



# General Assembly

Sixty-fifth session

Official Records

Distr.: General  
26 October 2010

Original: English

---

## Sixth Committee

### Summary record of the 7th meeting

Held at Headquarters, New York, on Monday, 11 October 2010, at 10 a.m.

*Chairperson:* Ms. Picco ..... (Monaco)

## Contents

Agenda item 77: Report of the United Nations Commission on International Trade  
Law on the work of its forty-third session

---

This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

10-57406 (E)



*The meeting was called to order at 10.20 a.m.*

**Agenda item 77: Report of the United Nations Commission on International Trade Law on the work of its forty-third session (A/65/17)**

1. **Mr. Sandoval** (Chile), Chairperson of the United Nations Commission on International Trade Law (UNCITRAL), introducing the Commission's report on the work of its forty-third session (A/65/17), said that three documents had been adopted: the UNCITRAL Arbitration Rules, the UNCITRAL Legislative Guide on Secured Transactions, Supplement on Security Rights in Intellectual Property, and part three of the UNCITRAL Legislative Guide on Insolvency Law.

2. The original version of the UNCITRAL Arbitration Rules had been adopted in 1976. The Rules had been applied to a broad range of disputes, gaining a reputation as a very successful instrument. In 2006, the Commission had recognized the need to revise the Rules in order to reflect changes in practice. The Working Group on Arbitration and Conciliation (Working Group II) had been entrusted with the task. The Commission had requested it to preserve the original structure, spirit, drafting style and flexibility. The review should seek to modernize the Rules and promote greater efficiency in arbitral proceedings. The Working Group had conducted the review in February 2010, in close cooperation with interested intergovernmental and non-governmental organizations. After further deliberation, the Commission had adopted the revised Rules, which had entered into force on 15 August 2010.

3. The revised Rules, which had been welcomed by the international arbitration community, included additional provisions addressing, inter alia, multiple-party arbitration, joinder, liability and a procedure to object to experts appointed by the arbitral tribunal. A number of innovative features had been introduced in order to enhance procedural efficiency, including a revised procedure for the replacement of an arbitrator, a requirement that costs should be reasonable, a mechanism for review of arbitration costs, and detailed provisions regarding interim measures.

4. At its forty-first session, the Commission had decided that the topic of transparency in treaty-based investor-State arbitration should be dealt with as a matter of priority immediately after the revision of the Rules. Working Group II had been entrusted with preparing a legal standard on the topic. At the current

session, it had been agreed that the Working Group might identify any other relevant topics that might also require future work. Any such topic might be brought to the attention of the Commission at its next session.

5. The Legislative Guide on Secured Transactions had been adopted in 2007 on the understanding that a supplement specifically dealing with security rights in intellectual property rights should subsequently be prepared. States would need guidance as to how the recommendations of the Legislative Guide would apply in an intellectual property context, and what adjustments would need to be made in their laws in order to avoid inconsistencies.

6. The Working Group on Security Interests (Working Group IV) had therefore drafted a Supplement on Security Rights in International Property, which the Commission had adopted at its current session. Relevant international intergovernmental and non-governmental organizations, in particular the World Intellectual Property Organization and The Hague Conference on Private International Law, had contributed significantly to its development. The Commission had recommended that all States should utilize the Supplement in order to assess the economic efficiency of their secured transactions regimes as well as their intellectual property regimes and give favourable consideration to the Supplement when revising or adopting relevant legislation.

7. After the adoption of the Supplement, the Commission had decided that Working Group VI should prepare a text on the registration of security rights in movable assets. Such a text would usefully supplement the Commission's work on secured transactions and provide urgently needed guidance to States with respect to the establishment and operation of efficient security rights registries. It had been agreed that other topics, such as security rights in non-intermediated securities, a model law based on the recommendations of the Guide and a text dealing with the rights and responsibilities of the parties should be retained in the future programme of Working Group VI.

8. After discussion, the Commission had requested the Secretariat to prepare a study that would identify specific topics with regard to intellectual property licensing and discuss the feasibility of the Commission preparing a legal text with a view to removing specific obstacles to international trade in that context.

