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Planned and possible future work

Note by the Secretariat

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I. Introduction

A. Background

1. At its forty-sixth session, in 2013, the Commission agreed that it should reserve time for discussion of UNCITRAL's future work as a separate topic at each Commission session (A/68/17, para. 310).¹ Consequently, the Commission considered planned and possible future work for UNCITRAL at its forty-seventh session, taking into consideration issues raised in notes by the Secretariat on planned and possible future work (A/CN.9/807 and A/CN.9/816), together with other documents referred to therein.

2. This Note has been prepared to enable the Commission's consideration of future work at this forty-eighth session. It considers all UNCITRAL's main activities, both legislative development and activities designed to support the effective implementation, use and understanding of UNCITRAL texts (see para. 4 below for references to documents that explain the activities concerned). This Note also covers mandated and possible future subject-areas.

3. The Commission may wish to consider issues of planned and possible future work taking into account, in addition to those documents, progress reports of its Working Groups and the Secretariat and conclusions reached at its forty-seventh session under this agenda item (A/69/17, paras. 241-266). When setting UNCITRAL's work programme for the forthcoming period, the Commission may also wish to recall its decision at the forty-sixth session that it would normally plan for the period to the next Commission session, but that some longer-term indicative planning (for a three-to-five year period) may also be appropriate (A/68/17, para. 305).

4. The Commission may wish to have reference to the following documents, to which this Note also refers:

(a) Documents for the current Commission session,² available at www.uncitral.org/uncitral/commission/sessions/48th.html, and including:

A/CN.9/825 and A/CN.9/831 — Report of Working Group I (MSMEs) on the work of its 23rd and 24th sessions (Vienna, 17-21 November 2014; New York, 13-17 April 2015);

A/CN.9/826 and A/CN.9/832 — Report of Working Group II (Arbitration and Conciliation) on the work of its 61st and 62nd sessions (Vienna, 15-19 September 2014; New York, 2-6 February 2015);

¹ The Commission may wish to recall that at its forty-fourth session, in 2011, it requested the Secretariat to prepare a note on strategic planning, with possible options and an assessment of their financial implications (*Report of the Commission's Forty-fourth Session, Supplement No. 17* (A/66/17), para. 343). At its forty-fifth session, in 2012, the Commission considered the resulting note by the Secretariat ("A strategic direction for UNCITRAL", A/CN.9/752 and Add.1) submitted pursuant to that request, and agreed to consider and provide further guidance on UNCITRAL's strategic direction at its forty-sixth session, requesting the Secretariat to reserve sufficient time to allow for a detailed discussion at that time (A/67/17, para. 231).

² Titles and symbols of the documents referred to are current as at the date of submission of this Note, but are subject to change.

A/CN.9/827 and A/CN.9/833 — Report of Working Group III (Online Dispute Resolution) on the work of its 30th and 31st sessions (Vienna, 20-24 October 2014; New York, 9-13 February 2015);

A/CN.9/828 and A/CN.9/834 — Report of Working Group IV (Electronic Commerce) on the work of its 50th and 51st sessions (Vienna, 10-14 November 2014; New York, 18-22 May 2015);

A/CN.9/829 and A/CN.9/835 — Report of Working Group V (Insolvency Law) on the work of its 46th and 47th sessions (Vienna, 15-19 December 2014; New York, 26-29 May 2015);

A/CN.9/830 and A/CN.9/836 — Report of Working Group VI (Security Interests) on the work of its 26th and 27th sessions (Vienna, 8-12 December 2014; New York, 20-24 April 2015);

A/CN.9/839 — Bibliography of recent writings related to UNCITRAL's work;

A/CN.9/843 — Status of conventions and model laws, Note by the Secretariat;

A/CN.9/837 and A/CN.9/845 — Technical assistance activities undertaken since the Commission's forty-seventh session and technical assistance resources, Note by the Secretariat, including UNCITRAL publications, the UNCITRAL website, and a survey of the activities undertaken by the UNCITRAL Regional Centre for Asia and the Pacific (RCAP) since the Commission's forty-seventh session;

A/CN.9/838 — Coordination activities: Brief survey of the activities undertaken by the Secretariat since the Commission's forty-seventh session to ensure coordination with the work of other organizations active in the field of international trade law, Note by the Secretariat;

A/CN.9/840 — Status and progress of CLOUT, Note by the Secretariat (including updates on the current activities concerning digests);

A/CN.9/849 — Note by the Secretariat on current trends in the adoption and use of the United Nations Sales Convention, and its complementary texts;

A/CN.9/850 — A note by the Secretariat on possible future work in procurement and infrastructure development;

