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Chair: Mr. Afonso (Mozambique)
later: Ms. Romanska (Vice-Chair) (Bulgaria)

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

Agenda item 75: Report of the United Nations Commission on International Trade Law on the work of its fifty-fifth session (A/77/17)

1. **Mr. Šimonović** (Chair of the United Nations Commission on International Trade Law (UNCITRAL)), introducing the Commission's report on the work of its fifty-fifth session (A/77/17), said that the session had been held fully in person.

2. The Commission had approved a draft convention on the international effects of judicial sales of ships. Shipping played a crucial role in international trade and transportation, and ships had high economic value. A convention based on the draft would establish a harmonized regime that offered adequate legal protection for purchasers, which could positively impact the price realized at judicial sales of ships to the benefit of both shipowners and creditors, provided that adequate safeguards were implemented in the conduct of the sale. It would also complement other international efforts to harmonize private law aspects of maritime law within the international law framework reflected in the United Nations Convention on the Law of the Sea, including its provisions relating to the nationality and status of ships, and would serve to promote institutional cooperation with the International Maritime Organization, whose Secretary-General would serve as the repository of the convention.

3. The Commission had also adopted the recommendations to assist mediation centres and other interested bodies with regard to mediation under the UNCITRAL Mediation Rules (2021), which provided a comprehensive set of procedural rules upon which parties might agree for the conduct of mediation proceedings arising out of their relationship. The recommendations were intended to inform and assist mediation centres and other interested bodies that envisaged using the Rules in the institutional context.

4. The Commission had further adopted the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services, which highlighted the importance of digital identification and authentication of actors in the field of digital trade and trust services and validated the principles of technological neutrality, functional equivalence and non-discrimination against the use of electronic means long applied by the Commission in its development of texts on electronic commerce.

5. With regard to future work, Working Group I would continue working on access to credit for micro-, small and medium-sized enterprises; Working Group II

would begin working on technology-related dispute resolution and adjudication, and develop a guidance text on early dismissal and preliminary determination; Working Group III would continue its work on the reform of investor-State dispute settlement; Working Group IV would begin working on automated contracting and smart contracts and also on data provision contracts; Working Group V would continue its work on the topics of civil asset tracing and recovery and applicable law in insolvency proceedings; and Working Group VI would take up work towards the development of a new instrument on negotiable multimodal transport documents.

6. The Commission had requested its secretariat to continue to work on legal issues related to the digital economy and digital trade through the development of a guidance document on legal issues relating to the use of distributed ledger systems in trade, in cooperation with other relevant organizations, as appropriate. It had also authorized the secretariat to publish the revised legal taxonomy of emerging technologies and their applications in the six official languages of the United Nations. The Commission had further requested the secretariat to continue to implement the stocktaking project on dispute resolution in the digital economy, for which it had received support from the Government of Japan, and to continue to take part in the Inclusive Global Legal Innovation Platform on Online Dispute Resolution with the Department of Justice of Hong Kong, China. It had noted that the preparatory work being carried out by the Working Group on a Model Law on Warehouse Receipts, convened by the International Institute for the Unification of Private Law (UNIDROIT) in consultation with the Commission's secretariat, could be substantially completed within two more sessions, with a view to its approval by the Governing Council of UNIDROIT in 2023 and subsequent transmittal to a working group of the Commission.

7. The Commission had requested the secretariat to continue exploratory work on the impact of the coronavirus disease (COVID-19) on international trade law by holding expert group meetings and other events with interested stakeholders, with a view to developing a toolkit that States could use when confronted with a crisis similar to that caused by the COVID-19 pandemic. It had also requested its secretariat to conduct further research and to organize a colloquium or an expert group meeting on the various legal issues surrounding climate change mitigation, adaptation and resilience, in conjunction with relevant and interested international organizations. Given that global efforts to combat climate change were an integral part of the agenda of the

United Nations, the Commission had noted that, as a subsidiary body of the General Assembly, it was ideally placed to undertake work on those aspects of climate change that fell within its mandate.

8. The Commission had reiterated the importance of coordinating the activities of organizations active in the field of international trade law, which was a core element of the Commission's mandate, as a means of avoiding duplication of effort and promoting efficiency, consistency and coherence in the unification and harmonization of international trade law. The Commission had emphasized the importance of closer coordination among the organizations concerned when formulating or considering proposals for future work and when taking up new projects, in order to prevent inconsistency and to avoid unduly burdening their respective secretariats with commitments to participate in and follow up on projects being carried out concurrently by other organizations.

9. The Commission had also engaged in non-legislative activities, such as raising awareness and promoting the effective understanding of the Commission's texts, providing legislative advice and assistance to States on the adoption and use of those texts and building capacity to support their effective use, implementation and uniform interpretation. The Commission's secretariat had adapted to working in an online format, which had greatly facilitated participation in technical cooperation and assistance activities and had increased the proportion of participants from Africa and Latin America and the Caribbean. The Commission had expanded its engagement with academic partners, including through the UNCITRAL Asia-Pacific Day, the UNCITRAL Latin America and the Caribbean Day and the inaugural UNCITRAL Africa Day. It had also expanded its online and social media presence and made greater use of videoconferences and webinars, which had increased interest in the Commission among a broader audience. A Chinese-language version of the online training course entitled "Introduction to the United Nations Commission on International Trade Law" had been launched, and additional modules on public-private partnerships, public procurement, arbitration and mediation would soon be made available. 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").

10. The Commission had organized virtual panel discussions on technical assistance activities in the field

of insolvency law that had addressed lessons learned, the perspectives of stakeholders on the available assessment tools and knowledge-sharing and capacity-building platforms, and the role of the Commission's legislative, guidance and reference materials and events. 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, noted with interest the progress made towards a rejuvenation of 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 76/117, it would highlight its role in the promotion of the rule of law and the achievement of the Sustainable Development Goals.

11. The Commission had considered possible adjustments to its methods of work in the light of the experience gained from the sessions held during the COVID-19 pandemic. It had decided to allow Working Group III, and any other working group when the need arose, to use the final meeting of each of their sessions for substantive deliberations, rather than for the adoption of the report on the work of the session, and to continue the practice of adopting the report by a written procedure. The Commission had further agreed to continue to arrange for the meetings of its working groups to be made available on a streaming or videoconferencing platform, which would allow delegates participating remotely to listen to the deliberations but not speak. Working groups were also encouraged to avail themselves of various tools in order to enhance the efficiency and productivity of deliberations, including by holding informal consultations between or in conjunction with working group sessions.

12. **Ms. Joubin-Bret** (Secretary of the United Nations Commission on International Trade Law), recalling that the General Assembly, in its resolution 76/229, had allocated additional resources to the Commission to allow Working Group III to continue to implement its work with respect to investor-State dispute settlement reform, said that the Working Group had made good use of the additional resources: three new secretariat posts had been filled and an additional one-week session had been held in September 2022, while another had been scheduled for January 2023.

