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**United Nations Commission  
on International Trade Law**  
**Forty-first session**  
New York, 16 June-3 July 2008

## **Provisional agenda, annotations thereto and scheduling of meetings of the forty-first session**

### **I. Provisional agenda**

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Finalization and approval of a draft convention on contracts for the international carriage of goods wholly or partly by sea.
5. Procurement: progress report of Working Group I.
6. Arbitration and conciliation: progress report of Working Group II.
7. Insolvency law: progress report of Working Group V.
8. Security interests: progress report of Working Group VI.
9. Possible future work in the area of electronic commerce.
10. Possible future work in the area of commercial fraud.
11. Fiftieth anniversary of the 1958 New York Convention.
12. Monitoring implementation of the 1958 New York Convention.
13. Technical assistance to law reform.
14. Status and promotion of UNCITRAL legal texts.
15. Working methods of UNCITRAL.



16. Coordination and cooperation:
  - (a) General;
  - (b) Reports of other international organizations.
17. Role of UNCITRAL in promoting the rule of law at the national and international levels.
18. Willem C. Vis International Commercial Arbitration Moot competition.
19. Relevant General Assembly resolutions.
20. Other business.
21. Date and place of future meetings.
22. Adoption of the report of the Commission.

## **II. Annotations**

### **1. Opening of the session**

1. The forty-first session of the Commission will be held at the United Nations Headquarters in New York, from 16 June to 3 July 2008.<sup>1</sup> The session will be opened on Monday, 16 June 2008, at 10.30 a.m. (see below, section III, paras. 58-61 for more details about the scheduling of meetings). As at 16 June 2008, the United Nations Commission on International Trade Law will be composed of the following member States: Algeria, Armenia, Australia, Austria, Bahrain, Belarus, Benin, Bolivia, Bulgaria, Cameroon, Canada, Chile, China, Colombia, Czech Republic, Ecuador, Egypt, El Salvador, Fiji, France, Gabon, Germany, Greece, Guatemala, Honduras, India, Iran (Islamic Republic of), Israel, Italy, Japan, Kenya, Latvia, Lebanon, Madagascar, Malaysia, Malta, Mexico, Mongolia, Morocco, Namibia, Nigeria, Norway, Pakistan, Paraguay, Poland, Republic of Korea, Russian Federation, Senegal, Serbia, Singapore, South Africa, Spain, Sri Lanka, Switzerland, Thailand, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela (Bolivarian Republic of) and Zimbabwe.

2. States not members of the Commission and international governmental organizations may attend the session as observers and participate in the deliberations. In addition, invited international non-governmental organizations may attend the session as observers and represent the views of their organizations on matters where the organization concerned has expertise or international experience so as to facilitate the deliberations at the session.

### **2. Election of officers**

3. Pursuant to a decision taken by the Commission at its first session, the Commission elects, for each session, a Chairperson, three Vice-Chairpersons and a Rapporteur.

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<sup>1</sup> *Official Records of the General Assembly, Sixty-second Session, Supplement No. 17 (A/62/17 (Part II))*, para. 109.

#### **4. Finalization and approval of a draft convention on contracts for the international carriage of goods wholly or partly by sea**

4. At its thirty-fourth session, in 2001, the Commission established Working Group III (Transport Law) to prepare, in close cooperation with interested international organizations, a legislative instrument on issues relating to the international carriage of goods, such as the scope of application, the period of responsibility of the carrier, obligations of the carrier, liability of the carrier, obligations of the shipper and transport documents.<sup>2</sup> At its thirty-fifth session, in 2002, the Commission approved the working assumption that the draft instrument on transport law should cover door-to-door transport operations.<sup>3</sup> At its thirty-sixth to fortieth sessions, in 2003 to 2007, respectively, the Commission noted the complexities involved in the preparation of the draft instrument, and authorized the Working Group, on an exceptional basis, to hold its sessions on the basis of two-week sessions.<sup>4</sup> At its thirty-ninth and fortieth sessions, in 2006 and 2007, the Commission commended the Working Group for the progress it had made and agreed that 2008 would be a desirable goal for completion of the project.<sup>5</sup>

5. At its forty-first session, the Commission will have before it the reports of the twentieth (Vienna, 15-25 October 2007) and twenty-first (Vienna, 14-25 January 2008) sessions of the Working Group (A/CN.9/642 and A/CN.9/645, respectively). The report of the twenty-first session contains in an annex the text of the draft convention on contracts for the international carriage of goods wholly or partly by sea approved by the Working Group. The Commission is expected to finalize and approve the text of a draft convention with a view to submitting it to the General Assembly for adoption at its sixty-third session, in 2008. The Commission will also have before it a compilation of possibly condensed comments submitted by Governments and intergovernmental organizations regarding the draft convention as approved by the Working Group (A/CN.9/658 and addenda). (For suggested scheduling of meetings to consider this agenda item, see paras. 58 and 59 below).