A/CN.9/851 — Report on developments with respect to the insolvency treatment of financial contracts and a framework for sovereign insolvency, Note by the Secretariat;

(b) Background documents from Commission's forty-fifth to forty-seventh sessions, available at:

www.uncitral.org/uncitral/commission/sessions/45th.html,
www.uncitral.org/uncitral/commission/sessions/46th.html, and
www.uncitral.org/uncitral/commission/sessions/47th.html, including:

A/CN.9/752 and Add.1 — A strategic direction for UNCITRAL, Note by the Secretariat (for the forty-fifth session);

A/67/17 — Report of the Commission's forty-fifth session (especially paras. 228-232);

A/CN.9/774 — Planned and possible future work, Note by the Secretariat (for the forty-sixth session);

A/68/17 — Report of the Commission's forty-sixth session (especially paras. 292-332);

A/CN.9/807 — Planned and possible future work — Part I, Note by the Secretariat (for the forty-seventh session);

A/CN.9/816 — Planned and possible future work — Part II, Note by the Secretariat (for the forty-seventh session);

A/69/17 — Report of the Commission's forty-seventh session (especially paras. 241-260).

II. Summary of current activities

A. Legislative work

5. The table below sets out current legislative development, and the envisaged completion dates of the texts concerned.

Table 1

Current legislative activities (Section III.A below considers future legislative activities)

<i>Topic</i>	<i>Report and document references</i>	<i>Envisaged completion date</i>
<i>MSMEs (WG I)</i>		
Preparation of legal standards on simplified business incorporation and registration	A/CN.9/825 and A/CN.9/831	Estimated 2017 or beyond
<i>Arbitration (WG II)</i>		
- Revision of the UNCITRAL Notes on Organizing Arbitral Proceedings	A/CN.9/826 and A/CN.9/832	To be completed during the session of the Commission
- Enforcement of settlement agreements resulting from international conciliation/mediation		To be considered by the Commission as an item for work – If confirmed, estimated 2016 or beyond
<i>Electronic commerce (WG IV)</i>		
Electronic transferable records	A/CN.9/828 and A/CN.9/834	Estimated 2016 or beyond
<i>Insolvency (WG V)</i>		
(i) Model law or legislative provisions on selected international issues, including jurisdiction, access and recognition in the cross-border insolvency of enterprise groups	A/CN.9/691 A/65/17, para. 259(a) A/CN.9/798 A/CN.9/803 A/CN.9/829	Ongoing

<i>Topic</i>	<i>Report and document references</i>	<i>Envisaged completion date</i>
(ii) Obligations of directors of enterprise groups members in the period approaching insolvency	A/CN.9/691 A/65/17, para. 259(b) A/CN.9/829	Estimated 2016
(iii) Model law or model legislative provisions on recognition and enforcement of insolvency-related judgements	A/69/17, para. 155 A/CN.9/829	Ongoing
(iv) Study on the insolvency of large and complex financial institutions	A/CN.9/691 A/65/17, para. 260 A/CN.9/763	Ongoing
(v) Convention on selected international insolvency issues – informal consultations	A/69/17, para. 158	Ongoing
<i>Security Interests (WG VI)</i>		
Preparation of a draft Model Law on Secured Transactions	A/CN.9/830 and A/CN.9/836	To be confirmed

6. As the table indicates, the revised version of the UNCITRAL Notes on Organizing Arbitral Proceedings will be presented for consideration at this Commission session.

7. At its forty-seventh session, the Commission requested that the progress and status of the work of each Working Group, as set out in their reports, be collated and presented to the Commission so as to allow context of each Working Group's suggestions for future work and for prioritization among existing and new topics to be clearer (A/69/17, para. 253). A brief summary of the progress of each Working Group is accordingly presented below:

(a) *MSMEs (WG I)*: Working Group I continued its work in accordance with the mandate received from the Commission on reducing the legal obstacles faced by micro, small and medium-sized enterprises throughout their life cycle, in particular, in developing economies, beginning with a focus on the legal questions surrounding the simplification of incorporation. Following a discussion of issues in respect of best practices in business registration, and presentations by the Corporate Registers Forum, the European Business Register and the European Commerce Register's Forum, the Working Group agreed to continue its work on business registration by further exploring the relevant key principles. To that end, the Working Group intends to consider at a future session materials further developing those principles (A/CN.9/825, para 46). In its discussion of the legal questions surrounding the simplification of incorporation, the Working Group heard a presentation by the secretariat of the Financial Action Task Force (FATF) on its standard-setting activity to combat money-laundering, terrorist financing and other illicit activity, as well as presentations by States on possible alternative legislative models to assist MSMEs. The Working Group then further explored the legal questions surrounding the simplification of incorporation by considering the issues outlined in the framework set out in working paper A/CN.9/WG.I/WP.86, and agreed that it would resume its deliberations in this regard at its twenty-fourth session (A/CN.9/825, para. 79).