9. Although enterprise groups were now an important feature of the global economy, very few States had comprehensive regimes for the treatment of such groups in insolvency. The Commission had referred the topic to its Working Group on Insolvency Law (Working Group V) in 2006. At the current session, the Commission had considered the revised draft approved by the Working Group and had adopted part three of the UNCITRAL Legislative Guide on Insolvency Law.

10. That text would complement the other parts of the UNCITRAL Legislative Guide on Insolvency Law and the UNCITRAL Model Law on Cross-Border Insolvency ("Model Insolvency Law"), providing a sound basis for the harmonization of that area of law. The format replicated that of the Legislative Guide: a commentary identifying key issues and providing various approaches was followed by recommendations on how to address those issues. Chapter I illustrated the general features of an enterprise group. Chapter II dealt with the application and commencement of insolvency proceedings, treatment of assets, remedies, participants and reorganization in the domestic context. Chapter III addressed international issues, including forms of cooperation and use of cross-border insolvency agreements.

11. The Commission had decided that in order to continue its work on insolvency law, it would be useful to address selected concepts of the UNCITRAL Model Law relating to the debtor's centre of main interests and the responsibility and liability of officers and directors in insolvency cases. The Commission had agreed that the Secretariat should be mandated, resources permitting, to develop a text providing a judicial perspective on the use and interpretation of the Model Insolvency Law.

12. At its thirty-seventh session, the Commission had decided to entrust the drafting of proposals for the revision of the 1994 Model Law on Procurement of Goods, Construction and Services ("Model Procurement Law") to its Working Group on Procurement (Working Group I) in order to reflect the experience gained, as well as new practices, in particular those resulting from the use of electronic communications. At its current session, the Commission had considered the reports of Working Group on the work of its seventeenth and eighteenth sessions. After discussion, the Commission had requested it to complete the task during its following

two sessions and present a draft revised model law for finalization and adoption by the Commission at its forty-fourth session.

13. At its forty-second session, the Commission had requested the Secretariat to prepare a study on online dispute resolution in cross-border electronic commerce (e-commerce) transactions. The Secretariat had prepared a note (A/CN.9/706) summarizing a colloquium on the topic, which had been held in Vienna in March 2010. The Commission had noted that it might be timely to deal with the matter internationally from the outset in order to avoid development of inconsistent mechanisms. After discussion, the Commission had agreed to establish the Working Group on Online Dispute Resolution (Working Group III), which would hold its first session in Vienna in December 2010.

14. At its forty-first session, the Commission had requested the Secretariat to engage actively in cooperation with the World Customs Organization and the United Nations Centre for Trade Facilitation and Electronic Business to study legal aspects involved in implementing a single window facility with a view to formulating a comprehensive international reference document on the topic. At its current session, the Commission had noted with appreciation the involvement of the Secretariat in that work. The Secretariat had informed the Commission of recent developments regarding electronic transferable records, identity management and e-commerce conducted with mobile devices.

15. After discussion, the Commission had requested the Secretariat to convene a colloquium and possibly other informal meetings to discuss all of those topics, and to prepare a note providing sufficient information for the Commission to make an informed decision at its forthcoming session.

16. At its forty-second session, the Commission had requested the Secretariat to prepare a detailed study with proposals as to the form and nature of a reference document that would assist legislators and policymakers in establishing a favourable legal framework for microfinance.

17. At its current session, the Commission had examined that note, recognizing that microfinance could play an important role in alleviating poverty and achieving the Millennium Development Goals. The Commission had agreed to convene a colloquium on

the topic in Vienna from 12 to 14 January 2011, with the participation of experts from organizations active in the area of microfinance.

18. The Commission had emphasized that legislative technical assistance to law reform was no less important than the formulation of uniform rules. The Secretariat had been requested to continue providing such assistance to developing countries, in particular, but it could do so only if sufficient funds were available. The Commission had appealed to all States, international organizations and other interested entities to consider contributing to the UNCITRAL Trust Fund for Symposia, and to help identify other sources of funding.

19. The Commission had considered a report by the Secretariat providing a brief survey of the work of international organizations in the field of international trade law. The Commission had noted with appreciation that the Secretariat was taking steps to engage in dialogue on both legislative and technical assistance activities with a range of organizations. The Commission had underlined the importance of its work towards coordinating such activities and supported the use of travel funds for that purpose.