#### **5. Procurement: progress report of Working Group I**

6. At its thirty-seventh session, in 2004, the Commission agreed that its 1994 Model Law on Procurement of Goods, Construction and Services<sup>6</sup> would benefit from being updated to reflect new practices, in particular those resulting from the use of electronic communications in public procurement, and the experience gained in the use of the Model Law as a basis for law reform.<sup>7</sup> It decided to entrust the drafting of proposals for the revision of the Model Law to its Working

<sup>2</sup> Ibid., *Fifty-sixth Session, Supplement No. 17* and corrigendum (A/56/17 and Corr.3), para. 345.

<sup>3</sup> Ibid., *Fifty-seventh Session, Supplement No. 17* (A/57/17), para. 224.

<sup>4</sup> Ibid., *Fifty-eighth Session, Supplement No. 17* (A/58/17), para. 208; *ibid.*, *Fifty-ninth Session, Supplement No. 17* (A/59/17), paras. 64 and 132-133; *ibid.*, *Sixtieth Session, Supplement No. 17* (A/60/17), paras. 183 and 238; *ibid.*, *Sixty-first Session, Supplement No. 17* (A/61/17), paras. 200 and 273 (c); and *ibid.*, *Sixty-second Session, Supplement No. 17* (A/62/17 (Part I)), para. 184.

<sup>5</sup> Ibid., *Sixty-first Session, Supplement No. 17* (A/61/17), para. 200; and *ibid.*, *Sixty-second Session, Supplement No. 17* (A/62/17 (Part I)), paras. 183-184.

<sup>6</sup> Ibid., *Forty-ninth Session, Supplement No. 17* and corrigendum (A/49/17 and Corr.1), annex I.

<sup>7</sup> Ibid., *Fifty-ninth Session, Supplement No. 17* (A/59/17), paras. 79-82.

Group I (Procurement). The Working Group was given a flexible mandate to identify the issues to be addressed in its considerations.<sup>8</sup>

7. Until the Commission's fortieth session, the Working Group held six one-week sessions at which it considered studies and drafting materials prepared by the Secretariat.<sup>9</sup> At its thirty-eighth to fortieth sessions, in 2005 to 2007, respectively, the Commission reaffirmed its support for the review being undertaken and for the inclusion of novel procurement practices in the Model Law.<sup>10</sup> At its thirty-ninth session, the Commission recommended that the Working Group, in updating the Model Law and the Guide, should take into account issues of conflicts of interest and should consider whether any specific provisions addressing those issues would be warranted in the Model Law.<sup>11</sup> At its fortieth session, the Commission recommended that the Working Group should adopt a concrete agenda for its forthcoming sessions in order to expedite progress in its work.<sup>12</sup>

8. At its forty-first session, the Commission will have before it the reports of the twelfth (Vienna, 3-7 September 2007) and thirteenth (New York, 7-11 April 2008) sessions of the Working Group (A/CN.9/640 and A/CN.9/648, respectively). The report of the twelfth session contains in an annex the tentative timeline and agenda for the Working Group's thirteenth to fifteenth sessions agreed by the Working Group at its twelfth session. (For suggested scheduling of meetings to consider this agenda item, see para. 58 below).

#### **6. Arbitration and conciliation: progress report of Working Group II**

9. In accordance with a decision of the Commission at its thirty-ninth session, in 2006,<sup>13</sup> Working Group II (Arbitration and Conciliation) commenced its work on a revision of the UNCITRAL Arbitration Rules (1976)<sup>14</sup> at its forty-fifth session (Vienna, 11-15 September 2006), and continued it at its forty-sixth (New York, 5-9 February 2007), forty-seventh (Vienna, 10-14 September 2007) and forty-eighth (New York, 4-8 February 2008) sessions.

10. At its fortieth session, in 2007, the Commission noted that broad support had been expressed in the Working Group for a generic approach that sought to identify common denominators that applied to all types of commercial arbitration irrespective of the subject matter of the dispute, in preference to dealing with specific situations and that the extent to which the revised UNCITRAL Arbitration Rules should take account of investor-State dispute settlement or administered arbitration remained to be considered by the Working Group at future sessions.<sup>15</sup> At its forty-eighth session, there was a general agreement in the Working Group that it would not be desirable to include specific provisions on treaty-based arbitration in

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<sup>8</sup> Ibid., paras. 81-82.