At its twenty-fourth session (13-17 April 2015), the Working Group resumed its deliberations on the framework of issues in working paper A/CN.9/WG.I/WP.86. Although it has not yet decided what form the legal text in this regard will take, the Working Group also considered the issues as outlined in the first six draft articles in the draft model law on a simplified business entity in A/CN.9/WG.I/WP.89. Additional provisions of the draft model law will be taken up at the next session of the Working Group, in priority of those most relevant to the simplest of the business entities, and following consideration of materials further developing best practices in business registration.

(b) *Arbitration (WG II)*: Working Group II has undertaken the revision of the UNCITRAL Notes on Organizing Arbitral Proceedings at its sixty-first and sixty-second sessions and, in accordance with the mandate that work on the topic should be completed within one or two sessions, the Working Group will submit the revised version of the Notes for consideration by the Commission at its current session (A/CN.9/832, para. 12).

(c) *Online dispute resolution (WG III)*: The Working Group continued its work to develop Track 1 of the procedural rules for the resolution of online disputes. At its thirtieth session, the Working Group took into consideration the importance of different outcomes (including arbitration) and different enforcement mechanisms. It considered these issues with particular reference to developing countries and those facing post-conflict situations, and issues of consumer protection. Progress was made on the draft text of this Track of the Rules, also on the basis of proposals submitted during the session. However, it was clear by the end of that session that fundamental differences remained between States that allowed binding pre-dispute agreements to arbitrate and those that did not, despite the Working Group's strenuous efforts to come to consensus. It was observed that further progress would require the draft Rules to reflect the Working Group's conclusions on this matter (A/CN.9/827, para. 15).

At its thirty-first session, the Working Group continued to seek consensus on a single text for the draft rules, again on the basis of various proposals made during the session. However, as no consensus was reached, it was said that the Commission should terminate the mandate of the Working Group. It was added that this would be in accordance with the Commission's view that UNCITRAL's scarce resources should be deployed in undertaking legislative development on those topics on which it was likely that consensus could be achieved. Other delegations expressed the view that the Working Group should continue with its efforts to find a consensus on the third proposal. It was noted by these delegations that there were new elements for a consensus that had been identified and that could form the basis of a positive outcome for the Working Group.

The Working Group was also invited to engage in informal consultations before this forty-eighth Commission session, with a view to enhancing constructive discussion on the above matters (A/CN.9/833, paras. 16 and 17). It is anticipated that an oral report thereon will be presented to the Commission.

(d) *Electronic commerce (WG IV)*: At its fiftieth (Vienna, 10-14 November 2014) and fifty-first sessions (New York, 18-22 May 2015) the Working Group continued its work on the preparation of draft provisions on electronic transferable records. Subject to a final decision to be made by the Commission, the Working

Group agreed to proceed with the preparation of a draft model law on electronic transferable records (A/CN.9/828, para. 23). It was agreed that priority should be given to the preparation of provisions dealing with electronic equivalents of paper-based transferable documents or instruments, and that those provisions should be subsequently reviewed and adjusted, as appropriate, to accommodate the use of transferable records that existed only in an electronic environment (A/CN.9/828, para. 30).

(e) *Insolvency (WG V)*: At its forty-sixth session, the Working Group continued its deliberations on (a) the key elements of a possible legislative text to facilitate the cross-border insolvency of multinational enterprise groups; (b) the first draft of recommendations on the obligations of directors of enterprise group companies in the period approaching insolvency and agreed that those recommendations should form an additional section of part four of the UNCITRAL Legislative Guide on Insolvency Law. The Working Group also commenced its discussion on the elements to be included in a model law or set of model legislative provisions on the recognition and enforcement of insolvency-related judgements, reaching initial agreement on some of the characteristics required for judgements to be included in the new instrument, a number of the grounds to refuse recognition of such judgements, and relevant articles from the Model Law on Cross-Border Insolvency that might need to be included. The Working Group agreed that the text should be a free-standing instrument, rather than an additional part of the existing Model Law.

At its forty-seventh session, the Working Group continued its deliberations on these three topics on the basis of a draft legislative text providing a recognition regime for the cross-border insolvency of multinational enterprise group members; a further revision of the draft recommendations on the obligations of directors of enterprise group companies in the period approaching insolvency, together with the first draft of the accompanying commentary; and the first draft of a model legislative text on the recognition and enforcement of insolvency-related judgements.