20. In cooperation with Committee D of the International Bar Association, the Commission had continued to monitor the legislative implementation of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards ("the New York Convention") in order to ensure uniformity and effectiveness. Member States were urged to continue providing the Secretariat with updated information regarding their implementation of the Convention.

21. As at April 2010, 925 cases, relating mainly to the United Nations Convention on Contracts for the International Sale of Goods ("the United Nations Sales Convention") and the UNCITRAL Model Law on International Commercial Arbitration, had been included in the Case Law on UNCITRAL Texts (CLOUT) system. Case law on the New York Convention and the UNCITRAL Model Insolvency Law were increasingly represented on the database. The digest of case law on the Sales Convention would be finalized in late 2010, while preparation of the digest on the Model Law on International Commercial Arbitration would also continue until around that time.

22. The Commission had agreed that the CLOUT system continued to be an important aspect of its work.

It had expressed its appreciation to national correspondents and other contributors; encouraged the Secretariat to continue its efforts to extend the composition and vitality of the network; and supported a call for increased resources to support and enlarge that work.

23. The Commission had been informed of the status of UNCITRAL texts including treaty actions and legislative enactments received by the Secretariat since the previous session.

24. The Commission had adopted a summary of conclusions on UNCITRAL rules of procedure and methods of work. The text, which was contained in annex III of the report, did not provide a complete set of rules but constituted the best possible rendition of the main characteristics of the Commission's methods of work, to which all chairpersons should adhere at future sessions.

25. The Commission had been requested by the General Assembly to include in its annual reports comments on its role in promoting the rule of law at the national and international levels. It had decided to focus its comments on laws and practices in the domestic implementation and interpretation of UNCITRAL standards, and on ways and means of advancing donor coherence.

26. The Commission had held a panel discussion on the subtopic. Speakers had echoed the Secretary-General's call for a careful and content-specific analysis of the relationship between law and economics and of the impact of the economic crisis on legal protection, justice and security for the most vulnerable and marginalized populations. The positive interrelationship between the advancement of democracy, legal reform and economic development had been noted. The effectiveness of laws should not be measured in isolation but in the context of the broader goals of sustainable, equitable and inclusive growth. There had been general agreement that the promotion of the rule of law in commercial relations should be an integral part of the broader United Nations agenda. The Deputy Secretary-General had called for better integration of the Commission's work into other United Nations joint rule of law programmes, particularly the United Nations Rule of Law Coordination and Resource Group. She had encouraged efforts to raise awareness of the work of UNCITRAL across the United Nations.

27. At the end of the panel discussion, the Commission had requested the Secretariat to organize briefings by the Rule of Law unit biannually, when sessions of the Commission were held in New York; to initiate surveys and studies on the impact of its activities on the rule of law and development; and to consider ways to better integrate the Commission's technical cooperation and assistance activities with those of the United Nations and, in particular the United Nations Development Programme and country offices.

28. **Mr. Eriksen** (Norway) said that the overwhelming support for the underlying principles of the Commission's work guaranteed that its activities in the field of international trade law would continue to yield successful outcomes in future. He noted with satisfaction the adoption of a revised version of the UNCITRAL Arbitration Rules, which would play a significant role in fostering harmonization of arbitration. He also welcomed the adoption of the Supplement to the UNCITRAL Legislative Guide on Secured Transactions and of part three of the UNCITRAL Legislative Guide on Insolvency Law. The two new insolvency topics on which work was to commence, namely a study of the responsibility and liability of directors and officers of an enterprise in insolvency and pre-insolvency cases and the provision of guidance on the application of selected concepts of the UNCITRAL Model Insolvency Law to the debtor's centre of main interests were relevant today, and harmonization of national approaches in those areas would be beneficial. Norway welcomed the progress made in revision of the UNCITRAL Model Procurement Law and the decision to establish a new working group on online dispute resolution relating to cross-border e-commerce transactions.

29. **Ms. Köhler** (Austria) said that one of the Commission's major achievements in the past year was the adaptation of the UNCITRAL Arbitration Rules to the practice of the past three decades and to the requirements of modern economic and business relations. Her delegation commended the Commission on the adoption of the Supplement to the UNCITRAL Legislative Guide on Secured Transactions and of part three of the UNCITRAL Legislative Guide on Insolvency Law. The Commission had a 40-year track record of helping to strengthen the rule of law in international trade; she thanked it for those efforts and call on it to intensify its important work in that field.