13. She reiterated the secretariat's suggestion that the Committee streamline the omnibus resolution on the

Commission's report to ensure that it more clearly showcased the Commission's work.

14. **Mr. Gambert** (Representative of the European Union, in its capacity as observer), speaking also on behalf of the candidate countries Montenegro, North Macedonia, the Republic of Moldova and Ukraine; the potential candidate country Bosnia and Herzegovina; and, in addition, Georgia, said that the newly adopted UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services was a global standard that took into account the relevant existing European Union legislation and would facilitate cross-border e-commerce. With regard to the draft convention on the international effects of judicial sales of ships, his delegation recommended that the General Assembly adopt the draft convention and hoped that a signing ceremony could be held as soon as feasible in 2023.

15. The European Union and its member States attached great importance to the work of Working Group III on investor-State dispute settlement reform and strongly believed that, where dispute resolution involved public matters, a standing body and a multilateral approach, in the form of a multilateral investment court, were best suited to addressing the issues identified by the Working Group. The European Union and its member States welcomed the fact that the Working Group was making effective use of the additional resources allocated to it and attached particular importance to the conclusion of its discussions on the draft code of conduct for adjudicators in international investment disputes and on its texts on alternative dispute resolution mechanisms and dispute prevention, so that the Working Group could present the texts to the Commission at its next session. The Working Group would then be able to make progress on other topics, in particular the structural reform of investor-State dispute settlement and the establishment of a standing body and an advisory centre for investment disputes.

16. 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 in Working Group III 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.

17. **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 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 to work in a flexible and constructive spirit, despite the exceptional circumstances resulting from the COVID-19 pandemic. The Nordic countries welcomed the use of in-person meetings in 2022.

18. The draft convention on the international effects of judicial sales of ships was an important step towards promoting legal certainty of judicial sales in the field of international shipping. The Nordic countries were also pleased to note the finalization and adoption of the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services. The two texts were proof of the Commission's ability to deliver on its mandate.

19. The Nordic countries welcomed the work of Working Group I aimed at facilitating access to credit for micro-, small and medium-sized enterprises. They also looked forward to contributing to the work of Working Group II on a guidance text on early dismissal and preliminary determination in international arbitration and to the Working Group's discussion of ways to accelerate the resolution of disputes by building on the UNCITRAL Expedited Arbitration Rules. The Nordic countries commended the progress made by Working Group III, which had addressed a number of important elements of investor-State dispute settlement reform, including transparency of third-party funding and the establishment of an advisory centre, and looked forward to contributing to its work. They also looked forward to constructive and fruitful negotiations in Working Group IV in connection with its work on the digital economy. With regard to the work of Working Group V on the topics of applicable law in insolvency proceedings and civil asset tracing and recovery, the Nordic countries were more interested in the former topic but supported the discussion of both. Noting that Working Group VI would be taking up the new topic of negotiable multimodal transport documents, the Nordic countries welcomed the Commission's renewed engagement in the field of transport law and looked forward to taking part in the negotiations.

20. **Mr. Toh** (Singapore) said that the Commission was to be congratulated on its adoption of the draft convention on the international effects of judicial sales of ships, which provided important safeguards that would promote harmonization among States and help to create certainty. All interested parties, including shipowners, lienholders and ship financiers, would benefit as a result. His delegation welcomed the adoption of the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services. The Commission had a long track record in the preparation of uniform legislative texts relating to electronic commerce, which had assisted States in enhancing their legal frameworks in that field. The Model Law was a useful addition to that set of texts and would contribute to promoting confidence in electronic commerce. His delegation also commended the adoption of the recommendations to assist mediation centres and other interested bodies with regard to mediation under the UNCITRAL Mediation Rules (2021), the finalization of the UNCITRAL Legislative Guide on Insolvency Law for Micro- and Small Enterprises, and the publication of an update to the *UNCITRAL Model Law on Cross-Border Insolvency: the Judicial Perspective*.

21. Singapore had helped to raise awareness of the Commission's work on dispute resolution in the digital economy and in specialized fields, and on investor-State dispute settlement reform. It had also helped to promote the adoption of the United Nations Convention on International Settlement Agreements Resulting from Mediation (the Singapore Convention on Mediation). In 2022, Singapore had once again co-organized, with the Commission's secretariat, the UNCITRAL Academy as part of the Singapore Convention Week 2022. His delegation welcomed the recent ratifications of the Convention and stood ready to provide information on the Convention to interested delegations.

22. His delegation welcomed the progress reports of the working groups and supported the Commission's programme of work. It would continue to contribute to the work of each Working Group, including the efforts of Working Group II to facilitate and harmonize dispute settlement mechanisms; the work of Working Group III on the draft code of conduct for adjudicators, the draft provisions on mediation and the draft UNCITRAL guidelines on investment mediation; and the work of Working Group V on the legal issues arising from civil asset tracing and recovery and on applicable law in insolvency proceedings.

23. **Mr. Lagdameo** (Philippines) said that his delegation welcomed the decision of the General Assembly to enlarge the membership of the Commission. The increased interest of States in

participating in the work of the Commission reflected its importance in promoting the harmonization and unification of international trade law and advancing the rule of law at the national and international levels. His delegation welcomed the finalization and approval of the draft convention on the international effects of judicial sales of ships, the finalization and adoption of the recommendations to assist mediation centres and other interested bodies with regard to mediation under the UNCITRAL Mediation Rules (2021), and the finalization and adoption of the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services. His delegation noted also the progress made by Working Groups I, III and IV and the successful holding of the UNCITRAL Digital Trade Week, during which his Government had deposited its instrument of ratification of the United Nations Convention on the Use of Electronic Communications in International Contracts, which would enter into force for the Philippines in February 2023. His delegation urged other States to accede to the Convention.

24. His delegation looked forward to the continued implementation of the stocktaking project on dispute resolution in the digital economy; to progress on the topics of technology-related dispute resolution and adjudication; and to the continuation of exploratory work on legal issues related to the impact of COVID-19 on international trade law. It also looked forward to the outcomes of consultations with interested States on the topic of climate change mitigation, adaptation and resilience and to the colloquium to be organized on that topic. 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 been instrumental in raising awareness of UNCITRAL and building regional capacities in relation to international trade law.

25. **Ms. Kamara** (Sierra Leone) said that the Commission and its working groups were to be commended on resuming in-person meetings and making outstanding progress on their legislative agenda, despite the continuing COVID-19 pandemic. The Commission's efforts to further the progressive harmonization and modernization of international trade law were especially welcome at a time when States had reverted to unilateralism and protectionism in the face of the pandemic, at great cost to global trade. One of the sectors that had faced serious supply chain and transportation challenges was the shipping industry. Her delegation was therefore pleased that the draft convention on the international effects of judicial sales of ships had been approved a relatively short time after Working Group VI had first begun work on it, and welcomed the

recommendation that the convention be known as the Beijing Convention on the Judicial Sale of Ships. Her delegation also welcomed the finalization and adoption of the recommendations to assist mediation centres and other interested bodies with regard to mediation under the UNCITRAL Mediation Rules (2021).