<sup>9</sup> For the reports of the Working Group on the work of its sixth to eleventh sessions, see A/CN.9/568, A/CN.9/575, A/CN.9/590, A/CN.9/595, A/CN.9/615 and A/CN.9/623, respectively.

<sup>10</sup> *Official Records of the General Assembly, Sixtieth Session, Supplement No. 17* (A/60/17), para. 172; *ibid.*, *Sixty-first Session, Supplement No. 17* (A/61/17), para. 192; and *ibid.*, *Sixty-second Session, Supplement No. 17* (A/62/17 (Part I)), para. 170.

<sup>11</sup> *Ibid.*, *Sixty-first Session, Supplement No. 17* (A/61/17), para. 192.

<sup>12</sup> *Ibid.*, *Sixty-second Session, Supplement No. 17* (A/62/17 (Part I)), para. 170.

<sup>13</sup> *Ibid.*, *Sixty-first Session, Supplement No. 17* (A/61/17), paras. 182-187.

<sup>14</sup> *Ibid.*, *Thirty-first Session, Supplement No. 17* (A/31/17), para. 57.

<sup>15</sup> *Ibid.*, *Sixty-second Session, Supplement No. 17* (A/62/17 (Part I)), para. 175.

the UNCITRAL Arbitration Rules themselves. The Working Group decided to seek guidance from the Commission on whether, after completion of its current work on the Rules, the Working Group should consider in further depth the specificity of treaty-based arbitration and, if so, which form that work should take. The Commission is expected to provide such guidance at its forty-first session.

11. At its forty-first session, the Commission will have before it the reports of the forty-seventh and forty-eighth sessions of the Working Group (A/CN.9/641 and A/CN.9/646, respectively). (For suggested scheduling of meetings to consider this agenda item, see para. 58 below).

## **7. Insolvency law: progress report of Working Group V**

12. At its thirty-ninth session, in 2006, the Commission referred the topic of the treatment of enterprise groups in insolvency, including the provision of post-commencement finance, to Working Group V (Insolvency Law) for consideration. The Working Group was given a flexible mandate to make appropriate recommendations to the Commission regarding the scope of its future work and the form it should take, depending upon the substance of the proposed solutions to the problems the Working Group would identify under that topic.<sup>16</sup>

13. The Working Group commenced its work on the topic at its thirty-first session (Vienna, 11-15 December 2006) and continued it at its thirty-second (New York, 14-18 May 2007), thirty-third (Vienna, 5-9 November 2007) and thirty-fourth (New York, 3-7 March 2008) sessions.

14. At its fortieth session, the Commission took note of the agreement of the Working Group, at its thirty-first session, that the UNCITRAL Legislative Guide on Insolvency Law<sup>17</sup> and the UNCITRAL Model Law on Cross-Border Insolvency<sup>18</sup> provided a sound basis for the unification of insolvency law and that the current work on enterprise groups was intended to complement those texts, not to replace them. The Commission also took note of the suggestion made at that session of the Working Group that a possible method of work would be to consider the provisions contained in those existing texts that might be relevant in the context of enterprise groups and identify those issues that required additional discussion and the preparation of additional recommendations. The Commission further took note that other issues, although relevant to enterprise groups, could be treated in the same manner as in the UNCITRAL Legislative Guide on Insolvency Law and the UNCITRAL Model Law on Cross-Border Insolvency. The Commission also noted that there were concerns with respect to some components of that work, in particular substantive consolidation and its effect on the separate identity of individual members of an enterprise group and the inclusion of a solvent member of an enterprise group in collective procedures. The Working Group was requested to bear those concerns in mind in its deliberations.<sup>19</sup>

<sup>16</sup> Ibid., *Sixty-first Session, Supplement No. 17* (A/61/17), para. 209 (a) and (b).

<sup>17</sup> United Nations publication, Sales No. E.05.V.10.

<sup>18</sup> *Official Records of the General Assembly, Fifty-second Session, Supplement No. 17* (A/52/17), annex I.

<sup>19</sup> Ibid., *Sixty-second Session, Supplement No. 17* (A/62/17 (Part I)), paras. 188-189.

15. At its forty-first session, the Commission will have before it the reports of the thirty-third (Vienna, 5-9 November 2007) and thirty-fourth (New York, 3-7 March 2008) sessions of the Working Group (A/CN.9/643 and A/CN.9/647, respectively).

16. At its thirty-ninth session, in 2006, the Commission also agreed that initial work with respect to a proposal on cross-border insolvency protocols to compile practical experience with respect to negotiating and using those protocols should be facilitated informally through consultation with judges and insolvency practitioners.<sup>20</sup> At its forty-first session, the Commission will have before it a further progress report on that work (A/CN.9/654). (For suggested scheduling of meetings to consider this agenda item, see para. 58 below).