30. **Mr. Nikolaichik** (Belarus) said that noteworthy among the accomplishments of the Commission's forty-third session was the adoption of the revised version of the UNCITRAL Arbitration Rules, which would make the arbitration of disputes more efficient, heighten the authority of the dispute settlement mechanisms and thereby enhance the rule of law in international commercial relations. It was important to continue to study new developments in arbitral proceedings such as the use of electronic communications in exchanges between opposing parties. Consideration should also be given to the specific issue of arbitration of investment disputes, either through the adaptation of the UNCITRAL Arbitration Rules or the drafting of a new optional set of rules.

31. His delegation welcomed the adoption by consensus of the Supplement to the UNCITRAL Legislative Guide on Secured Transactions and the adoption of part three of the UNCITRAL Legislative Guide on Insolvency Law. The work to update the UNCITRAL Model Procurement Law should be intensified; the new version must reflect recent practices, in particular those resulting from the use of electronic communications in public procurement and the experience gained in the use of the Model Procurement Law as a basis for law reform. The changes in international trade law should be taken into account and new trends identified so as to produce instruments that satisfied contemporary demands without departing from provisions that had proved their usefulness.

32. Belarus hoped to make maximum use of the advantages offered by electronic trade and therefore followed with interest the work of Working Group IV. His delegation was also interested in the recommendations of Working Group V for future work on insolvency law, including on the responsibility and liability of directors and officers of an enterprise in insolvency or pre-insolvency cases. It would indeed be timely for the Commission to carry out a study on microfinance: not many such studies existed, yet microfinance could be of great use as a means of alleviating poverty and overcoming crisis and post-crisis situations.

33. The development of a guide to the enactment and interpretation by the courts of the New York Convention was of interest to all Member States. It would be useful to publish on the Commission's

website the information provided by States in all the official languages of the United Nations; the study of such information could be useful not only to Governments but also to enterprises.

34. Excellent preparatory work had been done on ways of improving the Commission's working methods. His delegation was in favour of decision-making by consensus. More should be done to satisfy the requests of countries for training and technical assistance in the regulation of international trade. The Secretariat's work in that area should be supported by sufficient extrabudgetary resources.

35. **Mr. Kalinin** (Russian Federation) said that the Commission played a prominent role in promoting the rule of law at the national and international levels and was making an important contribution to the training of young lawyers. The Russian Federation would continue to support the Commission's work in all those areas.

36. The UNCITRAL Arbitration Rules, a text that was widely used in international practice, had now been updated in the light of contemporary trade relations, the latest information technology and developments in national and international private law. The issue of transparency in investor-State arbitration deserved special attention, as it touched on sensitive aspects of Government involvement in arbitral proceedings, including immunity. In view of innovations in international trade relations and the need to provide legal protection in that context, he welcomed the adoption of the Supplement to the UNCITRAL Legislative Guide on Secured Transactions dealing with security rights in intellectual property.

37. The Russian Federation also welcomed the adoption of part three of the UNCITRAL Legislative Guide on Insolvency Law and noted the progress made on improving the Commission's working methods.

38. **Mr. Sánchez** (Mexico) was pleased at the adoption of part three of the UNCITRAL Legislative Guide on Insolvency Law, the culmination of its work to compile practice in the application of cross-border insolvency agreements. It would be useful to judges, creditors and the parties concerned in cross-border insolvency proceedings, especially against the background of the current financial crisis.

39. Working Group I should accelerate its work on revision of the Model Procurement Law, in which, to

Mexico's satisfaction, fundamental principles such as functional equivalency, authenticity and confidentiality had been retained. His delegation welcomed the revision of the UNCITRAL Arbitration Rules, doubtless one of the most successful outcomes of the Commission's work, but one that nevertheless needed to be updated in view of the nature of modern commercial transactions. It was appropriate now to take up the particular features of investor-State arbitration. He noted with satisfaction the adoption of the Supplement to the UNCITRAL Legislative Guide on Secured Transactions on security rights in intellectual property.