26. The UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services would greatly assist States in enabling and facilitating electronic commerce in international trade and complemented existing UNCITRAL legal texts in that field. Identity management and trust services were increasingly important for promoting confidence in electronic commerce, in particular across borders. Any future legislative work on electronic commerce should foster the broad participation of developing and developed countries and be complemented by capacity-building activities.

27. Her delegation commended Working Group III for completing the first reading of the draft code of conduct for adjudicators and for considering the selection and appointment of investor-State dispute settlement tribunal members to a standing multilateral mechanism. Sierra Leone attached great importance to the reform of investor-State dispute settlement and welcomed the allocation of additional conference resources to the Working Group by the General Assembly. It called for the continued implementation of General Assembly resolution 75/133, paragraph 17, and General Assembly resolution 76/229, paragraph 19, regarding the granting of travel assistance to facilitate the participation of representatives of developing States in the Working Group's deliberations, which would help to ensure that the reform process was inclusive. Her delegation thanked those who had contributed to the UNCITRAL trust funds established for that purpose and joined the Commission in calling upon all States, relevant bodies of the United Nations system, organizations, institutions and individuals to consider making contributions.

28. With regard to the Commission's programme of work, Sierra Leone supported the Commission's request that the secretariat continue exploratory work on legal issues related to the impact of COVID-19 on international trade law. It also supported the request that the secretariat consult with interested States with a view to developing a more detailed proposal on the topic of climate change mitigation, adaptation and resilience, for consideration by the Commission at its next session in 2023, and that it organize a colloquium or an expert group meeting to be held at that same session. Due regard should be paid to equitable geographical representation, diversity and gender balance at any such colloquium or meeting.

29. Sierra Leone fully endorsed the expansion of the Commission's engagement with academic partners. It had participated in the launch event for UNCITRAL Africa Days and would soon be hosting a follow-up event on the theme of modernization and harmonization of international commercial law in the African Continental Free Trade Area. Lastly, her country had adopted the Arbitration Act 2022, which implemented the Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the Convention on the Settlement of Investment Disputes between States and Nationals of Other States. It looked forward to receiving technical assistance from the secretariat and other partners on implementing the Commission's legislative texts at the national level.

30. **Mr. Talebizadeh Sardari** (Islamic Republic of Iran) said that his delegation had concerns regarding the implications for State sovereignty of the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services, in particular for developing and least developed countries where cross-border digital services were widely used by both individuals and businesses. His delegation attached great importance to the topic of the international effects of judicial sales of ships and had taken part in the discussions on it in Working Group VI. It would join the consensus in the General Assembly for the adoption of the draft convention. His delegation was also satisfied with the finalization and adoption of the recommendations to assist mediation centres and other interested bodies with regard to mediation under the UNCITRAL Mediation Rules (2021).

31. The current international investment regime did not strike an appropriate balance between the rights and obligations of the parties to investor-State disputes. His delegation therefore welcomed the broad mandate granted to Working Group III to work on the possible reform of investor-State dispute settlement. Any reform should be comprehensive and take account of the different points of view expressed by States so as to ensure an equitable investor-State dispute settlement system that all countries, and developing countries in particular, could rely upon. Lastly, his delegation hoped that the Commission's working groups would take a holistic approach to the topics under consideration.

32. **Mr. Evseenko** (Belarus) said that his delegation welcomed the approval of the draft convention on the international effects of judicial sales of ships. A convention based on the draft would establish a legal mechanism for the cross-border recognition of judicial sales of ships and would also provide appropriate legal protection for shipowners, creditors and purchasers involved in judicial sales of ships. His delegation also

welcomed the adoption of the recommendations to assist mediation centres and other interested bodies with regard to mediation under the UNCITRAL Mediation Rules (2021), which could serve as a model for institutions drafting their own mediation rules; be utilized by institutions in offering to administer disputes under the Rules or rendering administrative and logistical services in ad hoc mediation; and enable institutions to appoint a mediator or mediators upon request by the parties to a dispute.

33. His delegation further welcomed the adoption of the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services, which would help to establish a legal basis for data-sharing and for the identification of parties operating online in the absence of prior in-person interaction. The Model Law was expected to be of interest to most jurisdictions in view of the considerable growth in online commercial activities, the transition to a digital economy, and the need for identity data to be in a digital format.

34. His Government attached particular importance to the Commission's work on micro-, small and medium-sized enterprises, dispute settlement, investor-State dispute settlement reform and insolvency law. It also supported the Commission's efforts to provide Member States with technical assistance in updating their laws relating to international trade and bringing them into line with the Commission's guidance. The regional conferences organized by the Commission and other events in which its experts participated were effective in supporting States in the implementation and progressive development of international trade law. Belarus would welcome the opportunity to host such events and stood ready to take an active part in organizing them.

35. The decision to enlarge the Commission's membership would help to advance the work of the Commission and enhance its international standing. The Commission played an important role in promoting the rule of law at the national and international levels, and its efforts in the development of authoritative standard-setting documents, such as universal international agreements and soft-law instruments, relating to international trade were especially valuable. 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. That success could serve as an example for other multilateral forums.

36. **Mr. Milano** (Italy) said that the Commission had an expanding role to play in assisting Member States as they adapted their legislation to developments resulting

from the use of new technologies. Its soft-law instruments contributed to the harmonization of domestic legal systems while preserving a degree of national autonomy and flexibility, and helped to promote international trade and investment.

37. Italy welcomed the finalization and adoption of the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services, which was an important addition to existing UNCITRAL texts on electronic commerce and would assist States in formulating or enhancing legislation governing the use of identity management and trust services. Italy was also pleased that the draft convention on the international effects of judicial sales of ships had been finalized and approved. The new instrument would provide adequate legal protection for purchasers, which might positively impact the price realized at judicial sales of ships, and would ultimately benefit international trade and transportation.

38. Italy was pleased that the Commission planned to work on the topics of warehouse receipts, the use of artificial intelligence and automation in contracting, and data transactions. The Commission must be able to address effectively issues that would be critical in the future governance of international trade and investment law, such as investor-State dispute settlement reform. That topic had attracted the interest of a large number of delegations from around the world. Italy was confident that Working Group III would continue to make progress in its work on the topic with a view to finalizing the draft code of conduct for adjudicators. Italy also looked forward to the finalization of the text on facilitating access to credit for micro-, small and medium-sized enterprises. Lastly, Italy encouraged the Commission to expand its cooperation with UNIDROIT and the Hague Conference on Private International Law.

39. **Mr. Bigge** (United States of America), welcoming the Commission's resumption of in-person meetings at its fifty-fifth session, said that the draft convention on the international effects of judicial sales of ships, if adopted, would enhance legal certainty and transparency in international shipping through the use of uniform rules that promoted the dissemination of information on prospective judicial sales to interested parties and give international effect to judicial sales that conferred clean title to the ship on the purchaser. His delegation was grateful to the secretariat for its support and to the Commission's members and observers for their constructive engagement, which had allowed the draft convention to be completed in a timely manner despite the challenges posed by the use of the hybrid format to conduct negotiating sessions during the pandemic.

