



# General Assembly

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**United Nations Commission  
on International Trade Law**  
**Forty-third session**  
New York, 21 June-9 July 2010

## UNCITRAL rules of procedure and methods of work

### Note by the Secretariat

1. At its fortieth (Vienna, 25 June-12 July and 10-14 December 2007) and forty-first (New York, 16 June-3 July 2008) sessions, the Commission considered the issue of its working methods on the basis of the following documents: the observations and proposals by France on the working methods of the Commission (A/CN.9/635); the observations by the United States on the same topic (A/CN.9/639); notes by the Secretariat on the rules of procedure and methods of work of the Commission (A/CN.9/638 and Add.1 to 6 and A/CN.9/653); and notes by the Secretariat transmitting the comments received from States on document A/CN.9/653 prior to the Commission's forty-first session (A/CN.9/660 and Add.1 to 5).<sup>1</sup> (These and other documents cited hereunder are available on the UNCITRAL website: [www.uncitral.org](http://www.uncitral.org).)

2. At its forty-first session, the Commission requested the Secretariat to prepare, on the basis of the note by the Secretariat (A/CN.9/653), a first draft of a reference document addressing decision-taking, the status of observers in UNCITRAL and the preparatory work by the Secretariat, for use by chairpersons, delegates, observers and by the Secretariat itself. It was understood that the reference document should be somewhat more normative in nature than document A/CN.9/653. While the term "guidelines" was most often used to describe the future reference document, no decision was made as to its final form. The Secretariat was requested to circulate the draft reference document for comments by States and interested international organizations and to prepare a compilation of those comments for consideration by the Commission at its forty-second session.<sup>2</sup>

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<sup>1</sup> *Official Records of the General Assembly, Sixty-second Session, Supplement No. 17 (A/62/17)*, part I, paras. 234-241, and part II, paras. 101-107; and *ibid.*, *Sixty-third Session, Supplement No. 17* and corrigendum (A/63/17 and Corr.1), paras. 375-381.

<sup>2</sup> *Ibid.*, *Sixty-third Session, Supplement No. 17* and corrigendum (A/63/17 and Corr.1), para. 381.



3. At its forty-second session, the Commission had before it a note by the Secretariat containing a first draft of a reference document (A/CN.9/676), the compilation of comments received by the Secretariat on UNCITRAL working methods (A/CN.9/676/Add.1-9), and a proposal by France (A/CN.9/680) for revisions to be made to the reference document A/CN.9/676. As requested by the Commission at its forty-first session, the Commission devoted the first two days of its forty-second session to informal consultations on the topic of working methods. The discussion in the plenary was based on document A/CN.9/676. The Commission agreed on some revisions to be made in the document and postponed the consideration of other proposed revisions on which the Commission was not able to reach a decision. The Commission also deferred the consideration of those parts of the document that the Commission was not able to consider at that session for lack of time.<sup>3</sup>

4. Annexed to the present note is a proposed summary of conclusions on UNCITRAL rules of procedure and methods of work. This summary of conclusions is proposed as a result of inter-session consultations among a number of interested delegations.

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<sup>3</sup> Ibid., *Sixty-fourth Session, Supplement No. 17* (A/64/17), paras. 379-397.

## Annex

[Original: English/French]

### UNCITRAL rules of procedure and methods of work

#### Proposed summary of conclusions

As decided by the Commission at its first session, rules relating to the procedure of committees of the General Assembly, as well as rules 45 and 60, shall apply to the procedure of the Commission. As the Commission has further decided, on matters not covered by these rules, the Commission shall be guided by the general principle that the rules of procedure of the General Assembly should apply *mutatis mutandis* to the Commission as may be appropriate for the performance of its functions.

#### **DECISION-TAKING**

1. Decisions in the Commission are taken by member States of the Commission. The views of non-member States and observer organizations are for the benefit of member States who may take such views into account in determining their positions on the issue to be decided upon.
2. The practice in the Commission as reflected by existing procedures long used by the Commission is to reach decisions by consensus. The Commission has decided that Commission decisions should be reached by consensus as far as possible; in the absence of a consensus, decisions are to be taken by voting as provided for in the relevant rules of procedure of the General Assembly.
3. States are entitled to make explanations of vote and explanations of position and to have those statements reflected in the report, consistent with the General Assembly rules of procedure.
4. Voting is to be regarded as an exceptional procedure. It should be noted that formal voting in the Commission took place only once on a procedural matter.

#### **STATUS OF NON-MEMBER STATES AND OBSERVER ORGANIZATIONS**

5. **Non-member States** are entitled, when they so request, to attend the sessions of the Commission and its Working Groups as observers.
6. As regards **observer organizations**, sessions of the Commission and its subsidiary organs are open to representatives of international governmental and non-governmental organizations invited by the Commission, as discussed in paragraphs 8 to 10 *infra*.
7. Observers, in particular non-governmental organizations, do not participate in the decision-making.
8. United Nations organs and specialized agencies brought into relationship with the United Nations, are permitted to participate in the sessions and the work of the Commission and its subsidiary organs.

9. The Commission shall draw up, and shall update as necessary, a list of other international organizations and of non-governmental organizations with which UNCITRAL entertains a long-standing cooperation and which have been invited at Commission sessions.

10. In addition, the Secretariat may be requested by the Commission or its subsidiary organs to invite a specific organization to the relevant session.

It may also receive a request from an organization to be invited to a session, or it may itself take the initiative to invite an organization on the basis of its assessment of the relevance and potential contribution of the organization concerned to the proceedings of the relevant session. In such cases, the Secretariat shall inform the member States of the Commission. Where an objection is raised, the decision will be taken by the Commission.

#### ***WORKING METHODS OF THE UNCITRAL SECRETARIAT***

11. The Secretariat may make either oral or written statements at any time to the Commission or its subsidiary organs concerning any question under consideration.

Within the limits of its available resources, the Secretariat may have recourse to the assistance of outside experts from different legal traditions and affiliations.

The Secretariat shall decide on the appropriate form that the assistance of outside experts may take depending on the needs of the Secretariat.

12. The Secretariat is not bound by the advice of such experts. It formulates its proposals to the Commission or its subsidiary organs under its own responsibility and in accordance with specific instructions received from the Commission or its subsidiary organs, if any, also bearing in mind the policies expressed in relevant General Assembly resolutions and decisions adopted previously by the Commission.

13. The Secretariat shall inform member States of the expert group meetings it holds as requested.

14. The UNCITRAL secretariat is committed to endeavour, resources permitting, to provide at such meetings translation and interpretation in as many official languages as appropriate.

15. Colloquiums organized or co-organized by the Secretariat shall be widely advertised, particularly by posting relevant information concerning such events on the UNCITRAL website. Their results shall be reported to the Commission or, as appropriate, to the working groups.