40. **Mr. Pawutiyapong** (Thailand) said his delegation was pleased with the adoption of three timely UNCITRAL documents that would help to modernize international trade law regimes. He also noted with satisfaction the continuation of work on a revision of the Model Procurement Law, which would promote uniform legal standards in procurement. Thailand welcomed the decisions to prepare rules on transparency in treaty-based investor-State arbitration and to establish a working group on online dispute resolution relating to cross-border e-commerce transactions.

41. **Mr. Swiney** (United States of America) welcomed the adoption of an updated version, reflecting current arbitration practice, of the widely used 1976 UNCITRAL Arbitration Rules. Also welcome was the adoption of the Supplement to the UNCITRAL Legislative Guide on Secured Transactions dealing with security rights in intellectual property, an increasingly important yet complex area of commercial transactions. Important progress had been made with respect to cross-border insolvency with the adoption of part three of the UNCITRAL Legislative Guide on Insolvency Law. The global economic problems that had surfaced in the past few years highlighted the importance of effective cross-border cooperation. It was to be hoped that the revision of the Model Procurement Law and the accompanying Guide to Enactment would be ready for adoption at the Commission's next session.

42. Useful conclusions had been reached on the Commission's rules of procedure and methods of work, which had been evolving for more than 30 years. The United States supported the establishment of a working group to consider online dispute resolution, which had great potential to assist the growing number of

consumers who made purchases over the Internet. Other working groups dealing with transparency in treaty-based investor-State arbitration, model regulations for the registration of security rights in movable assets and mechanisms to promote cooperation on cross-border insolvency were also engaged in useful tasks.

43. **Mr. Tang** (Singapore) noted with satisfaction that conclusions had been adopted on the Commission's rules of procedure and methods of work. Singapore, as one of the fastest growing arbitration centres in the world, was particularly pleased that the 1976 UNCITRAL Arbitration Rules, which had served international trade and commercial arbitration extremely well for nearly 30 years, had now been updated in the light of technical developments and contemporary arbitral practice. That revision had taken a very long time to complete, however. The Commission should expedite its working procedures so as to optimize the use of limited resources, which should be devoted principally to the work the Commission was mandated to do, namely to promote the harmonization and unification of international trade law. Such efforts facilitated the growth of international commercial transactions, which in turn fostered greater prosperity for peoples throughout the world. The Commission's output must be useful to countries seeking practical legal solutions in the form of international conventions and model laws. Guidelines, given their relative informality, were of lesser value in harmonizing international trade law.

44. **Mr. Kim** Hyungjun (Republic of Korea) welcomed the adoption of UNCITRAL rules and legislative guides in three important areas. The revised version of the UNCITRAL Arbitration Rules, reflecting current approaches to enhancing the efficiency of arbitration, could be used in a broad range of disputes worldwide and could thereby help to promote harmonious international economic relations. The supplement to the UNCITRAL Legislative Guide on Secured Transactions could provide good guidance on adjustments needed to avoid inconsistencies between legislation on secured transactions and intellectual property law. Part three of the UNCITRAL Legislative Guide on Insolvency Law had the potential to facilitate the fast and fair conduct of insolvency proceedings, thereby serving as a driving force in recovery from the current global financial crisis.

45. The revision of the Model Procurement Law should be completed as soon as reasonably possible. A working group on online dispute resolution could be instrumental in promoting global e-commerce: the discussion should focus on creating a streamlined mechanism, one that did not impose unnecessary costs or delays, in order to ensure the speedy resolution of cross-border disputes.

46. The Commission's regulatory work could promote a rule-based, predictable trading and financial system; its efforts to ensure the implementation and uniform interpretation of international standards in commercial law were commendable.

47. **Ms. Kakee** (Japan) said it was essential to adjust the Model Procurement Law to changed circumstances; it was to be hoped that Working Group I would be successful in that endeavour. Japan welcomed the revision of the UNCITRAL Arbitration Rules, which had been widely and effectively applied in international arbitration practice. The completion of part three of the UNCITRAL Legislative Guide on Insolvency Law was welcome, but progress must also be made on topics such as the debtor's centre of main interests and the responsibility and liability of directors and officers of an enterprise in insolvency and pre-insolvency cases.