40. The UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services was aimed at overcoming obstacles to broader use of such services through the development of uniform legal rules that could improve efficiency in recognition, reduce transaction costs, and increase legal predictability and global digital compatibility. The recommendations to assist mediation centres and other interested bodies with regard to mediation under the UNCITRAL Mediation Rules (2021) should serve to complement and support the use of the legal framework on international mediation already developed by the Commission.

41. His delegation looked forward to the initiation of a new project on negotiable multimodal transport documents. It also looked forward to continued progress on the joint project of UNCITRAL and UNIDROIT on warehouse receipts and hoped that it could be assigned to a working group of the Commission in the near future. Furthermore, it looked forward to the completion of the draft code of conduct and the commentary thereto by Working Group III, and to the development by Working Group II of a guidance text on early dismissal and preliminary determination in international arbitration. It also welcomed the proposal to organize a colloquium in the coming year on the topic of climate change mitigation, adaptation and resilience, in close coordination with climate experts and other key private international law institutions. 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.

42. **Mr. Gorke** (Austria) said that his delegation took note of the suggestion made by the Secretary of the Commission with regard to the omnibus resolution. It commended the Commission on its work during the fifty-fifth session, including the finalization and approval of the draft convention on the international effects of judicial sales of ships. It welcomed in particular the finalization and adoption of the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services and noted with interest the progress reports of the working groups, in particular that of Working Group III. It also welcomed the progress made towards rejuvenating the CLOUT system and hoped that further efforts would be made in that regard.

43. **Mr. Ancona Bolio** (Mexico) said that his country attached great importance to the modernization of the regulatory framework governing international trade, given that the rules of private international law played a

vital role in ensuring good governance and the rule of law in trade relations and economic development.

44. Micro-, small and medium-sized enterprises, which accounted for a large part of the national economy in Mexico, had increasingly adopted digital tools to tackle the challenges resulting from the COVID-19 pandemic. Such tools had made it possible for cross-border commercial transactions to be carried out with little or no human interaction. Given that trust was a key requirement for trade, it was especially important to ensure legal certainty with regard to the online identification of physical and legal persons and also the quality of the data transmitted as part of commercial transactions. His delegation therefore welcomed the adoption of the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services, which was aimed at overcoming the challenges posed by digital transactions through the elaboration of uniform legal standards.

45. The Commission's use of digital solutions to continue with its work despite the COVID-19 pandemic had highlighted the value of technology in allowing experts from different legal families to take part in the Commission's work. Remote participation should therefore be used not only in extraordinary circumstances, but also as a tool for reducing the distances and asymmetry between States, so that perspectives from all regions were taken into account. His delegation encouraged the secretariat to use the hybrid format on a permanent basis.

46. His delegation welcomed the measures taken by the secretariat to raise awareness of the Commission's work and the texts it had produced. It also commended the Commission's ongoing efforts to coordinate with sister organizations, such as the Hague Conference on Private International Law and UNIDROIT, and hoped that the Commission would also work more closely with the Organization of American States. Noting the success of the UNCITRAL Latin America and the Caribbean Days, his delegation called upon all countries in the region to take part in the initiative.

47. **Ms. Rodríguez Acosta** (El Salvador) said that the UNCITRAL working groups made an invaluable contribution to the codification of international trade law. Her delegation welcomed the approval of the draft convention on the international effects of judicial sales of ships, and also the adoption of the recommendations to assist mediation centres and other interested bodies with regard to mediation under the UNCITRAL Mediation Rules (2021), which would improve the efficacy of mediation centres. The adoption of the UNCITRAL Model Law on the Use and Cross-border

Recognition of Identity Management and Trust Services was of particular interest to her Government, which was making a concerted effort to promote the use of digital platforms in public administration, including through the adoption of laws that drew on the Commission's work relating to electronic commerce.

48. El Salvador also shared the Commission's satisfaction with the secretariat's efforts to cooperate and coordinate work with other organizations and entities, both within and outside the United Nations system, as such cooperation would help to 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, as evidenced by its current candidacy for election to the Commission once again.

49. **Ms. Ijaz** (Pakistan) said that efforts by Member States and the secretariat to ensure the conduct of productive negotiations within the Commission and its working groups had had a positive impact on the harmonization of international trade law. UNCITRAL played an important role in the promotion of the rule of law at the international and national levels. Its efforts to establish fair, stable and predictable legal frameworks for inclusive, sustainable and equitable development were critical for the achievement of the Sustainable Development Goals.

50. Her delegation welcomed the adoption of the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services and the recommendations to assist mediation centres and other interested bodies with regard to mediation under the UNCITRAL Mediation Rules (2021). It also commended the Commission's endorsement of the International Standard Demand Guarantee Practice for URDG 758 of the International Chamber of Commerce. Above all, Pakistan welcomed the approval of the draft convention on the international effects of judicial sales of ships and hoped that the General Assembly would follow the Commission's recommendations regarding the text.

51. With regard to Working Group I, her delegation recognized the importance of reducing the legal obstacles faced by micro-, small and medium-sized enterprises, in particular those in developing economies, throughout their life cycle. It hoped that the future text on facilitating access to credit for such enterprises would provide guidance on the adoption or reform of

domestic legal frameworks to facilitate access to credit in particular for micro- and small enterprises, taking into account the difficulties that they faced as a result of local and global financial, environmental and other crises, such as climate change and the COVID-19 pandemic. While the future text should be focused on micro- and small enterprises, issues related to medium-sized enterprises should not be entirely excluded.

52. In 2017, the Commission had entrusted Working Group III with a broad mandate to work on the possible reform of investor-State dispute settlement. In addition, it had been agreed that the work should address cross-cutting issues, including alternatives to investor-State dispute settlement, exhaustion of local remedies, counterclaims, calculation of damages, regulatory chill and impact on non-parties to the dispute. It was her delegation's understanding that the Working Group's revised workplan prepared in 2021 was a notional document and only a guide for the Working Group to advance its work, and that the focus should be on a request to the Commission for additional resources and the rationale for such a request. In that regard, her delegation welcomed the allocation to the Working Group of an additional one-week session per year for the period from 2022 to 2025. The workplan should continue to evolve in view of the specific concerns expressed by some Member States.

53. It was curious that the matter of damages, in particular, did not have a central place in the workplan of the Working Group, given that the size of the damages awarded against States in recent years had been at the forefront of critiques of investment arbitration and involved many procedural dimensions. The matter went to the heart of the reform process, since the result of the current situation was a system that was alleged to favour investor claimants and to place a considerable burden on developing States. For the sake of the legitimacy of the global investor-State dispute settlement system, a balance must be struck between the rights and obligations of States and those of investors.

