General Assembly
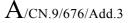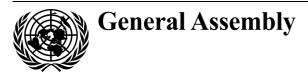
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UNCITRAL rules of procedure and methods of work

Comments received from Member States and interested international organizations

Note by the Secretariat*

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 * This document transmits comments by a Member State. It was submitted less than ten weeks
   before the opening of the session, upon receipt of the comments.

I. Introduction

1. The background information relevant to the present note may be found in paragraphs 1-4 of document A/CN.9/676/Add.1.

2. The present document reproduces the comments from the United States of America on document A/CN.9/676, as received by the Secretariat on 12 June 2009.

II. Comments received from Member States

A. Member States

United States of America

[Original: English]

[12 June 2009]

Observations on UNCITRAL's Rules of Procedure and Methods of Work

UNCITRAL has one of the most distinguished track records in the United Nations system. The Commission has produced widely used international conventions, model laws, and legislative guides that harmonize commercial law and build efficiency into international markets. These texts have helped developing States enhance their legal structures, which in turn facilitates trade and promotes good governance and adherence to the rule of law, in addition to promoting domestic and international commerce through modernizing commercial laws.

The Commission owes much of its success to its particular working methods, which have allowed UNCITRAL to establish itself as an effective standard setting organization for the benefit of countries in every stage of development, especially developing and emerging States. There is no need to substantially revise the Commission's current rules of procedure and working methods, which have enabled UNCITRAL to be an extremely effective United Nations body. The United States will continue to oppose changes that are unnecessary and would diminish the productivity of the Commission.

We join with others in welcoming the draft Secretariat note on the UNCITRAL rules of procedure and methods of work. We generally agree with the discussion in the paper on the importance of consensus, the role of observer organizations and Secretariat work methods. It can provide the basis for the formulation of a checklist for chairpersons.

As discussed in the Secretariat paper, the Commission has a long tradition of working out cooperatively its method of making decisions which has helped keep it focused on its technical work program and allowed it to avoid politicization and entrenched disagreement.

We welcome the clarification provided in the draft Secretariat Note on the role of non-governmental organizations in UNCITRAL meetings. Non-government entities

are invited to provide input that is essential to the highly technical work of the Commission, and we believe all agree that such entities do not have a role in decision making. We agree that the Secretariat should keep member and observer states informed about which NGOs have been invited to participate in advance of UNCITRAL meetings.

We also welcome the clarification provided by the Secretariat concerning its methods of work. The Note demonstrates that the work methods are sound and should be continued. We agree that the Secretariat should list the dates and subjects of informal expert groups on an intranet website, so that member and observer states can access the information.

We oppose establishing a new standing committee or working group on work methods because we do not believe it is necessary and because it would absorb resources needed for the priority work of the Commission's working groups in other areas. We think these issues can be addressed through informal meetings like we are currently holding where that is needed.

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