48. The formulation of an intellectual property supplement to the UNCITRAL Legislative Guide on Secured Transactions should yield great benefits, since intellectual property rights were taking on increased importance throughout the world. By creating a flexible and effective legal framework for security interests, a guide for registration of security rights in movable assets would facilitate the provision of credit and enhance economic growth and international trade.

49. **Ms. Yang** Yuya (China) said that her Government often used the Commission's model laws and legislative guides as references in domestic legal work. The three texts adopted at the Commission's most recent session would help to unify national laws on international trade, thus contributing to its development. The allocation of new agenda items to the working groups on government procurement, insolvency law and security rights and the establishment of a working group on online dispute resolution, represented an interest in topical issues in international trade on which unification and coordination were very much needed. Numerous

national experts and scholars were engaged in in-depth studies of those very issues, attesting to the Commission's forward-looking approach.

50. **Mr. Wilson** (United Kingdom) welcomed the expeditious work done at the Commission's forty-third session to reach agreement on the revision of the UNCITRAL Arbitration Rules. The United Kingdom was in favour of transparency in treaty-based investor-State relations and considered the preparation of the relevant legal standard to be an important project.

51. Now that agreement had nearly been reached on the Model Procurement Law, it was to be hoped that the text would be adopted at the Commission's next session: the prospective beneficiaries were anxiously awaiting its completion. The United Kingdom welcomed the adoption of the Supplement to the UNCITRAL Legislative Guide on Secured Transactions dealing with intellectual property and was pleased that its own proposal for future work on the responsibility and liability of directors and officers of an enterprise in insolvency and pre-insolvency cases had been accepted by the Commission.

52. **Mr. Hameed** (Pakistan) said his country supported the efforts to promote the uniform and flexible interpretation of the New York Convention. It hoped that the recent revision of the UNCITRAL Arbitration Rules would go a long way towards improving methods of settling international commercial disputes. Following the adoption of an intellectual property supplement to the UNCITRAL Legislative Guide on Secured Transactions, some domestic legislation would have to be adjusted to avoid inconsistencies between the laws on secured transactions and those on intellectual property. His delegation welcomed the adoption of part three of the UNCITRAL Legislative Guide on Insolvency Law, since effective insolvency law encouraged economic development and investment, fostered business activity and preserved employment.

53. Many issues had been raised by the revision of the Model Procurement Law, including the use of electronic means of communication in the procurement process. Procurement negotiations, reverse auctions and other practices had to be made more sensitive to the capabilities and tools available to the developing countries. While it was important to facilitate cross-border e-commerce through online dispute resolution mechanisms, the discussion on the subject must take

account of the worldwide digital divide, and special attention must be paid to the views of the developing countries.

54. The Secretariat needed to do more to promote awareness of the legislative texts adopted by UNCITRAL every year: if they were unknown beyond a few capitals, they could hardly be harmonized with other legal instruments in countries throughout the world.

55. **Ms. Valenzuela Díaz** (El Salvador) said that the Commission had been right, in revising the UNCITRAL Arbitration Rules, not to alter their structure or spirit. The changes made had modernized and streamlined the required procedures. Examples could be seen in the revision of article 2, which was now much clearer about notice delivered by electronic means; article 6, to which references to the consequences of failure to appoint an arbitrator had been added; and article 17, which now clarified the procedure to be followed when one party sent a communication to the arbitral tribunal, ensuring that the parties were treated with equality.

56. The Supplement to the UNCITRAL Legislative Guide on Secured Transactions was an innovative text aimed at regulating an increasingly common phenomenon — the granting of credit secured by intellectual property rights — and contributed to predictability and transparency in such matters.

57. The completion of part three of the UNCITRAL Legislative Guide on Insolvency Law would introduce an innovative regime for enterprise groups, the treatment of which, in terms of insolvency proceedings, had been largely ignored since their emergence in the nineteenth century.

58. **Ms. Quezada** (Chile) said that the forty-third session of the Commission had been very productive, with the adoption of a revised version of the UNCITRAL Arbitration Rules as well as the UNCITRAL Legislative Guide on Secured Transactions, Supplement on Security Rights in Intellectual Property, and part three of the UNCITRAL Legislative Guide on Insolvency Law. The Commission played a major role in the field of international trade law which should be strengthened and supported. In the future, all Members of the United Nations, and not just members of UNCITRAL, should participate in the work of the Commission on some of the most important topics it addressed.

