreciated the work of the secretariat in organizing the inaugural UNCITRAL Latin America and the Caribbean Day. Argentine universities, regional organizations, academics and renowned professionals in the field of international arbitration had played a prominent role in the events held. Argentina looked forward to another successful event in 2021.

105. His delegation continued to follow with interest the work of Working Group I on access to credit for micro-, small and medium-sized enterprises and of Working Group III on investor-State dispute settlement reform. It attached great importance to the discussions under way in Working Group III and to the effective participation of all countries in those discussions. The human and technical resource constraints faced by some countries should be taken into account, and the possibility of providing specific funding should be contemplated. Adequate time should be allowed for detailed study of the texts under consideration. In that connection, his delegation noted that the Working Group had adopted an intensive timetable with a view to completing its work by 2026.

106. **Ms. Zhao** Yanrui (China) said that her Government had always attached great importance to the work of UNCITRAL and had actively participated in the formulation of rules contributing to the harmonization and modernization of international trade law and the promotion of global trade development. The various texts finalized and adopted by the Commission at the session would help countries in advancing the development and improvement of their domestic laws.

107. China supported in principle the expansion of the Commission's membership as a means of boosting the participation of countries and increasing the influence of UNCITRAL. However, the current geographical distribution of the Commission's membership was uneven, as the Asia-Pacific and African groups were severely underrepresented. The expansion should serve to increase the representation of developing countries and safeguard their interests. The expansion plan agreed during the session would add two seats for each regional group, which would not alleviate the imbalance. Her delegation hoped that the Commission would take concrete action in the future to correct the imbalance by increasing the participation of developing countries.

108. China supported the work of Working Group III on investor-State dispute settlement reform, which would help to fill the gaps in the current investment dispute settlement mechanism and maintain the balance between investment protection and the regulatory authority of the host country. Her delegation was in favour of increasing conference and support resources for the Working Group to allow it to complete its work.

109. **Mr. Bouchedoub** (Algeria) said that his delegation supported the proposed increase in the membership of the Commission, which would help to broaden the participation of Member States and to ensure the equitable representation of regional groups and of legal and economic systems. Algeria was

endeavouring to strengthen its micro-, small and medium-sized enterprises with a view to diversifying its economy. His delegation therefore welcomed the progress made by Working Group I in formulating legal standards aimed at reducing the legal obstacles encountered by such enterprises. In particular, it supported the revision made by the Committee of the Whole to paragraph 68 of the draft legislative guide on an UNCITRAL limited liability organization in order to accommodate the different legal traditions and practices of States, by giving States the option to decide how the rules of such limited liability organization should be disclosed to third parties.

110. His delegation believed that Working Group V should continue to seek appropriate solutions for a simplified insolvency regime, which would help small and medium-sized enterprises to mitigate the negative economic and financial effects of the COVID-19 pandemic.

111. The Commission's work on investor-State dispute settlement reform would play a useful role in formulating flexible and procedural alternative dispute resolution mechanisms. A more comprehensive approach was needed, taking into account the importance of treaty interpretation by States parties, the limited resources available to developing States and the technical difficulties that they faced. Greater attention should be given to such issues as the development of new procedural rules for dispute prevention and mitigation, legal solutions in the event of the exhaustion of local remedies, third party participation, and calculation of damages.

112. As to electronic commerce, the Commission should take into account the digital divide among States and give due consideration to the concerns of developing States regarding national sovereignty, security, confidentiality and data protection. With regard to the judicial sale of ships, further work was needed in order to secure a broader consensus on such issues as the international effect of the certificate of judicial sale. It would therefore be premature to set a target for approving the draft instrument in 2022; additional time was needed for Working Group VI to deliberate and for Member States to engage in consultations.

113. **Mr. Choi** Hang-suh (Republic of Korea) said that, as one of the most committed UNCITRAL members, the Republic of Korea had participated actively in the Commission's productive discussions on the progressive modernization and harmonization of international trade law. It had submitted six proposals on investor-State dispute settlement reform and

contributed to the discussions on the UNCITRAL Expedited Arbitration Rules. His delegation would also contribute to the future work to be conducted on civil asset tracing and recovery and legal issues related to the digital economy.

114. The Republic of Korea was honoured to have been selected to host the first regional office of the Commission, the UNCITRAL Regional Centre for Asia and the Pacific, and had provided financial and human resource support to ensure that the Centre operated in the most efficient manner possible. It welcomed the various activities undertaken to provide capacity-building and technical assistance for States in the region and to support public, private and civil society initiatives to enhance international trade and development. His Government had decided to renew its financial and human resources support for the Centre for another five years. In November 2021 it would co-host the tenth Asia-Pacific Alternative Dispute Resolution Conference, which would be held in a hybrid format. It anticipated active participation by many countries, despite the ongoing exceptional circumstances.

The meeting rose at 1 p.m.