54. The limited resources available to developing States and the technical difficulties that restricted their effective participation in informal sessions should be fully taken into account in the workplan. The adoption of reform elements on a "rolling basis" might not allow issues of particular interest to developing countries to be considered at an early stage, and could prevent the Working Group from taking a holistic, balanced approach to reform. Given the need for serious and broad action, high priority must be given to addressing the workplan's deficiencies.

55. **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 wished to highlight the progress made by Working Group IV, in particular the finalization of the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services. The Working Group's efforts were extremely important, given the continuing growth of electronic commerce.

56. The work of Working Group I was crucial for increasing access to credit for micro-, small and medium-sized 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. Her delegation welcomed the finalization by Working Group II of the explanatory note to the UNCITRAL Expedited Arbitration Rules. The texts developed by the Working Group were fundamental in efforts to promote the speedy, efficient and amicable settlement of disputes in international trade relations.

57. 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. Peru welcomed the progress that had been made and looked forward to the submission of the draft code of conduct for adjudicators with the commentary and texts on alternative dispute resolution mechanisms for consideration by the Commission at its next session. 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.

58. Peru placed great importance on the technical cooperation and assistance provided by UNCITRAL to developing countries. The Commission should continue to expand its collaboration with academic partners, in particular young researchers and professionals in the field of international trade law, taking into account the gender perspective. Her delegation reiterated its commitment to the promotion of the rule of law within the framework of the 2030 Agenda for Sustainable Development and recalled that the Commission's work was relevant to the achievement of several Sustainable Development Goals.

59. **Mr. Yue** (Canada) said that the Commission's work on the development and harmonization of commercial law could promote the achievement of several Sustainable Development Goals. His delegation

commended UNCITRAL for ensuring the continuity of its work over the past year, despite the ongoing challenges posed by the COVID-19 pandemic, and for drawing on the lessons learned during the pandemic to improve its working methods. In particular, allowing participants to view meetings online enabled greater inclusion. When necessary, the working groups could adopt their reports after a session, so as to be able to dedicate more time during the session to substantive discussions.

60. Canada noted with great satisfaction the approval of the draft convention on the international effects of judicial sales of ships, which would facilitate international trade by enhancing legal certainty with respect to the ownership of ships sold by way of judicial sale. The fact that the draft convention had been developed largely during hybrid negotiation sessions was a testament to the Commission's capacity to adapt. His delegation also welcomed the adoption of the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services – the first legislative text on the topic produced by a global entity – and of the recommendations to assist mediation centres and other interested bodies with regard to mediation under the UNCITRAL Mediation Rules (2021).

61. His delegation appreciated the inclusive, transparent and broad discussions that had taken place within Working Group III on investor-State dispute settlement reform. It welcomed the steady progress that had been made on the topic and the allocation of additional resources to the Working Group to allow its work to be completed by 2025.

62. Canada took note of the progress of the Commission's work on access to credit for micro-, small and medium-sized enterprises and on legal issues arising from civil asset tracing and recovery in insolvency proceedings, which it considered to be of great value. The Commission should ensure that its work on the digital economy, which currently included a large number of topics, was focused on addressing legal gaps that had been identified as problematic.

63. Canada applauded the Commission's ambitious work programme for the coming years. While the variety of topics included in the programme was impressive and forward-thinking, the Commission must continue to coordinate and collaborate with UNIDROIT and the Hague Conference on Private International Law to ensure that there was no duplication of work. It must also ensure that its work programme was in line with its mandate and strengths. Canada welcomed the enlargement of the Commission's membership from 60

to 70 States, which would provide a valuable opportunity for more States to participate in its work and would thus further the harmonization and development of international trade law.

64. **Ms. Bhat** (India) said that her delegation commended the Commission for its adaptability in the face of the challenges arising from the COVID-19 pandemic. The instruments developed by UNCITRAL were of practical value for individuals, corporations and States. Her delegation particularly commended the finalization and approval of the draft convention on the international effects of judicial sales of ships. However, India remained convinced that the adoption of a convention would have the desired effects of complementing the existing international legal framework on shipping and navigation and contributing to the development of harmonious international economic relations only if the convention were acceptable to States with different legal, social and economic systems.

65. Amicable dispute settlement methods such as mediation and conciliation had significant benefits in the context of both domestic and international commercial relations. Her delegation therefore welcomed the adoption of the recommendations to assist mediation centres and other interested bodies with regard to mediation under the UNCITRAL Mediation Rules (2021), which, while not binding, would complement the existing legal framework for international mediation.

66. India took note of the progress made by Working Group IV and the resulting adoption of the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services, which would help States to develop or improve national laws governing the use of identity management and trust services. The Working Group's future work on the topics of automated contracting and data transactions should not overlap with work being done by other international entities, within or outside the United Nations system, concerning data protection, cross-border data flows or the development of harmonized standards for the ethical use and governance of artificial intelligence. The Commission should foster the broad participation of both developing and developed countries in its work, which should also be complemented by capacity-building activities, keeping in mind the specific needs of developing countries.

67. Working Group I should continue to deliberate on the topic of access to credit for micro-, small and medium-sized enterprises – rather than requesting the secretariat to carry out work on the topic with the

assistance of a group of experts – in order to ensure that a wide range of perspectives from different geographical regions and legal traditions and from countries at different levels of economic development were taken into account.

68. Her delegation noted with satisfaction the progress made by the relevant working groups regarding the finalization of the explanatory note to the UNCITRAL Expedited Arbitration Rules and the possible reform of the investor-State dispute settlement system. The topics of technology-related dispute resolution and adjudication should be treated as a priority. Member States must take a balanced approach in order to arrive at a consensus regarding the granting of additional time and budgetary resources for the completion of the work. India commended the secretariat for organizing the colloquium on possible future work on dispute settlement and for conducting outreach activities aimed at raising awareness about the work of the Working Groups and ensuring inclusiveness and full transparency.

69. Her delegation hoped that the event “Crisis impact on international trade law: COVID-19 and beyond – MSMEs and digitalization”, which had been postponed, would be held soon. Such events promoted the development of policy and legislative measures, on the basis of UNCITRAL texts, to minimize disruption to trade in the event of unforeseen global crises and to bolster subsequent recovery efforts.

70. Her delegation welcomed the efforts made by the secretariat to cooperate and coordinate with other organizations and entities, within and outside the United Nations system, with a view to avoiding duplication of effort and promoting efficiency, consistency and coherence in the unification and harmonization of international trade law. India reiterated the importance of technical cooperation and assistance to developing countries, particularly on matters relating to the adoption and use of UNCITRAL texts at the national level. It welcomed the progress made towards a rejuvenation of the CLOUT system, which played a pivotal role in fostering the uniform interpretation and application of the instruments developed by the Commission.

71. **Mr. Nyamid** (Cameroon) said that his delegation wished to commend the Commission and its various working groups on the progress made towards modernizing and harmonizing international trade law. In particular, it welcomed the successful deliberations on the draft convention on the international effects of judicial sales of ships, the recommendations to assist mediation centres and other interested bodies with

regard to mediation under the UNCITRAL Mediation Rules (2021) and the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services. Cameroon also took note of the constructive discussions on coordination and cooperation and of the secretariat reports on non-legislative activities.