59. The Commission's work within the United Nations was not as well known as it could be. In that connection, she suggested that the General Assembly could hold a session once a year in which it not only considered the report of UNCITRAL, but also brought the Commission and its work to the attention of the wider international community.

60. **Ms. Zarghami** (Canada) said that the adoption of the revised version of the UNCITRAL Arbitration Rules would ensure that those rules remained a key tool for commercial arbitration worldwide. It was encouraging to see that the Commission had already started working on transparency in treaty-based investor-State arbitration, an issue which was of utmost importance for all States. Canada intended to participate fully in those deliberations. Her delegation welcomed the adoption of the Supplement to the UNCITRAL Legislative Guide on Secured Transactions, which would assist States in assessing the economic efficiency of their secured transactions and intellectual property regimes.

61. She also applauded the adoption of part three of the UNCITRAL Legislative Guide on Insolvency Law, a welcome complement to the UNCITRAL Model Insolvency Law and the UNCITRAL Practice Guide on Cross-Border Insolvency Cooperation. The Legislative Guide on Insolvency Law would contribute to increased economic efficiency of insolvency law regimes around the world. As for the ongoing work of the Commission, Canada noted with satisfaction the significant progress achieved on most substantive issues in the context of the revision of the UNCITRAL Model Procurement Law, and hoped that the work would be completed as soon as possible.

62. Her delegation was pleased that the Secretariat was pursuing its efforts towards the preparation of the guide to enactment of the New York Convention, with a view to promoting its uniform interpretation and application thus avoiding any uncertainty resulting from its imperfect or partial implementation and limiting the risk that State practice would diverge from its spirit.

63. Her delegation also supported the conclusions adopted with regard to the Commission's rules of procedure and methods of work. Lastly, in an era when the resources of States and international organizations must be carefully managed, it was important for UNCITRAL to work in collaboration with the other

organizations working in the field of harmonization of private law.

64. **Mr. Venugopal** (India) said that his delegation was pleased with the number of important texts approved at the Commission's forty-third session. Since the revised Arbitration Rules had been adopted by consensus, they reflected the will of all countries representing different legal, social and economic systems. By establishing a harmonized legal framework for the fair and efficient settlement of international commercial disputes, the Rules would contribute to the development of harmonious international economic relations. For India, adoption of the revised Rules could not have come at a more appropriate time, as the country was in the process of amending its own arbitration legislation.

65. Another important text approved by the Commission was the Supplement to the UNCITRAL Legislative Guide on Secured Transactions, which should help States in revising or adapting their legislation pertaining to secured transactions and intellectual property. His delegation also noted with satisfaction the Commission's adoption of part three of the UNCITRAL Legislative Guide on Insolvency Law on the treatment of enterprise groups in insolvency and the progress made by Working Group I on updating the UNCITRAL Model Procurement Law in order to reflect new practices, in particular those resulting from the use of electronic communications in public procurement, and to incorporate the experience gained in the use of the 1994 Model Procurement Law as a basis for law reform.

66. With respect to future work in the area of dispute resolution, his delegation supported the Commission's decision that Working Group II (Arbitration and Conciliation) should address the topic of transparency in treaty-based investor-State arbitration as a matter of priority. The Working Group's efforts should be limited, however, to the preparation of rules of uniform law on transparency in treaty-based investor-State arbitration and any other aspects related thereto. Regarding future work in the area of e-commerce, the colloquium and other informal meetings proposed by the Secretariat to discuss topics such as electronic single window facilities, electronic transferable records, identity management and use of mobile devices in e-commerce, should provide sufficient information for the Commission to make an informed decision on the topic. He supported the Secretariat's

proposal to hold another colloquium on microfinance, with the possible participation of experts from other organizations working actively in the field. The report of the colloquium could be considered by the Commission at its next session.

67. He encouraged the Secretariat to continue providing assistance to developing countries, in particular on the adoption and use of UNCITRAL texts at the national level, and to generally improve its outreach to as many developing countries as possible. Lastly, his delegation welcomed the comprehensive review being conducted with regard to the Commission's working methods.