#### **8. Security interests: progress report of Working Group VI**

17. At its thirty-ninth session, in 2006, the Commission considered its future work on secured financing law. It was noted that intellectual property rights (e.g. copyrights, patents or trademarks) were increasingly becoming an important source of credit and should not be excluded from a modern secured transactions law. In addition, it was also noted that the recommendations of the draft Legislative Guide on Secured Transactions generally applied to security rights in intellectual property rights to the extent that they were not inconsistent with intellectual property law. Moreover, it was noted that, as the recommendations had not been prepared with the special intellectual property law issues in mind, the draft Guide suggested that enacting States might consider making any necessary adjustments to national legislation on secured transactions.<sup>21</sup>

18. In order to provide more guidance to States as to those adjustments, the suggestion was made at that session that the Secretariat should prepare, in cooperation with international organizations with expertise in the fields of security rights and intellectual property law and in particular the World Intellectual Property Organization (WIPO), a note for submission to the Commission at its fortieth session, in 2007, discussing the possible scope of work that could be undertaken by the Commission as a supplement to the draft Guide. In addition, it was suggested that, in order to obtain expert advice and the input of the relevant industry, the Secretariat should organize expert group meetings and colloquia as necessary.<sup>22</sup> After discussion, the Commission requested the Secretariat to prepare, in cooperation with relevant organizations and in particular WIPO, a note discussing the scope of future work by the Commission on intellectual property financing. The Commission also requested the Secretariat to organize a colloquium on intellectual property financing ensuring to the maximum extent possible the participation of relevant international organizations and experts from various regions of the world.<sup>23</sup>

19. Pursuant to the decision of the Commission, the Secretariat organized in cooperation with WIPO a colloquium on security interests in intellectual property rights (Vienna, 18-19 January 2007). The colloquium was attended by experts on secured financing and intellectual property law, including representatives of Governments and national and international, governmental and non-governmental

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<sup>20</sup> Ibid., *Sixty-first Session, Supplement No. 17* (A/61/17), para. 209 (c).

<sup>21</sup> Ibid., paras. 81 and 82.

<sup>22</sup> Ibid., para. 83.

<sup>23</sup> Ibid., para. 86.

organizations. At the colloquium, several suggestions were made with respect to adjustments that would need to be made to the draft Guide to address issues specific to intellectual property financing.<sup>24</sup>

20. At the first part of its fortieth session (Vienna, 25 June-12 July 2007), the Commission considered a note by the Secretariat entitled “Possible future work on security rights in intellectual property” (A/CN.9/632). The note took into account the discussions at the colloquium. In order to provide sufficient guidance to States as to the adjustments that they would need to make in their laws to avoid inconsistencies between secured transactions and intellectual property law, the Commission decided to entrust Working Group VI (Security Interests) with the preparation of an annex to the draft Guide specific to security rights in intellectual property.<sup>25</sup>

21. At its resumed fortieth session (Vienna, 10-14 December 2007), the Commission adopted the UNCITRAL Legislative Guide on Secured Transactions on the understanding that an annex to the Guide specific to security rights in intellectual property would be subsequently prepared.<sup>26</sup>

22. At its forty-first session, the Commission will have before it the report of the thirteenth session (New York, 19-23 May 2008) of the Working Group (A/CN.9/649). (For suggested scheduling of meetings to consider this agenda item, see para. 58 below).

#### **9. Possible future work in the area of electronic commerce**

23. The Commission may wish to recall that, at its fortieth session, it requested the Secretariat to continue to follow closely legal developments in the areas of electronic commerce, with a view to making appropriate suggestions in due course.<sup>27</sup>

24. At its forty-first session, the Commission will have before it a note by the Secretariat addressing legal issues of single windows (A/CN.9/655). (For suggested scheduling of meetings to consider this agenda item, see para. 58 below).

#### **10. Possible future work in the area of commercial fraud**

25. The Commission may wish to recall its consideration of the subject of commercial fraud at its thirty-fifth to fortieth sessions, in 2002 to 2007, respectively.<sup>28</sup> At its thirty-seventh session, in 2004, the Commission agreed that it would be useful if, wherever appropriate, examples of commercial fraud were to be discussed in the particular contexts of projects worked on by the Commission so as

<sup>24</sup> Further information about the Colloquium is available at <http://www.uncitral.org/uncitral/en/commission/colloquia/2secint.html>.

<sup>25</sup> *Official Records of the General Assembly, Sixty-second Session, Supplement No. 17* (A/62/17 (Part I)), paras. 155-157 and 162.

