



# General Assembly

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## Sixty-second session

Agenda item 81

### **Report of the United Nations Commission on International Trade Law on the work of its fortieth session**

#### **Report of the Sixth Committee**

*Rapporteur:* Mr. Adam Mulawarman **Tugio** (Indonesia)

## **I. Introduction**

1. At its 3rd plenary meeting, on 21 September 2007, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its sixty-second session the item entitled “Report of the United Nations Commission on International Trade Law on the work of its fortieth session” and to allocate it to the Sixth Committee.

2. The Sixth Committee considered the item at its 11th, 12th and 28th meetings, on 22 and 23 October and 19 November 2007. The views of the representatives who spoke during the Committee’s consideration of the item are reflected in the relevant summary records (A/C.6/62/SR.11, 12 and 28).

3. For its consideration of the item, the Committee had before it the first part of the report of the United Nations Commission on International Trade Law on the work of its fortieth session.<sup>1</sup>

4. At the 11th meeting, on 22 October, the Vice-Chairperson of the United Nations Commission on International Trade Law at its fortieth session introduced the first part of the report of the Commission on the work of that session.

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<sup>1</sup> *Official Records of the General Assembly, Sixty-second Session, Supplement No. 17 (A/62/17 (Part I)).*



## **II. Consideration of proposals**

### **A. Draft resolution A/C.6/62/L.16**

5. At the 28th meeting, on 19 November, the representative of Austria, on behalf of Albania, Algeria, Argentina, Australia, Austria, Azerbaijan, Belarus, Belgium, Brazil, Bulgaria, Cameroon, Chile, China, Colombia, Croatia, Cyprus, the Czech Republic, the Democratic Republic of the Congo, Denmark, Ecuador, El Salvador, Estonia, Ethiopia, Finland, France, Gabon, Germany, Greece, Guatemala, Hungary, Iceland, India, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Jordan, Kenya, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malaysia, Mexico, Mongolia, Morocco, the Netherlands, Norway, the Philippines, Poland, Portugal, the Republic of Korea, Romania, the Russian Federation, Serbia, Sierra Leone, Singapore, Slovakia, Slovenia, Spain, Sri Lanka, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, the United Kingdom of Great Britain and Northern Ireland and Uruguay, subsequently joined by Belize and Burkina Faso, introduced a draft resolution entitled “Report of the United Nations Commission on International Trade Law on the work of its fortieth session” (A/C.6/62/L.16).

6. At the same meeting, the Committee adopted draft resolution A/C.6/62/L.16 without a vote (see para. 10, draft resolution I).

7. After the adoption of the draft resolution, the representatives of the United States of America, Canada and France made statements in explanation of position (see A/C.6/62/SR.28).

### **B. Draft resolution A/C.6/62/L.17**

8. At the 28th meeting, on 19 November, the representative of Austria, on behalf of the Bureau, introduced a draft resolution entitled “Fiftieth anniversary of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on 10 June 1958” (A/C.6/62/L.17).

9. At the same meeting, the Committee adopted draft resolution A/C.6/62/L.17 without a vote (see para. 10, draft resolution II).

### III. Recommendations of the Sixth Committee

10. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

#### **Draft resolution I** **Report of the United Nations Commission on International Trade Law on the work of its fortieth session**

*The General Assembly,*

*Recalling* its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

*Reaffirming its belief* that the progressive modernization and harmonization of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the developing countries, would contribute significantly to universal economic cooperation among all States on a basis of equality, equity, common interest and respect for the rule of law, to the elimination of discrimination in international trade and, thereby, to peace, stability and the well-being of all peoples,

*Having considered* the report of the Commission on the work of the first part of its fortieth session,<sup>1</sup>

*Reiterating its concern* that activities undertaken by other bodies in the field of international trade law without adequate coordination with the Commission might lead to undesirable duplication of efforts and would not be in keeping with the aim of promoting efficiency, consistency and coherence in the unification and harmonization of international trade law,

*Reaffirming* the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field, in particular to avoid duplication of efforts, including among organizations formulating rules of international trade, and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law, and to continue, through its secretariat, to maintain close cooperation with other international organs and organizations, including regional organizations, active in the field of international trade law,

1. *Takes note with appreciation* of the report of the United Nations Commission on International Trade Law on the work of the first part of its fortieth session;<sup>1</sup>

2. *Commends* the Commission for its work on the preparation of a legislative guide on secured transactions, which has been designed to facilitate

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<sup>1</sup> A/62/17 (Part I). For the final text, see *Official Records of the General Assembly, Sixty-second Session, Supplement No. 17*.

secured financing, thus promoting increased access to low-cost credit and enhancing national and international trade, and notes with satisfaction that the Commission expects to complete that work in the nearest future;