(f) *Security Interests (WG VI)*: The Working Group continued its work on the preparation of a draft Model Law on Secured Transactions. At its twenty-sixth and twenty-seventh sessions, the Working Group considered notes by the Secretariat entitled “Draft Model Law on Secured Transactions” (A/CN.9/WG.VI/WP.61 and Add. 1-3, and A/CN.9/WG.VI/WP.63 and Add. 1-4) and adopted the substance of several articles of the draft Model Law. For a summary of the deliberations at the twenty-seventh session, the Commission may wish to refer to the report of WG VI (A/CN.9/836), which is to be issued after the submission of this Note.

B. Other activities

8. The reports available to the forty-eighth session of the Commission describing UNCITRAL’s current activities in the provision of technical assistance, promoting ways to ensure a uniform interpretation and application of UNCITRAL texts; identifying the status of and work of other bodies in promoting its texts, coordination and cooperation with other relevant bodies and promoting the rule of law at the national and international levels (“support activities”) are as follows:

A/CN.9/839 — Bibliography of recent writings related to UNCITRAL's work;

A/CN.9/837 and A/CN.9/845 — Technical assistance to law reform and technical assistance resources, including UNCITRAL publications, the UNCITRAL website and UNCITRAL regional presence: survey of the activities undertaken by the UNCITRAL Regional Centre for Asia and the Pacific (RCAP);

A/CN.9/843 — Status of conventions and model laws, Note by the Secretariat;

A/CN.9/838 — Coordination activities: Brief survey of the activities undertaken by the Secretariat since the Commission's forty-seventh session to ensure coordination with the work of other organizations active in the field of international trade law, Note by the Secretariat;

A/CN.9/840 — Promotion of ways and means of ensuring a uniform interpretation and application of UNCITRAL legal texts: Status and progress of CLOUT, Note by the Secretariat (including updates on the current activities concerning digests);

Oral report — Role of UNCITRAL in promoting the rule of law at the national and international levels.

III. Summary of mandated and possible activities after July 2015

A. Legislative work

1. Mandated future work

9. The phrase "mandated future work" refers to planned legislative development, i.e. work that the Commission has remitted to a working group.

10. In accordance with the mandate that the Working Group should consider the issue of enforcement of international settlement agreements resulting from conciliation/mediation proceedings and should report to the Commission at its session, in 2015, on the feasibility and possible form of work in that area, the Working Group considered that topic at its sixty-second session. After discussion, the Working Group agreed to suggest to the Commission that it be given a mandate to work on the topic of enforcement of settlement agreements, to identify the relevant issues and develop possible solutions, including the preparation of a convention, model provisions or guidance texts. Considering that differing views were expressed as to the form and content, as well as the feasibility, of any particular instrument, it was also agreed to suggest that a mandate on the topic be broad enough to take into account the various approaches and concerns (A/CN.9/832, paras. 57-59). The Commission will also have before it comments by States on their legislative framework on enforcement of settlement agreements resulting from mediation in document A/CN.9/846 and its addenda.

11. At its forty-seventh session (A/69/17, para. 156), the Commission mandated Working Group V to take up work, as its next priority, on the insolvency treatment of MSMEs. It is anticipated that that work will begin when Working Group V has

completed one of the topics on its current work program (item (ii) in the table above on legislative work i.e. obligations of directors of enterprise groups companies in the period approaching insolvency, is likely to be completed by the end of 2015).

2. Possible future work

12. The phrase “possible future work” refers to legislative development proposed to the Commission, but in respect of which it has not yet provided a mandate to a working group.

13. The Commission has before it proposals for possible future work on the subject areas set out in Table 2 below. The final column of the table identifies areas in which a proposal may involve issues of another subject-area.

Table 2
Summary of possible future legislative activity

<i>Subject area</i>	<i>Proposal</i>	<i>Document reference</i>	<i>Other relevant subject areas</i>
Arbitration	Concurrent proceedings in the field of investment arbitration	Para. 15 (a) below A/CN.9/848	–
Electronic commerce	Identity management, mobile payments, electronic single windows and cloud computing	Para. 13 (b) below	MSMEs (mobile payments)
Insolvency	Insolvency treatment of financial contracts	Para. 15 (c) below, A/CN.9/851	
International contract law	Broad proposal on international contract law	Para. 15 (d) below	–
MSMEs	Development of legal standards on dispute resolution, access to financial services, access to credit, and insolvency	Para. 15 (e) below A/68/17, paras. 316-321	Arbitration and conciliation, Insolvency, Security Interests
Online Dispute Resolution	Preparation of guidelines for ODR providers and platforms	Para. 7(c) above	
Procurement and Infrastructure Development	Development of standards on suspension and debarment in public procurement Revisions to the UNCITRAL texts on PFIP ³	Para. 15 (g) below A/CN.9/851	Arbitration/conciliation, MSMEs, Insolvency, Security Interests
Security Interests	Guide to Enactment of the Model Law on Secured Transactions Contractual Guide on Secured Transactions – Uniform law text on intellectual property licensing	Para. 15 (h) below	Contract law, Intellectual property law