<sup>26</sup> *Ibid.*, (A/62/17 (Part II)), para. 100.

<sup>27</sup> *Ibid.*, (A/62/17 (Part I)), para. 195.

<sup>28</sup> *Ibid.*, *Fifty-seventh Session, Supplement No. 17* (A/57/17), paras. 279-290; *ibid.*, *Fifty-eighth Session, Supplement No. 17* (A/58/17), paras. 231-241; *ibid.*, *Fifty-ninth Session, Supplement No. 17* (A/59/17), paras. 108-112; *ibid.*, *Sixtieth Session, Supplement No. 17* (A/60/17), paras. 216-220; *ibid.*, *Sixty-first Session, Supplement No. 17* (A/61/17), paras. 211-217; and *ibid.*, *Sixty-second Session, Supplement No. 17* (A/62/17 (Part I)), paras. 199-203.

to enable delegates involved in those projects to take the problem of fraud into account in their deliberations. In addition, the Commission agreed that the preparation of lists of common features present in typical fraudulent schemes could be useful as educational material for participants in international trade and other potential targets of perpetrators of fraud to the extent they would help them protect themselves and avoid becoming victims of fraudulent schemes.<sup>29</sup>

26. At its thirty-eighth session, in 2005, the Commission's attention was drawn to resolution 2004/26 adopted by the Economic and Social Council (ECOSOC) on 21 July 2004, pursuant to which an intergovernmental expert group would prepare a study on fraud and the criminal misuse and falsification of identity, and develop on the basis of such a study relevant practices, guidelines or other materials, taking into account in particular the relevant work of UNCITRAL. The resolution also recommended that the United Nations Office on Drugs and Crime (UNODC) serve as secretariat for the intergovernmental expert group, in consultation with the secretariat of UNCITRAL.<sup>30</sup>

27. At its thirty-ninth session, in 2006, the Commission heard a progress report of work by the Secretariat,<sup>31</sup> and at its fortieth session, in 2007, the Commission was informed that the Secretariat had completed its work in conjunction with experts and other interested organizations with respect to identifying common features of fraudulent schemes and had prepared materials of an educational nature for the purpose of thwarting fraudulent schemes. The Commission commended the Secretariat, the experts and the other interested organizations that had collaborated on the preparation of materials and agreed to circulate them prior to the next session of the Commission for comment, before further considering the document and related comments at its forty-first session. The Commission was also informed of the January 2007 meeting of the intergovernmental expert group convened by the UNODC, in which the Secretariat participated, and at which the expert group completed its work on the Study on Fraud and the Criminal Misuse and Falsification of Identity (E/CN.15/2007/8 and Add.1-3).<sup>32</sup>

28. At its forty-first session, the Commission will have before it a compilation of possibly condensed comments submitted by Governments and intergovernmental organizations on the indicators of commercial fraud circulated to them (A/CN.9/659 and addenda), as well as the text of those indicators (A/CN.9/624 and Add.1 and 2). (For suggested scheduling of meetings to consider this agenda item, see para. 58 below).

## **11. Fiftieth anniversary of the 1958 New York Convention**

29. At its fortieth session, in 2007, the Commission was informed that 2008 would mark the fiftieth anniversary of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on 10 June 1958<sup>33</sup> (the "New York Convention") and that conferences to celebrate that anniversary were being planned in different regions, which would provide opportunities to exchange information on

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<sup>29</sup> Ibid., *Fifty-ninth Session, Supplement No. 17* (A/59/17), paras. 110-112.

<sup>30</sup> Ibid., *Sixtieth Session, Supplement No. 17* (A/60/17), para. 217.

<sup>31</sup> Ibid., *Sixty-first Session, Supplement No. 17* (A/61/17), paras. 211-217.

<sup>32</sup> Ibid., *Sixty-second Session, Supplement No. 17* (A/62/17 (Part I)), paras. 199-203.

<sup>33</sup> United Nations, *Treaty Series*, vol. 330, No. 4739.



how the New York Convention had been implemented around the world. The Secretariat was requested to monitor the conferences and make full use of events associated with that anniversary to encourage further treaty actions in respect of the New York Convention and promote a greater understanding of that instrument.<sup>34</sup>

30. At its forty-first session, the Commission will hear an oral report from the Secretariat on that matter. (For suggested scheduling of meetings to consider this agenda item, see para. 58 below).