3. *Welcomes* the progress made by the Commission in its work on a revision of its Model Law on Procurement of Goods, Construction and Services<sup>2</sup> and of the Arbitration Rules of the United Nations Commission on International Trade Law,<sup>3</sup> and on the preparation of a draft instrument on transport law and on future developments in insolvency law, and endorses the decision of the Commission to undertake further work in the area of security interests;

4. *Endorses* the efforts and initiatives of the Commission, as the core legal body within the United Nations system in the field of international trade law, aimed at increasing coordination of and cooperation on legal activities of international and regional organizations active in the field of international trade law, as well as promoting the rule of law at the national and international levels in this field, and in this regard appeals to relevant international and regional organizations to coordinate their legal activities with those of the Commission, to avoid duplication of efforts and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law;

5. *Reaffirms* the importance, in particular for developing countries, of the work of the Commission concerned with technical assistance and cooperation in the field of international trade law reform and development, and in this connection:

(a) *Welcomes* the initiatives of the Commission towards expanding, through its secretariat, its technical assistance and cooperation programme, and in that respect, encourages the Secretary-General to seek partnerships with State and non-State actors to increase awareness about the work of the Commission and facilitate the effective implementation of legal standards resulting from its work;

(b) *Expresses* its appreciation to the Commission for carrying out technical assistance and cooperation activities, including at the country, subregional and regional levels, and for providing assistance with legislative drafting in the field of international trade law;

(c) *Expresses* its appreciation to the Governments whose contributions enabled the technical assistance and cooperation activities to take place, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law Trust Fund for Symposia and, where appropriate, to the financing of special projects, and otherwise to assist the secretariat of the Commission in carrying out technical assistance activities, in particular in developing countries;

(d) *Reiterates* its appeal to the United Nations Development Programme and other bodies responsible for development assistance, such as the World Bank and regional development banks, as well as to Governments in their bilateral aid programmes, to support the technical assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission, in the

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<sup>2</sup> *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 17 and corrigendum (A/49/17 and Corr.1), annex I.*

<sup>3</sup> United Nations publication, Sales No. E.77.V.6.

light of the relevance and importance of the work and programmes of the Commission for promotion of the rule of law at the national and international levels and for the implementation of the United Nations development agenda, including the achievement of the Millennium Development Goals;

6. *Takes note with regret* that, since the thirty-sixth session of the Commission, no contributions have been made to the trust fund established to provide travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General,<sup>4</sup> stresses the need for contributions to the trust fund in order to increase expert representation from developing countries at sessions of the Commission and its working groups, necessary to build local expertise and capacities in the field of international trade law in those countries to facilitate the development of international trade and the promotion of foreign investment, and reiterates its appeal to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the trust fund;

7. *Decides*, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to continue, in the competent Main Committee during the sixty-second session of the General Assembly, its consideration of granting travel assistance to the least developed countries that are members of the Commission, at their request and in consultation with the Secretary-General;

8. *Welcomes* the decision by the Commission to hold a comprehensive review of its working methods, in particular in the light of the recent increase in membership of the Commission and the number of topics being dealt with by the Commission, which should ensure the high quality of the work of the Commission and international acceptability of its instruments, and in this regard recalls its previous resolutions related to this matter;<sup>5</sup>

9. *Recalls* its resolutions on partnerships between the United Nations and non-State actors, in particular the private sector,<sup>6</sup> and its resolutions in which it encouraged the Commission to further explore different approaches to the use of partnerships with non-State actors in the implementation of its mandate, in particular in the area of technical assistance, in accordance with the applicable principles and guidelines and in cooperation and coordination with other relevant offices of the Secretariat, including the Global Compact Office;<sup>7</sup>

10. *Reiterates its request* to the Secretary-General, in conformity with the General Assembly resolutions on documentation-related matters,<sup>8</sup> which, in particular, emphasize that any reduction in the length of documents should not adversely affect either the quality of the presentation or the substance of the documents, to bear in mind the particular characteristics of the mandate and work of the Commission in implementing page limits with respect to the documentation of the Commission;

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<sup>4</sup> Resolution 48/32, para. 5.

<sup>5</sup> See in particular resolutions 36/32, 37/106, 38/134, 39/82, 40/71, 41/77, 42/152, 43/166 and 57/20.

<sup>6</sup> Resolutions 55/215, 56/76, 58/129 and 60/215.

<sup>7</sup> Resolutions 59/39, 60/20 and 61/32.

<sup>8</sup> Resolutions 52/214, sect. B, 57/283 B, sect. III, and 58/250, sect. III.