72. His delegation welcomed the report on the transparency repository and called for the continued operation of the repository as a key mechanism for promoting transparency in investor-State arbitration. Cameroon recalled the importance of ensuring a uniform interpretation and application of UNCITRAL texts and supported the Commission's efforts to obtain contributions from all legal traditions to its uniform interpretation tools. It welcomed the invitation to all States that had enacted UNCITRAL texts to nominate national correspondents for reporting relevant case law to the UNCITRAL secretariat. It also welcomed the progress on rejuvenating the CLOUT system.

73. With regard to the draft convention on the international effects of judicial sales of ships, Cameroon welcomed the adjustments to draft articles 3, 9, 13 and 14, which had improved the readability of the text. With regard to articles 2, 4 to 8 and 10 to 13, his delegation essentially supported the Commission's position.

74. In draft article 1 (Purpose), the insertion of the word "international" before "effects" aligned the wording with the title of the draft convention and better reflected its focus. The amendment did not mean that the provisions of the convention could not apply in domestic cases; for instance, it did not mean that, for a judicial sale of a ship that was registered in the State of judicial sale, articles 5 (Certificate of judicial sale), 7 (Action by the registry) and 8 (No arrest of the ship) did not apply.

75. His delegation agreed with the Commission's decision not to deal with substantive issues in draft article 2 (Definitions). The sales "by private treaty" referred to in paragraph (a) (i) of the draft article normally resulted from arrangements between the mortgagee and the prospective purchaser that were approved by the court of judicial sale. The name and procedure for such sales differed among the States whose law accommodated them. His delegation had reservations concerning the definition of "completion of judicial sale". Rather than focusing on the fact that the sale was not subject to a review in the State of judicial sale – even though that would be helpful for determining when the certificate of judicial sale would be issued –, the focus should be on a harmonized understanding of when a judicial sale was "completed".

76. With regard to draft article 4, paragraph 1, the inclusion of a requirement for the notice of judicial sale to be given prior to the sale could be problematic if the judicial sale were understood to be a process that commenced at the beginning of the procedure, before the time at which notices were ordinarily given. Cameroon welcomed the compromise whereby the paragraph had been amended to refer to procedures for challenging the judicial sale. With regard to draft article 10, his delegation supported the decision to retain the word "manifestly" in the phrase "manifestly contrary to the public policy of that other State Party", in order to prevent specious interpretations of the concept of "public policy".

77. Cameroon welcomed the offer from the Government of the People's Republic of China to host a ceremony for the signing of the future convention on the international effects of judicial sales of ships. The adoption of a convention that was acceptable to States with different legal, social and economic systems would complement the existing international legal framework on shipping and navigation and contribute to the development of harmonious international economic relations by ensuring the international recognition of clean title. It would also provide legal certainty in relation to clean title to ships purchased through judicial sale, thereby preventing problems in the deregistration process in the former flag State and facilitating the clearance of all former encumbrances and liens, which would reduce the risk of costly and lengthy proceedings that interrupted trade and shipping.

78. His delegation welcomed the progress reports of the working groups and encouraged Working Group IV to focus on the topics of automated contracting and data transactions. 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 was a major challenge. Protectionism posed a major threat to the equity and fairness of international trade, just as obstacles to free competition and free trade severely hindered the development of low-income countries. Particular attention should be given to finding ways to remove such constraints. 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.

79. Cameroon welcomed the adoption of the UNCITRAL Expedited Arbitration Rules and the approval in principle of the explanatory note thereto. The Commission should make the necessary provisions to enable Working Group II to fulfil its mandate, given the need for an effective mechanism for the settlement of commercial disputes. His delegation also commended Working Group I for the progress it had made on the question of facilitating access to credit for micro-, small and medium-sized enterprises. 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, which should take into consideration the interests of all peoples, in particular those in developing countries.

80. *Ms. Romanska (Bulgaria), Vice-Chair, took the Chair.*

81. **Mr. Geng Shuang** (China) said that over the past year, the Commission had made significant headway on promoting the harmonization and modernization of the rules of international commercial transactions. The Commission's successes provided a strong basis for the post-pandemic recovery of the global economy. His Government had always attached great importance to the work of UNCITRAL and had actively participated in its work on a wide range of topics.

82. His delegation welcomed in particular the approval of the draft convention on the international effects of judicial sales of ships. Many years of negotiations within the Commission had resulted in a text that took into account the legislative and judicial practices of different States and legal systems. The draft convention would contribute to greater legal certainty, help to protect incentives for ship financing and promote the development of international trade. His delegation hoped that the General Assembly would adopt the draft convention at its current session. During the negotiations on the text, it had been agreed that his Government would host a signing ceremony in Beijing in 2023 and that, in accordance with established practice, the convention would thenceforth be known as the Beijing Convention on the Judicial Sale of Ships. His delegation remained committed to working with other Member States to enable UNCITRAL to achieve further milestones in the future.

83. **Ms. Carral Castelo** (Cuba) said that the establishment of UNCITRAL had enabled developing countries to participate more actively in the harmonization, modernization and unification of international trade law. The Commission must ensure that its structure, composition and working methods

continued to be inclusive and consistent with the principle of the sovereign equality of States, in order to ensure the universal acceptance of its texts.

84. Constantly evolving technologies and the diversity of commercial activities posed challenges for the codification of international trade law. The Commission's activities must nevertheless keep pace with developments in that field. Her delegation commended the Commission's efforts to achieve substantive progress to promote the coherence and evolution of the rules of international trade, which would facilitate the secure exchange of goods and services. Lastly, her delegation wished to highlight that the COVID-19 pandemic and unilateral coercive measures had hampered global trade on a much wider scale than in prior years and continued to hinder progress on the Commission's broader objective of promoting international trade.

85. **Mr. Escobar Ullauri** (Ecuador) said that, as a member of UNCITRAL, his country valued the Commission's work on the promotion, harmonization and unification of international trade law, which fostered universal economic cooperation among all States on a basis of equality, equity, common interest and respect for the rule of law and also helped to prevent duplication of effort among organizations working in the same field. In that regard, his delegation welcomed the recent finalization and approval of the draft convention on the international effects of judicial sales of ships and the finalization and adoption of the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services.

86. The work of Working Group I on micro-, small and medium-sized enterprises was of particular interest to developing countries, where such enterprises were vital for the productive sector and job creation. His delegation also commended Working Group III, whose work constituted the only multilateral initiative aimed at discussing the substantive aspects of investor-State dispute settlement reform with a view to bringing better balance to the international investment regime. His delegation welcomed the changes that had been made to the Commission's working methods to allow delegates to listen to deliberations remotely.

87. The UNCITRAL trust funds were crucial to ensuring the continuity of technical cooperation and assistance activities and promoting the active participation of developing countries in the Commission's work. Ecuador thanked those Member States that had made voluntary contributions to the trust

funds and called on others to do the same, if they were able.