68. **Mr. Al Habib** (Islamic Republic of Iran) said that the adoption of a revised version of the UNCITRAL Arbitration Rules was a noteworthy achievement, especially as the revised text did not alter the structure of the original text, its spirit or its drafting style and flexibility. Future work on the settlement of commercial disputes should be in line with the character and function of the institution of arbitration. The topic of transparency in treaty-based investor-State arbitration should be examined thoroughly, taking into account the mandate and nature of the Commission. His delegation shared the prevailing view in the Commission that it was too premature to make any decision as to the form and scope of a future instrument on treaty-based arbitration.

69. His delegation welcomed the adoption of the Supplement to the UNCITRAL Legislative Guide on Secured Transactions dealing with security rights in intellectual property as well as the adoption of part three of the UNCITRAL Legislative Guide on Insolvency Law on the treatment of enterprise groups in insolvency. The new rules and guides should be easily applicable in a wide range of jurisdictions, including in developing countries. It was therefore crucial for the Commission to reach out to developing countries in order to familiarize their relevant institutions with the Commission's work and to enable them to participate more effectively in its working groups and in the overall harmonization and unification of international trade law. He called on the Commission and its secretariat to make an even greater effort to provide technical assistance to developing countries that needed to upgrade their legal capacities in order to benefit from new communication technologies that fostered trade.

70. As for the Commission's working methods, it was imperative to find ways of ensuring more effective participation by developing countries in the working groups and in the overall harmonization and unification of international trade law. He encouraged the Commission and its secretariat to consider practical ways of facilitating such participation and to ensure that the relevant law and practice of developing countries were taken into consideration in preparing notes and documents.

71. **Mr. Zinsou** (Benin) said that his delegation welcomed the Commission's decision to conduct a study on microfinance for the purpose of establishing a legal and regulatory framework aimed at protecting and developing the microfinance sector, which was a rapidly growing sector in developing countries. In Benin, for example, the primary goal of the microfinance programme was to encourage women and young people to engage in income-generating activities, which would help them to become self-supporting. In facilitating access to financial services to the many poor who were not currently served by the formal financial system, microfinance could play an important role as a tool for the alleviation of poverty and achievement of the Millennium Development Goals. The extension of the microfinance concept beyond credit to encompass a wider array of financial services to the poor, including insurance and remittances and the growth of "branchless banking", militated in favour of effective international regulations.

72. His delegation called on the Secretariat to seek ways and means of ensuring greater participation in the work of UNCITRAL by African countries, so that they could contribute to the development of balanced and universally acknowledged legislation on the topic. The Secretariat should also be supported in its efforts to speed up publication of instruments that had already been adopted and to develop a collection of case law which would become part of the positive law of Member States. It was also important to provide training to developing countries as conventions and model laws were being developed, to ensure uniform interpretation and application thereof across legal systems.

73. **Mr. Appreku** (Ghana) said that the Commission was an important tool for the promotion, progressive development and harmonization of international trade law, and African countries should be supported in their

efforts to participate more effectively in its work. Ghana was either party or signatory to a number of important international legal instruments adopted under the auspices of UNCITRAL, and was currently holding consultations on the desirability of ratifying the United Nations Sales Convention.

74. There appeared to be a growing interest in the Commission's work among members of the judiciary in Ghana. In the area of arbitration, the UNCITRAL Arbitration Rules were the only international mechanism for the resolution of investment disputes mentioned in the country's laws pertaining to investments. Almost all the bilateral investment agreements concluded between Ghana and other countries also made provision for arbitration based on the UNCITRAL Rules. Although the Ghana Arbitration Act made no direct reference to the Arbitration Rules, in practice, private contracts often included arbitration clauses based on those Rules. The country was in the process of amending its Arbitration Act, and the new Act was expected to expressly include the UNCITRAL Arbitration Rules as an option for dispute settlement. In that connection, the Commission's timely engagement with the relevant bodies in Ghana would ensure that the amendment exercise was informed by the ongoing work on the revision of the Model Procurement Law. In the field of procurements, the Ghana Procurement Act made reference to and followed the underlying principles of that Model Law.

75. Lastly, at a time when the members of the Economic Community of West African States were considering the advisability of adopting the UNCITRAL texts on electronic commerce, it was important for the Commission to reach out to those countries and others in Africa which were engaged in regional integration projects aimed at harmonizing their national laws.

*The meeting rose at 1 p.m.*