11. *Requests* the Secretary-General to continue providing summary records of the meetings of the Commission relating to the formulation of normative texts;

12. *Recalls* its resolution approving the establishment of the *Yearbook of the United Nations Commission on International Trade Law*, with the aim of making the work of the Commission more widely known and readily available,<sup>9</sup> expresses its concern regarding the timeliness of the publication of the *Yearbook*, and requests the Secretary-General to explore options to facilitate the timely publication of the *Yearbook*;

13. *Stresses* the importance of bringing into effect the conventions emanating from the work of the Commission for the global unification and harmonization of international trade law, and to this end urges States that have not yet done so to consider signing, ratifying or acceding to those conventions;

14. *Welcomes* the preparation of digests of case law relating to the texts of the Commission, such as a digest of case law relating to the United Nations Convention on Contracts for the International Sale of Goods<sup>10</sup> and a digest of case law relating to the Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law,<sup>11</sup> with the aim of assisting in the dissemination of information on those texts and promoting their use, enactment and uniform interpretation;

15. *Notes with satisfaction* that the Congress “Modern Law for Global Commerce”, held in Vienna from 9 to 12 July 2007 in the context of the Commission’s fortieth session, reviewed the results of the past work of the Commission as well as related work of other organizations active in the field of international trade law, assessed current work programmes and considered topics and areas for future work, and, acknowledging the importance of the results of the Congress for the coordination and promotion of activities aimed at the modernization and harmonization of international trade law, requests the Secretary-General to ensure the publication of the proceedings of the Congress to the extent permitted by available resources;

16. *Recalls* its resolutions affirming the importance of high-quality, user-friendly and cost-effective United Nations websites and the need for their multilingual development, maintenance and enrichment,<sup>12</sup> commends the restructured website of the Commission in the six official languages of the United Nations, and welcomes the continuous efforts of the Commission to maintain and improve its website in accordance with the applicable guidelines.

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<sup>9</sup> Resolution 2502 (XXIV), para. 7.

<sup>10</sup> United Nations, *Treaty Series*, vol. 1489, No. 25567.

<sup>11</sup> *Official Records of the General Assembly, Fortieth Session, Supplement No. 17 (A/40/17)*, annex I.

<sup>12</sup> Resolutions 52/214, sect. C, para. 3; 55/222, sect. III, para. 12; 56/64 B, sect. X; 57/130 B, sect. X; 58/101 B, sect. V, paras. 61–76; 59/126 B, sect. V, paras. 76–95; 60/109 B, sect. IV, paras. 66–80; and 61/121 B, sect. IV, paras. 65–77.

**Draft resolution II**  
**Fiftieth anniversary of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on 10 June 1958**

*The General Assembly,*

*Recalling* the adoption of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards<sup>1</sup> on 10 June 1958 by the United Nations Conference on International Commercial Arbitration (New York, 20 May to 10 June 1958),<sup>2</sup>

*Noting* that one hundred and forty-two States have become parties to the Convention, making it one of the most successful treaties in the area of commercial law,

*Recognizing* the value of arbitration as a method of settling disputes in international commercial relations, contributing to harmonious commercial relations, stimulating international trade and development and promoting the rule of law at the international and national levels,

*Convinced* that the Convention, by establishing a fundamental legal framework for the use of arbitration and its effectiveness, has strengthened respect for binding commitments, inspired confidence in the rule of law and ensured fair treatment in the resolution of disputes arising over contractual rights and obligations,

*Noting* that the Convention has served as a model for subsequent multilateral and bilateral treaties and other international legislative texts on arbitration,

*Taking note with appreciation* of the work of the United Nations Commission on International Trade Law relating to the promotion of the Convention and its uniform interpretation and effective implementation,

*Emphasizing* the necessity for further national efforts and enhanced international cooperation to achieve universal adherence to the Convention and its uniform interpretation and effective implementation, with a view to fully realizing the objectives of the Convention,

*Expressing its hope* that States that are not yet parties to the Convention will soon become parties thereto, which would ensure that the legal certainty afforded by the Convention is universally enjoyed, decreasing the level of risk and transactional costs associated with doing business and thus promoting international trade,

1. *Welcomes* the initiatives being undertaken by various organs and agencies within and outside the United Nations system to organize conferences and other similar events to celebrate the fiftieth anniversary of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards<sup>1</sup> and to provide a forum for an exchange of views on experiences worldwide with the implementation of the Convention;

2. *Encourages* the use of these events for the promotion of wider adherence to the Convention and greater understanding of its provisions and their uniform interpretation and effective implementation;

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<sup>1</sup> United Nations, *Treaty Series*, vol. 330, No. 4739.

<sup>2</sup> E/CONF.26/8/Rev.1.

3. *Invites* all States that have not yet done so to consider becoming parties to the Convention;

4. *Requests* the Secretary-General to increase efforts to promote wider adherence to the Convention and its uniform interpretation and effective implementation.

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