³ The UNCITRAL Legislative Guide on Privately-Financed Infrastructure Projects (2000) and the Model Legislative Provisions on Privately-Financed Infrastructure Projects (2003), available at www.uncitral.org/uncitral/uncitral_texts/procurement_infrastructure.html.

14. Further proposals may be made to the Commission at its current session, recommending legislative mandates for other subject-areas, from States and/or international organizations.

15. Details of the proposals outlined in Table 2 are found in the documents referred to therein, and also in following paragraphs:

(a) *Arbitration*: At its forty-sixth session, in 2013, the Commission identified that the subject of concurrent proceedings was increasingly important particularly in the field of investment arbitration and might warrant further consideration.⁴ At its forty-seventh session, in 2014, the Commission considered whether to mandate its Working Group II (Arbitration and Conciliation) to undertake work in the field of concurrent proceedings in investment treaty arbitration, based on a note prepared by the Secretariat, briefly outlining the issues at stake (A/CN.9/816, Addendum). At that session, it was said that concurrent proceedings were posing serious issues in the field of treaty-based investor-State arbitration, and that future work in that area could be beneficial. In response, it was suggested that UNCITRAL ought not to limit its work to parallel proceedings arising in the context of investment arbitration, but rather, in light of the implication such work might have on other types of arbitration practice, to extend that work to commercial arbitration as well. It was also said, however, that parallel proceedings in investment arbitration, and those in commercial arbitration, raised different issues and might need to be considered separately.⁵ After discussion, the Commission agreed that the Secretariat should explore the matter further, in close cooperation with experts and other organizations working actively in that area. That work should focus on treaty-based investor-State arbitration, without disregarding the issue in the context of international commercial arbitration. The Commission requested the Secretariat to report to the Commission at a future session, outlining the issues at stake and identifying work that UNCITRAL might usefully undertake in the area.⁶ Document A/CN.9/848 provides further details on the proposals in this subject-area.

(b) *Electronic commerce*: The Commission agreed at its forty-fourth session that the extension of the mandate of Working Group IV to identity management and mobile commerce as discrete subjects (as opposed to their incidental relation to electronic transferable records) would be further considered at a future session (A/66/17, para. 239). At that session, the Commission welcomed the ongoing cooperation between the Secretariat and other relevant organizations on legal issues relating to electronic single window facilities and asked the Secretariat to contribute as appropriate, with a view to discussing relevant matters at the working group level when the progress of joint work offered a sufficient level of detail (*Ibid.*, para. 240).

Work on electronic single window facilities and paperless trade is being carried out, in particular, in the framework of the implementation of UN ESCAP resolutions 68/3 and 70/6. At its forty-seventh session, the Commission took note of a proposal by the Government of Canada with regard to legal issues on cloud computing (A/69/17, para. 146). At that session, the Commission requested the Secretariat to compile information on cloud computing, identity management, use of

⁴ *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17* (A/68/17), paras. 129-133 and 311.

⁵ *Ibid.*, para. 127.

⁶ *Ibid.*, para. 130.

mobile devices in electronic commerce and single window facilities and to report at a future session of the Commission (Ibid., para. 150).

(c) *Insolvency*: At its forty-seventh session, the Commission noted the possibility of undertaking further work on financial contracts to ensure that the relevant provisions of the UNCITRAL Legislative Guide on Insolvency Law remained consistent with current best practice and related international instruments.⁷ The Commission decided that as Working Group V already had a rather full agenda, certain matters, including that topic, did not require consideration as immediate priorities. Nevertheless, the secretariat was requested to monitor developments at other international organizations. At its forty-eighth session, the Commission will have before it a note by the secretariat reporting on recent developments of relevance to the provisions of the Legislative Guide on financial contracts and their continued use as a global standard (A/CN.9/851).