## **12. Monitoring implementation of the 1958 New York Convention**

31. The Commission may wish to recall that, at its twenty-eighth session, in 1995, it had approved a project, undertaken jointly with Committee D (now known as the Arbitration Committee) of the International Bar Association, aimed at monitoring the legislative implementation of the New York Convention.<sup>35</sup> At its thirty-seventh session, in 2004, the Commission requested the Secretariat, subject to the availability of the necessary resources, to undertake its best efforts to produce for consideration by the Commission at its thirty-eighth session a preliminary analysis of the replies received by the Secretariat in response to the questionnaire circulated in connection with the project.<sup>36</sup> In accordance with that request, the Secretariat presented an interim report (A/CN.9/585) to the Commission at its thirty-eighth session, in 2005, which provided the Commission with an overview of issues raised by the replies and envisaged questions which might be added to the survey of the implementation of the New York Convention.<sup>37</sup>

32. At its forty-first session, the Commission will have before it a report from the Secretariat on this matter (A/CN.9/656 and addenda). (For suggested scheduling of meetings to consider this agenda item, see para. 58 below).

## **13. Technical assistance to law reform**

33. At its forty-first session, the Commission will have before it a note by the Secretariat on technical assistance activities undertaken since the Commission's fortieth session and on the technical assistance resources, including UNCITRAL publications, the UNCITRAL website, Case Law on UNCITRAL texts (CLOUT) and digests of case law (A/CN.9/652 and possible addenda).

34. The Commission will also have before it a bibliography of recent writings related to its work (A/CN.9/650). (For suggested scheduling of meetings to consider this agenda item, see para. 58 below).

## **14. Status and promotion of UNCITRAL legal texts**

35. At its forty-first session, the Commission will have before it a note by the Secretariat concerning the status of the conventions and model laws resulting from its work as well as the status of the New York Convention (A/CN.9/651). (For suggested scheduling of meetings to consider this agenda item, see para. 58 below).

<sup>34</sup> *Official Records of the General Assembly, Sixty-second Session, Supplement No. 17 (A/62/17 (Part I))*, para. 178.

<sup>35</sup> *Ibid.*, *Fiftieth Session, Supplement No. 17 (A/50/17)*, paras. 401-404.

<sup>36</sup> *Ibid.*, *Fifty-ninth Session, Supplement No. 17 (A/59/17)*, para. 84.

<sup>37</sup> *Ibid.*, *Sixtieth Session, Supplement No. 17 (A/60/17)*, paras. 188-191.

## 15. Working methods of UNCITRAL

36. At the first part of its fortieth session (Vienna, 25 June-12 July 2007), the Commission had before it observations and proposals by France on the working methods of the Commission (A/CN.9/635), and engaged in a preliminary exchange of views on those observations and proposals. It was agreed at that session that the issue of working methods would be placed as a specific item on the agenda of the Commission at its resumed fortieth session (Vienna, 10-14 December 2007). In order to facilitate informal consultations among all interested States, the Secretariat was requested to prepare a compilation of procedural rules and practices established by UNCITRAL itself or by the General Assembly in its resolutions regarding the work of the Commission. The Secretariat was also requested to make the necessary arrangements, as resources permitted, for representatives of all interested States to meet on the day prior to the opening of the resumed fortieth session of the Commission and, if possible, during the resumed session.<sup>38</sup>

37. At its resumed fortieth session, the Commission considered the issue of working methods on the basis of the observations and proposals by France on the working methods of the Commission (A/CN.9/635), observations by the United States on the same topic (A/CN.9/639) as well as the requested note by the Secretariat on rules of procedure and methods of work of the Commission (A/CN.9/638 and Add.1 to 6). The Commission was informed about the informal consultations held on 7 December 2007 among representatives of all interested States on the rules of procedure and methods of work of the Commission. At that session, the Commission agreed that: (i) any future review should be based on the previous deliberations on the subject in the Commission, the observations by France and the United States (A/CN.9/635 and A/CN.9/639, respectively), and the note by the Secretariat (A/CN.9/638 and addenda), which was considered as providing a particularly important historical overview of the establishment and evolution of UNCITRAL rules of procedure and methods of work; (ii) the Secretariat should be entrusted with the preparation of a working document describing current practices of the Commission with the application of rules of procedure and methods of work, in particular as regards decision-making and participation of non-State entities in the work of UNCITRAL, distilling the relevant information from its previous note (A/CN.9/638 and addenda); this working document would serve for future deliberations on the subject in the Commission in formal and informal settings. It was understood that, where appropriate, the Secretariat should indicate its observations on rules of procedure and methods of work for consideration by the Commission; (iii) the Secretariat should circulate the working document to all States for comment and subsequently compile any comments it might receive; (iv) informal consultations among all interested States might be held, if possible, before the forty-first session of the Commission; and (v) the working document might be discussed already at the Commission's forty-first session, time permitting.<sup>39</sup>

38. At its forty-first session, the Commission may expect to have before it a note by the Secretariat describing current practices of the Commission as regards decision-making, status of observers in UNCITRAL, preparatory work by the

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<sup>38</sup> Ibid., *Sixty-second Session, Supplement No. 17* (A/62/17 (Part I)), paras. 234-241.

