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### UNCITRAL rules of procedure and methods of work

#### Comments received from Member States and interested international organizations

#### Note by the Secretariat\*

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\* This document transmits comments by Turkey, Palestine and international organizations. It was submitted less than ten weeks before the opening of the session, upon receipt of the comments.



## I. Introduction

1. The background information relevant to the present note may be found in paragraphs 1-4 of document A/CN.9/676/Add.1.
2. The present document reproduces the comments from Turkey and Palestine on document A/CN.9/676, received by the Secretariat on 17 June 2009. It also reproduces pertinent extracts from the communications received by the Secretariat as regards document A/CN.9/676 from the International Maritime Organization, the International Civil Aviation Organization, the Islamic Development Bank and the Organization for Economic Cooperation and Development.

## II. Comments received from Member States

### B. Observer States

#### Turkey

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[17 June 2009]

The Permanent Mission of the Republic of Turkey to the Office of the United Nations and other International Organizations in Vienna presents its compliments to the Secretariat of the United Nations Commission on International Trade Law and with reference to the Latter's Note No. LA/TL 132 (1-1) CU 2009/65 of 22 May 2009, has the honour to inform that Turkey is of the opinion that the reference document (A/CN.9/676) entitled "UNCITRAL rules of procedure and methods of work" does not reflect the full spectrum of views expressed by member and observer States, orally and in writing, during the deliberations of UNCITRAL at its forty-first session on matters relating to decision-taking and consensus.

The Permanent Mission, therefore, would like to reiterate its comments on "consensus as the preferred method for taking decisions" as follows:

"Turkey believes that the guiding principles of a review of the Commission's working methods should be those of inclusiveness, transparency and flexibility. As the Commission is established with a mandate to further the progressive harmonization and unification of the law of the international trade, it should continue using consensus without a formal vote as a preferred method of decision-taking. Its records and those of its subsidiary organs should reflect clearly any dissents or reservations, consistent with a well established custom in the United Nations.

"The wider participation of States, at all levels of economic development and from different legal systems in the process of harmonizing and unifying international trade law, is of paramount importance for the success of the work of the Commission. In that context, Turkey strongly supports the Commission's practice of taking into account the view of the observer States in determining whether consensus has been reached.

"In the same vein, Turkey strongly supports the UNCITRAL practice as well, which consists of full participation in deliberations on substantive

matters of observer States to the same extent as full members, making oral proposals and statements, including replying to statements made by Member States of the Commission, as well as the flexible approach adopted by the Commission allowing the observer States to submit written proposals and circulate documents, submit comments on drafts.”

### III. Comments received from entities with observer status

#### Palestine

[Original: English]  
[17 June 2009]

Palestine’s status as observer, which was granted by the UN General Assembly in 1974 by resolution 3237 (XXIX) of 2 November 1974, was considerably enhanced by the resolution 52/250 of 13 July 1998, which upgraded Palestine’s participation in the work of the UN and essentially bestowed upon Palestine a special status distinct from any other observer organization. In the Blue Book of the UN, listing all the Permanent and Permanent Observer Missions to the UN, Palestine is listed immediately after the Holy See, but in a separate category by itself, entitled: “Entities having received a standing invitation to participate as observers in the sessions and the work of the General Assembly and maintaining permanent observer missions at Headquarters”.

Resolution 52/250 decided “to confer upon Palestine, in its capacity as observer, and as contained in the annex to the present resolution, additional rights and privileges of participation in the sessions and work of the General Assembly and the international conferences convened under the auspices of the Assembly or other organs of the United Nations, as well as in United Nations conferences”. This includes inter alia, as detailed in the annex, the right to participate in the GA general debate, the right to inscribe in the list of speakers, the right to reply, the right to raise points of order, the right to co-sponsor draft resolutions concerning Palestinian issues, the right to make interventions, and seating to be arranged immediately after non-Member States and before other observers.

In section C of document (A/CN.9/676) “Status of non-member States, observer organizations and other persons and entities in UNCITRAL”, **we request that the category be amended to include “other observers” or “entities with observer status”, and accordingly, the same wording should be reflected in the paragraphs that follow, where appropriate.**

In light of the above, we wish to propose the following three Titles for Section C of the aforementioned Rules of Procedures:

**Proposal 1:** “Status of non-member States, observers, observer organizations and other persons and entities in UNCITRAL”

**Proposal 2:** “Status of non-member States, entities with observer status, observer organizations and other persons and entities in UNCITRAL”

**Proposal 3:** “Status of non-member States and other observers, observer organizations and other persons and entities in UNCITRAL”

We believe that the proposed titles reflect the unique representation of Palestine, and highlight the distinction between Palestine as a political entity and that of International Organizations and Persons.

#### **IV. Comments received from interested international organizations**

##### **A. Intergovernmental organizations**

###### **1. International Maritime Organization**

[Original: English]  
[9 June 2009]

Has no comments to convey.

###### **2. International Civil Aviation Organization**

[Original: English]  
[10 June 2009]

Has no comments to provide.

###### **3. Islamic Development Bank**

[Original: English]  
[15 June 2009]

Has no comments on the document.

###### **4. Organization for Economic Cooperation and Development**

[Original: English]  
[15 June 2009]

We have taken note of the proposed rules of procedure and methods of work, including in respect of the participation of observer organizations, and we welcome them.

We would like to thank you for including OECD in the consultation process.

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