(d) *International contract law*: At its forty-sixth session, the Commission requested the Secretariat to commence planning for a colloquium to celebrate the thirty-fifth anniversary of the United Nations Convention on Contracts for the International Sale of Goods (the “United Nations Sales Convention” or “CISG”),⁸ to take place on a date after the forty-seventh Commission session, to be held in 2014. The Commission agreed that the scope of that colloquium could include some of the issues raised by a proposal submitted at its forty-fifth session (A/68/17, para. 315). That request was reiterated at the Commission’s forty-seventh session (A/69/17, para. 255). Accordingly, a panel discussion will be organized by the Secretariat at the forty-eighth Commission session with participation of experts in the field of international sale of goods law. Moreover, since the forty-seventh Commission session, the Secretariat has coordinated or contributed to a series of regional and national events on the United Nations Sales Convention with a view to compiling background information for that panel discussion. At its forty-eighth session the Commission will have before it a note (A/CN.9/849) on current trends in the adoption and use of the United Nations Sales Convention, and its complementary texts, i.e. the Convention on the Limitation Period in the International Sale of Goods (New York, 1974), as amended by the Protocol of 1980 (Vienna); and the United Nations Convention on the Use of Electronic Communications in International Contracts (New York, 2005); as well as related non-UNCITRAL texts.

(e) *MSMEs*: At its forty-sixth session, in 2013, the Commission took note of five broad areas in which the participants at the 16-18 January 2013 Colloquium on the topic had recommended work should begin on addressing the legal aspects of an enabling legal environment for MSMEs. The five topics were: simplified business start-up and operation procedures, alternative or online dispute resolution, access to financial services, access to credit and insolvency. The Commission agreed that work aimed at reducing the legal obstacles faced by MSMEs throughout their life cycle should be commenced, and that such work should start with a focus on the legal questions surrounding the simplification of incorporation (A/68/17, paras. 317 and 321). That mandate was reaffirmed by the Commission at

⁷ *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 17* (A/69/17), para. 157.

⁸ United Nations, *Treaty Series*, vol. 1489, No. 25567.

its forty-seventh session, in 2014 (A/68/17, para. 134). A mandate with respect to insolvency has already been given to WG V, as referred to in para. 9 above.

(f) *Online dispute resolution*: see paragraph 7(c) above.

(g) *Procurement and infrastructure development*: At its forty-seventh session, the Commission considered a report from a Colloquium held in Vienna from 3-4 March 2014 on possible future work in public-private partnerships, but did not take any decision as to whether work on PPPs should be undertaken at the working group level. The Commission also reserved the possibility to consider the matter afresh if and when working group resources became available, and indicated that the Secretariat should continue limited preparatory work internally and using informal consultations, so as to ensure that a working group could take up the subject if a mandate were given.⁹ Since that forty-seventh session, it has also been suggested that UNCITRAL may wish to collaborate with the World Bank to develop principles and procedures for sanctions systems for breaches of procedural and substantive rules such as those in the UNCITRAL Model Law on Public Procurement. Document A/CN.9/850 — A note by the Secretariat on possible future work in procurement and infrastructure development — provides the Commission with further information regarding these proposals, neither of which is envisaged to take place through a Working Group, but rather through informal working methods and colloquia.

(h) *Security Interests*: As Table 1 indicates, it is envisaged that a draft Model Law on Secured Transactions (the “draft Model Law”) will be completed and submitted by Working Group VI to the Commission for consideration and adoption in 2016. At the present session, the Commission will have before it the reports of the Working Group (A/CN.9/830 and A/CN.9/836), in which recommendations regarding future work in this subject-area may be found.

In considering the draft Model Law, the Working Group has referred a number of matters to a guide to enactment of the draft Model Law for clarification. This guide to enactment can include references to the UNCITRAL Legislative Guide on Secured Transactions (the “Secured Transactions Guide”) which refers to the various policy approaches that the legislator may follow with their comparative advantages and disadvantages and includes legislative recommendations as conclusions. However, the guide to enactment needs to explain in a short and focused way the draft model provisions that have a different formulation, different structure, and, subject to approval by the Commission, a different scope from that of the Secured Transactions Guide. Thus, the Working Group may request the Secretariat to prepare a Guide to Enactment of the draft Model Law at its twenty-seventh session.

As to the contractual guide on secured transactions in particular for small and medium-sized enterprises and enterprises in developing countries, and to a uniform law text on intellectual property licensing, topics that were placed by the Commission on its future work agenda at its forty-third session (see A/65/17, paras. 264 and 273), the Commission may wish to consider them at a future session

⁹ *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 17* (A/69/17), paras. 255-260.

on the basis of notes to be prepared by the Secretariat, after a colloquium or expert group meeting.