<sup>39</sup> Ibid., (A/62/17 (Part II)), paras. 101-107.

Secretariat, outlining observations by the Secretariat on working methods and compiling any comments on that note that the Secretariat might receive from States before the Commission's forty-first session (A/CN.9/653 and addendum). (For suggested scheduling of meetings to consider this agenda item, see para. 58 below).

## **16. Coordination and cooperation**

### **(a) General**

39. At its forty-first session, the Commission will have before it a note by the Secretariat entitled "Current activities of international organizations related to the harmonization and unification of international trade law" (A/CN.9/657 and addendum), providing a brief survey of the work of international organizations related to the harmonization of international trade law.

### **(b) Reports of other international organizations**

40. Representatives of other international organizations will be given an opportunity to apprise the Commission of their current activities and possible means of strengthening cooperation. (For suggested scheduling of meetings to consider this agenda item, see para. 58 below).

## **17. Role of UNCITRAL in promoting the rule of law at the national and international levels**

41. At its resumed fortieth session (Vienna, 10-14 December 2007), the Commission took note of General Assembly resolution 62/70 on the rule of law at the national and international levels, of 6 December 2007. The Commission in particular noted that, by paragraph 3 of that resolution, the General Assembly invited the Commission to comment, in its report to the General Assembly, on the Commission's current role in promoting the rule of law. At that session, the Commission decided to include the item "Role of UNCITRAL in promoting the rule of law" in the agenda of its forty-first session and invited all States members of UNCITRAL and observers to exchange their views on this agenda item at that session.<sup>40</sup> Copies of the resolution will be made available at the forty-first session of the Commission. (For suggested scheduling of meetings to consider this agenda item, see para. 58 below).

## **18. Willem C. Vis International Commercial Arbitration Moot competition**

42. An oral report will be presented on the Fifteenth Annual Willem C. Vis International Commercial Arbitration Moot competition. (For suggested scheduling of meetings to consider this agenda item, see para. 58 below).

## **19. Relevant General Assembly resolutions**

43. At its resumed fortieth session (Vienna, 10-14 December 2007), the Commission took note of two General Assembly resolutions related to its work, adopted on the recommendation of the Sixth Committee: resolution 62/64, on the report of the Commission on the work of its fortieth session, and 62/65, on the fiftieth anniversary of the Convention on the Recognition and Enforcement of

<sup>40</sup> Ibid., paras. 111-113.

Foreign Arbitral Awards, done at New York on 10 June 1958, both of 6 December 2007. At that session, the Commission deferred the consideration of these resolutions to its forty-first session.<sup>41</sup> Copies of the resolutions and the report of the Sixth Committee (A/62/449) will be made available at the forty-first session of the Commission. (For suggested scheduling of meetings to consider this agenda item, see para. 58 below).

## **20. Other business**

44. An oral report will be presented on the internship programme in the Commission's secretariat. (For suggested scheduling of meetings to consider this agenda item, see para. 58 below).

## **21. Date and place of future meetings**

### *Forty-second session of the Commission*

45. The forty-second session of the Commission will be held in Vienna. Arrangements have been made for the session to be held for up to four weeks, from 29 June to 24 July 2009.

### *Sessions of working groups*

46. At its thirty-sixth session, in 2003, the Commission agreed that: (a) working groups should normally meet for a one-week session twice a year; (b) extra time, if required, could be allocated from the unused entitlement of another working group provided that such arrangement would not result in the increase of the total number of 12 weeks of conference services per year currently allotted to sessions of all six working groups of the Commission; and (c) if any request by a working group for extra time would result in the increase of the 12-week allotment, it should be reviewed by the Commission, with proper justification being given by that working group regarding the reasons for which a change in the meeting pattern was needed.<sup>42</sup>

### *Sessions of working groups up to the forty-second session of the Commission*

#### *Working Group I (Procurement)*

47. The fourteenth session of the Working Group could be held in Vienna from 8 to 12 September 2008, and the fifteenth session could be held in New York, from 2 to 6 February 2009.

#### *Working Group II (Arbitration and Conciliation)*

48. The forty-ninth session of the Working Group could be held in Vienna, from 15 to 19 September 2008, and the fiftieth session could be held in New York, from 9 to 13 February 2009.

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<sup>41</sup> Ibid., paras. 111-112.