88. **Ms. Tran Thi Phuong** (Viet Nam) said that, as a member of UNCITRAL, Viet Nam was pleased with the positive results that had been achieved by the Commission, including the approval of the draft convention on the international effects of judicial sales of ships.

89. The topic of investor-State dispute settlement reform was a priority for her country. It was important to address the inconsistency and unpredictability of the existing mechanisms and concerns related to the appointment of arbitrators and to their impartiality and objectivity. The purpose of the discussions within Working Group III should be not only to find ways to reform the dispute settlement regime but also to promote responsible investment and sustainable development. Viet Nam commended the progress being made by the Working Group in the third phase of its mandate and looked forward to the submission of the draft code of conduct for adjudicators for consideration by the Commission at its fifty-sixth session. It also looked forward to further deliberations on the draft provisions on mediation and the draft guidelines on investment mediation. The Working Group should allocate its time and resources in such a way as to be able to discuss all issues and proposals in a balanced and comprehensive manner.

90. Since its establishment, UNCITRAL had developed texts that had helped to build an international trade system based on international law and the promotion of the interests of all States in their international commercial relations. Viet Nam therefore strongly supported the Commission's role in the further development of international commercial law. It also encouraged the secretariat to continue its efforts to disseminate and increase awareness of UNCITRAL instruments and to provide technical assistance to States for the application of those instruments. Her delegation remained committed to contributing to the work of UNCITRAL with a view to promoting equitable global trade and the implementation of the 2030 Agenda for Sustainable Development.

91. **Ms. Lito** (United Kingdom) said that her delegation commended the UNCITRAL secretariat for facilitating the resumption of in-person discussions. The United Kingdom continued to follow closely the work of Working Group I in support of micro-, small and medium-sized enterprises. It had also followed with interest the work of Working Group II (Dispute Settlement) and was giving careful consideration to whether it should sign and ratify the United Nations

Convention on International Settlement Agreements Resulting from Mediation (Singapore Convention on Mediation). A public consultation on the question had been held earlier in 2022.

92. Her delegation had been pleased to participate in the forty-third session of Working Group III (Investor-State Dispute Settlement Reform) and welcomed the progress that had been made in relation to the different reform options. It looked forward to the Commission's consideration of the first reform options recommended by the Working Group, including a draft code of conduct for adjudicators. It hoped that strong momentum would be maintained at the Working Group's next session, and that the views of stakeholders – including those in the business community – would continue to be heard.

93. With regard to the topics covered by Working Group IV, the United Kingdom took note of the Commission's adoption of the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services. It also noted the approval in principle of the explanatory note thereto and looked forward to further discussions on that text within the Working Group. Her delegation also welcomed the Working Group's continued consideration of the use of artificial intelligence and automation in contracting and supported the planned approach to future work on the topic.

94. The United Kingdom had been pleased to contribute to the work of Working Group V on the UNCITRAL Legislative Guide on Insolvency Law for Micro- and Small Enterprises and commended the progress made by the Working Group on civil asset tracing and recovery in insolvency proceedings and on applicable law in insolvency proceedings. With regard to the work of Working Group VI, her delegation looked forward to the adoption by the General Assembly of the draft convention on the international effects of judicial sales of ships.

95. **Ms. Antonova** (Russian Federation) said that her delegation welcomed the Commission's return to in-person meetings, which would help to ensure that consultations were as inclusive as possible and that the Commission's outputs continued to be of the highest quality. Her delegation hoped that the participation of official delegations in the Commission's in-person meetings would not be hampered by external factors such as those relating to the issuance of visas by the host country of United Nations Headquarters.

96. Her delegation commended the secretariat's ongoing work 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 COVID-19 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. Work on the topic of climate change must remain within the Commission's mandate and within the bounds of the existing international institutional and regulatory system. The outcome of such work should be of a recommendatory nature.

97. The Commission was to be congratulated for concluding work on texts prepared by Working Groups II, IV and VI. The future implementation of those texts would serve as yet another example of the Commission's contribution to the progressive development and harmonization of international trade law. Her delegation looked forward to continued discussions of topics allocated to Working Groups I, IV and V. There was a need for a careful and considered approach to the continuing 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.

98. **Ms. Narváez Ojeda** (Chile) said that her delegation welcomed the finalization and approval of the draft convention on the international effects of judicial sales of ships, the adoption of the recommendations to assist mediation centres and other interested bodies with regard to mediation under the UNCITRAL Mediation Rules (2021) and the finalization and adoption of the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services.

99. The Commission's working groups had carried out valuable work despite the difficulties posed by the COVID-19 pandemic. Working Group I had conducted important work to enable micro-, small and medium-sized enterprises to have access to credit on a more equal footing with other businesses. Such enterprises played a crucial role in the promotion of inclusive employment, but many, in particular those run by women, continued to face difficulties in obtaining credit, which limited their potential for growth and their ability to enter the export market. With regard to Working Group III, her delegation welcomed the cooperation between the secretariat and the International Centre for Settlement of Investment Disputes on the draft code of conduct for adjudicators handling international investment disputes

(and for judges in any future standing mechanism), which represented a significant step towards addressing concerns expressed by States about the current investor-State dispute settlement system. Chile hoped that a compromise would be reached at the upcoming sessions of the Working Group, so that the draft code of conduct could be adopted by UNCITRAL at its fifty-sixth session.

100. Given the risks of relying on face-to-face interaction in trade, as highlighted by the COVID-19 pandemic, her delegation attached particular importance to the planned work of Working Group VI on the development of a new instrument on negotiable multimodal transport documents, which would help to prevent and mitigate the impact of any future pandemics. It also welcomed the continuation of the secretariat's exploratory work on legal issues related to the impact of the pandemic on international trade law. As for Working Group II, the topics of technology-related dispute resolution and adjudication were of particular interest, given their practical importance and the current lack of regulation in those areas.

101. Chile was pleased to have been re-elected to the Commission for the period from 2022 to 2028. The recent increase in the membership of the Commission from 60 to 70 States would help to ensure that the various geographical regions and the major economic and legal systems of the world were represented. Her delegation also welcomed the participation of specialized non-governmental organizations in the Commission's work, which helped to ensure the quality and legitimacy of its texts, avoid duplication of effort and prevent the development of conflicting instruments by different entities. It also solidified the Commission's position as a leader in the development of more efficient legal frameworks.

102. **Ms. Hsieh** (Thailand) said that her delegation was pleased to have been re-elected to the Commission in 2022 and remained committed to supporting its invaluable work on the development and harmonization of international trade law. Thailand welcomed the approval of the draft convention on the international effects of judicial sales of ships, which was a significant step forward in achieving certainty in international maritime trade, and the adoption of the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services.

103. The Commission's legislative texts on electronic commerce had been crucial for the development of the legal framework for digital trade worldwide and had facilitated the stable development of electronic commerce in her country, which now had the second

largest Internet economy in South-East Asia. Her Government was now working to improve the national legal regime to ensure financial and commercial stability, including by developing a law regulating digital platform businesses.