16. The Commission may wish to assess the need for conference time for those of the above proposals it decides to take up, and to make recommendations regarding the use of conference time and regarding informal working methods accordingly.

B. Current and possible future activities to support the adoption and use of UNCITRAL texts

17. The Commission has emphasized the importance of support activities and the need to encourage such activities at the global and regional levels through the Secretariat, through the expertise available in the Working Groups and Commission, through member States and through partnering arrangements with relevant international organizations, as well as promoting increased awareness of UNCITRAL's texts in these organizations and within the United Nations system (A/69/17, paras. 263-265). It has also reaffirmed the Secretariat's mandate to explore alternative sources of financing to allow for more active support activities to be undertaken (A/69/17, para. 266).

18. Details of current support activities including reports on the activities referred to in the preceding paragraph are found in the series of documents before the Commission (the documents listed in para. 8 above).

19. In accordance with the deliberations of the Commission at its second, third, thirty-first, forty-first, forty-fourth and forty-fifth sessions where it promoted the dissemination of information and the harmonization of the application of the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards ("New York Convention", A/CN.9/814, para. 1) as well as the preparation of a guide on that convention, the Secretariat's work on the finalization of a guide on the New York Convention, in close cooperation with experts, is ongoing. Some chapters of the guide are currently contained in documents A/CN.9/786, A/CN.9/814 and its addenda, as well as on the website www.newyorkconvention1958.org.

20. The Secretariat plans to prepare and distribute an accession toolkit in respect of the United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (the "Rotterdam Rules"), as well as for the United Nations Convention on Transparency in treaty-based Investor-State Arbitration ("The Mauritius Convention on Transparency"). It is anticipated that this material will assist States intending to ratify the instruments; work in relation to the Rotterdam Rules has proceeded in preparing the materials and it is expected that the text will be finalized for the Commission to note at its 49th session in 2016.

IV. Allocation of resources

A. Future legislative development

21. At its forty-sixth session, the Commission underscored the importance of a strategic approach to resource allocation, in the light of the increasing number of topics referred to UNCITRAL for consideration (A/68/17, para. 294). The

Commission therefore set out certain strategic considerations, including as regards prioritization among subject-areas and activities, and resource considerations (A/68/17, para. 295). The Commission has also emphasized the benefit of UNCITRAL's primary working method — that is, legislative development through formal negotiations in a working group (A/69/17, para. 249).

22. At its forty-seventh session, the Commission agreed that resource constraints required prioritization among legislative and support activities, and that flexibility and the greater use of informal working methods might be considered on a case-by-case basis (A/69/17, paras. 243 and 249). It also expressed the view that planning beyond the next Commission would remain an exceptional situation (A/69/17, para. 251).

23. The Commission also reaffirmed that it retained the authority and responsibility for setting UNCITRAL's workplan, especially as regards the mandates of Working Groups, though the role of Working Groups in identifying possible future work and the need for flexibility to allow a Working Group to decide on the type of legislative text to be produced were also recalled (*ibid.*).

24. Accordingly, the Commission may wish to consider the items set out in Table 2 above ("Summary of possible future legislative activity"), and to decide which of those possible projects should be undertaken in the year to 2016.

B. Future support activities

25. As regards support activities, the Commission has recalled the need to encourage such activities at the global and regional levels through both the Secretariat and member States (*ibid.*, para 263), including through partnerships and alliances given UNCITRAL's resource constraints (*ibid.*, paras 263-264).

26. At its forty-seventh session, the Commission encouraged the Secretariat's mandate to explore alternative sources of financing to allow for more active support activities to be undertaken (though cautioning that significant contributions might not be expected (*ibid.* para 265)). In this regard, and in the light of the support activities set out in the relevant documents referred to in paragraph 4(a), the Commission may wish to consider possible future support activities and possible additional sources of financing for those activities.

C. Commemoration of fiftieth anniversary of the establishment of UNCITRAL in 2016

27. The Commission may be aware that the fiftieth anniversary of the establishment of UNCITRAL will take place in December 2016, and may wish to consider whether and how to mark that occasion.

28. Following the twenty-fifth anniversary of the establishment of UNCITRAL, and as part of the twenty-fifth session of the Commission, a Congress on International Trade Law was organized. It was held during the last week of that session, from 18 to 22 May 1992, in New York, in the context of the United Nations

Decade of International Law (1990-1999).¹⁰ The theme chosen for the Congress was “Uniform Commercial Law in the 21st Century”, and it was designed as UNCITRAL’s contribution to the Decade of International Law.