<sup>42</sup> Ibid., *Fifty-eighth Session, Supplement No. 17* (A/58/17), para. 275.

*Working Group V (Insolvency Law)*

49. The thirty-fifth session of the Working Group could be held in Vienna, from 17 to 21 November 2008, and the thirty-sixth session could be held in New York, from 18 to 22 May 2009.

*Working Group VI (Security Interests)*

50. The fourteenth session of the Working Group could be held in Vienna, from 20 to 24 October 2008, and the fifteenth session could be held in New York, from 25 to 29 May 2009.

*Additional time*

51. Arrangements have been made for two weeks of conference services in Vienna, in the autumn of 2008 (from 28 to 31 October 2008 (the Vienna International Centre will be closed on Monday, 27 October 2008) and from 24 to 28 November 2008) and for two weeks of conference services in New York, in the spring of 2009 (from 20 April to 1 May 2009). This time could be used to accommodate the need for sessions of Working Group III (Transport Law), Working Group IV (Electronic Commerce) or another working group, depending on the needs of the working groups and subject to the Commission's decision at its forty-first session.

*Sessions of working groups in 2009 after the forty-second session of the Commission**Working Group I (Procurement)*

52. Tentative arrangements have been made for the sixteenth session of the Working Group to be held in Vienna, from 7 to 11 September 2009.

*Working Group II (Arbitration and Conciliation)*

53. Tentative arrangements have been made for the fifty-first session of the Working Group to be held in Vienna, from 14 to 18 September 2009.

*Working Group V (Insolvency Law)*

54. Tentative arrangements have been made for the thirty-seventh session of the Working Group to be held in Vienna, from 23 to 27 November 2009.

*Working Group VI (Security Interests)*

55. Tentative arrangements have been made for the sixteenth session of the Working Group to be held in Vienna, from 7 to 11 December 2009.

*Additional time*

56. Tentative arrangements have been made for two weeks of conference services in Vienna, in the autumn of 2009 (from 28 September to 9 October 2009). This time could be used to accommodate the need for sessions of Working Group III (Transport Law), Working Group IV (Electronic Commerce) or another working group, depending on the needs of the working groups and subject to the

Commission's decision. (For suggested scheduling of meetings to consider this agenda item, see para. 58 below).

## **22. Adoption of the report of the Commission**

57. The General Assembly, in its resolution 2205 (XXI) of 17 December 1966, decided that the Commission should submit an annual report to it and that the report should be submitted simultaneously to the United Nations Conference on Trade and Development for comments. Pursuant to a decision of the Sixth Committee,<sup>43</sup> the report of the Commission is introduced to the General Assembly by the Chairman of the Commission or by another officer designated by the Chairman. (For suggested scheduling of meetings to consider this agenda item, see para. 59 below).

## **III. Scheduling of meetings and documentation**

58. At its resumed fortieth session (Vienna, 10-14 December 2007), the Commission decided to reserve the first nine days of the session (i.e. from Monday, 16 June, until Thursday, 26 June) for the consideration of a draft convention on contracts for the international carriage of goods wholly or partly by sea (agenda item 4).<sup>44</sup> The Secretariat recommends that the Commission devote the time from 27 June to 1 July to consideration of items 5 to 21 on the agenda.

59. No formal meetings will be held on Wednesday, 2 July. That day will be used by the Secretariat to prepare the draft report, which will be presented to the Commission for adoption on Thursday, 3 July (the United Nations Headquarters in New York will be closed on Friday, 4 July). It is suggested that the Commission approve the draft convention on contracts for the international carriage of goods wholly or partly by sea on Thursday, 3 July, together with the adoption of the report of the session.

60. It should be noted that the above recommendations on the scheduling of meetings are intended to assist States and invited organizations in planning the attendance of their pertinent representatives; the actual scheduling will be determined by the Commission itself.

61. Meetings will be held from 10 a.m. to 1 p.m. and from 3 p.m. to 6 p.m., except on Monday, 16 June, when the morning meeting will commence at 10.30 a.m.

62. UNCITRAL documents are posted on the UNCITRAL website (<http://www.uncitral.org/>) upon their issuance in all the official languages of the United Nations. Delegates may wish to check the availability of the documents for the forty-first session by accessing the page of the forty-first session of the Commission in the "Commission Sessions" section of the UNCITRAL website (<http://www.uncitral.org/>).

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<sup>43</sup> Ibid., *Twenty-third Session, annexes*, agenda item 88, document A/7408, para. 3.

<sup>44</sup> Ibid., *Sixty-second Session, Supplement No. 17* (A/62/17 (Part II)), para. 109.