104. Her delegation attached great importance to the work of Working Group III on reform of the investor-State dispute settlement system. It was pleased with the overall progress of the work and appreciated the Commission's efforts to ensure that both developed and developing countries had their voices heard. However, it had grave concerns about the proposal to combine the future advisory centre and standing multilateral mechanism. Access to affordable legal advice was crucial, in particular for developing countries. The advisory centre that would be established as part of the reform must therefore be independent and neutral and provide services to all States in need, whether or not they were members of the standing mechanism. Given the diversity of the members of the Working Group, and their different experiences with investor-State dispute settlement, they had varied concerns and ideas on what reform should look like. Her delegation welcomed all efforts, whether systemic or incremental and whether procedural or substantive, to develop a legitimate, predictable and balanced investor-State dispute settlement system, and was eager to work towards building a consensus in that regard.

105. Her delegation commended the UNCITRAL Regional Centre for Asia and the Pacific for providing technical assistance for the adoption and implementation of UNCITRAL instruments in the region. Thailand and the Regional Centre had jointly hosted a number of events over the years and had recently reaffirmed their shared commitment to continuing their fruitful collaboration. Thailand commended the Commission's efforts to increase its coordination and cooperation with international and regional organizations active in the field of international trade law, which would contribute to the achievement of the Sustainable Development Goals. At the same time, the active participation of States was a driving force in the progressive development of international trade law. Thailand therefore stood ready to contribute to enhancing the representative character of UNCITRAL.

106. **Mr. Nagano** (Japan) said that his delegation was grateful to the secretariat for the support provided to enable the Commission to make progress in its work notwithstanding the continued challenges posed by the COVID-19 pandemic. Overall, Japan was satisfied with the work carried out by UNCITRAL during the session.

107. Japan was gratified by the broad support for its proposal on stocktaking of developments in dispute resolution in the digital economy and commended the secretariat for the extraordinary effort it had made to give shape to the project. In 2021, the Ministry of Justice of Japan had assisted the secretariat in its exploratory work by co-organizing with it a series of online workshops, which had been attended by more than 900 participants from around the world. His Government had provided the funds necessary for the first year of implementation of the project in January 2022 and would contribute the funds for the second year in due course. 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.

108. With respect to the initiative to enlarge the UNCITRAL membership, Japan had organized 11 rounds of open-ended informal consultations as part of the Vienna-based consultation process. It had also held bilateral meetings with interested States from all five regional groups. 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, put forward a proposal, subsequently adopted by the General Assembly in its resolution 76/109, to increase the membership of UNCITRAL from 60 to 70 States. The additional 10 seats would be distributed evenly among the five regional groups. His delegation considered that the resolution 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.

109. Japan, as a member of UNCITRAL since its inception, appreciated the Commission's significant role in promoting the progressive harmonization and unification of international trade law and reiterated its full commitment to making tangible contributions to the Commission's work.

110. **Mr. Rodriguez Torres** (Dominican Republic) said that his delegation commended the work carried out by UNCITRAL but considered that developing countries should be given more opportunities to participate. His Government was following the Commission's work with renewed interest as it sought to restore the country's place in the global economy and its role in international life as part of its post-pandemic recovery efforts. The promotion of domestic and foreign direct investment and trade in services through public-private partnerships was a key element of his Government's development strategy. A law on public-private partnerships had been adopted in 2020, and a government department had been established to oversee its implementation.

111. As a developing country, the Dominican Republic was particularly interested in the Commission's work on micro-, small and medium sized-enterprises, insolvency law, electronic commerce and investor-State dispute settlement reform. It also highly valued the work done to finalize and approve the draft convention on the international effects of judicial sales of ships and welcomed the adoption of the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services.

112. The Dominican Republic was going through a complex recapitalization process involving many investors from different countries. It had developed a suitable legal framework for trade and ensured that its ports were world class so as to take advantage of its strategic geographic position to establish itself as a logistics hub in the Caribbean. The various UNCITRAL instruments, in particular those relating to electronic commerce, would be extremely valuable to the national authorities and would build the confidence of potential clients.

113. The Commission should be provided with more financial resources to enable it to make progress in its work, facilitate communication between Member States, and hold meetings in hybrid format so that States that could not send a representative to attend in person could still participate.

114. **Mr. Ikondere** (Uganda) said that his delegation welcomed the expansion of the membership of UNCITRAL, which would enable more States to participate in the Commission's work and engage meaningfully in the meetings of the working groups. It also welcomed the adoption of the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services and encouraged States that had used the Model Law to advise the Commission on how other States could use it as a basis for their own laws.

115. Uganda also welcomed the initiative to develop a guidance document on the use of distributed ledger systems as part of the legal taxonomy on distributed ledger systems. His delegation agreed that the proposed guidance could provide explanations useful to commercial operators, especially micro-, small and medium-sized enterprises and operators located in developing countries, such as Uganda, in assessing whether distributed ledger technology-enabled services addressed their needs, and assessing the impact of the use of such services on their business. Raising awareness of those legal issues could promote greater security and sustainability in digital transformation efforts, including within the United Nations system.

116. His delegation wished to commend the progress made by Working Group II, in particular the finalization of the explanatory note to the UNCITRAL Expedited Arbitration Rules, and expressed its appreciation to the secretariat for presenting the legislative options with regard to early dismissal and preliminary determination, based on the deliberations of the Working Group. Further work on dispute settlement would do much to save States the costs of protracted litigation.

117. Uganda commended the progress made by Working Group III (Investor-State Dispute Settlement Reform) in the third phase of its mandate, which was to develop concrete reform elements to be recommended to the Commission. It also commended the Working Group for completing the first reading of the draft code of conduct for adjudicators and for considering the selection and appointment of investor-State dispute settlement tribunal members to a standing multilateral mechanism during its recent sessions. His delegation appreciated the secretariat's close cooperation with the secretariat of the Organisation for Economic Co-operation and Development on shareholder claims and reflective loss.

118. His delegation welcomed the secretariat's cooperation with the secretariat of the International Centre for Settlement of Investment Disputes on the draft code of conduct for adjudicators. However, it considered that the draft code was incomplete, as it did not address the conduct of counsel. Counsel ethics was a particularly relevant issue because, as arbitration became more international, it gave rise to difficulties owing to divergent ethical standards in different jurisdictions. Arbitral tribunals routinely relied on counsel to fulfil their professional obligations regarding matters such as compliance with disclosure orders, communication with witnesses and the making of factual and other representations.

119. With regard to the investor-State dispute settlement reform process, developing countries should be provided with technical support as a means to ensure both competence and inclusiveness. Uganda would therefore support the suggestion that the matter be addressed in the context of the reform option regarding the establishment of an advisory centre. Moreover, further consideration should be given to the question of how arbitrators were selected and appointed because the fact that arbitrators were appointed by the disputing parties themselves had raised questions about their independence and impartiality. Lastly, his delegation commended the Commission and its secretariat for enabling members to participate in meetings in hybrid format.

The meeting rose at 1 p.m.