29. The participants were invited to consider the achievements attained in the “progressive unification and harmonization of international trade law” during the 25 years prior to the Congress, along with the needs that could be anticipated in the following 25 years. Over 60 speakers from different regions and legal systems provided information on developments in major areas of international commercial law. The Congress was practice-oriented “in that it would provide to practising lawyers, corporate counsel, ministry officials, judges, arbitrators, teachers of law and other users of uniform legal texts”,¹¹ and focussed on the principal legal texts of universal relevance. It also considered the then current state of the unification of the laws and rules governing international commerce and practical needs as a basis for future work.¹²

30. At the twenty-fourth Commission session, i.e. the session prior to the Congress, the Commission welcomed a Secretariat proposal that the Commission might organize a Congress on International Trade Law to be held in the context of the twenty-fifth session of the Commission in 1992, agreed that one week of the twenty-fifth session should be devoted to the Congress, and considered that speakers at the Congress should be from “all the major legal systems and geographical regions of the world and should include both individuals currently or formerly associated with the Commission and individuals not associated with the Commission but who had particular expertise.”¹³ It emphasized that it would be desirable to attract the “interest of ultimate users of uniform legal texts, such as practising lawyers, corporate counsel, ministry officials, judges and teachers of law.”¹⁴

31. Furthermore, it was noted that among the questions to be discussed at the Congress were: “the merits of various techniques for the unification and harmonization of rules on international trade; methods of work of the Commission and its subsidiary bodies; promotion of the adoption and use of existing legal texts; application of texts relating to international trade law in national legal systems; harmonization between the universal and the regional codification of international trade law; and methods of improved coordination of the activities of international organizations active in the field of unifications of law.”¹⁵ The Secretariat was accordingly entrusted with the organization of the Congress, also taking into

¹⁰ As declared by the General Assembly in its resolution 44/34 of 17 November 1989.

¹¹ *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 17 (A/47/17)*, paras. 190-192.

¹² UNCITRAL Yearbook, Volume XXIII: 1992, Chapter IX. United Nations Decade of International Law, UNCITRAL Congress under the theme “Uniform Commercial Law in the 21st Century”, pp. 399-401. For the proceedings of the Congress, see *Uniform Commercial Law in the Twenty-first Century: Proceedings of the Congress of the United Nations Commission on International Trade Law*, New York, 18-22 May 1992 (A/CN.9/SER.D/1).

¹³ *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 17 (A/46/17)*, para. 346.

¹⁴ *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 17 (A/46/17)*, para. 347.

¹⁵ *Ibid.*, para. 348.

account any suggestions and observations that Governments and international organizations might make.¹⁶

32. In the context of the fortieth anniversary of UNCITRAL, the Commission approved plans made at its thirty-eighth and thirty-ninth sessions in 2005 and 2006 respectively, for a congress similar to the 1992 Congress.¹⁷ The 2007 Congress, entitled “Modern Law for Global Commerce”, took place on the occasion of the fortieth session of the Commission, from 9-12 July, 2007, in Vienna. This Congress reviewed the results of the past work programme of UNCITRAL and of related work of other organizations active in the field of international trade law, assessed current work programmes, and considered and evaluated topics for future work programmes.¹⁸ There were over 60 rapporteurs, who presented reports of the 14 working sessions. Among the topics considered were the “Process and value of uniform commercial law” (process and methods of international rule-making, allocation of work among formulating agencies, coordination of domestic positions in international forums); Harmonization of commercial law: practical importance and economic value; Commercial law development and technical legal assistance: goals and stakeholders; as well as a review of the then topics before UNCITRAL Working Groups and proposals for future legislative development.

33. The Commission may wish to consider whether a third UNCITRAL Congress might be held, perhaps on the occasion of its fiftieth session in 2017 (which will take place in Vienna). If so, it may wish to instruct the Secretariat on the possible scope and scale of the Congress, and associated matters. In this regard, the Commission may also wish to have regard to the issues discussed in a Briefing on “Means of implementation: harmonizing and modernizing the law of international trade”, held in New York on 5 February 2015.¹⁹

¹⁶ Ibid., para. 349.

¹⁷ *Official Records of the General Assembly, Sixty-second Session, Supplement No. 17 (A/62/17)*, para. 245.

¹⁸ See, further, “Modern Law for Global Commerce: Proceedings of the Congress of the United Nations Commission on International Trade Law held on the Occasion of the Fortieth Session of the Commission”, New York, 2011, available at www.uncitral.org/pdf/english/congress/09-83930_Ebook.pdf.

¹⁹ www.uncitral.org/pdf/english/whats_new/2015_02/5_February_2015_briefing_consolidated_statements.pdf.