



# General Assembly

Distr.: General  
21 April 2004

Original: English

**United Nations Commission  
on International Trade Law**  
Thirty-seventh session  
New York, 14 June-25 June 2004

## Training and technical assistance

### Note by the Secretariat

#### Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction .....	1-2	2
II. New resources of the UNCITRAL Secretariat .....	3-5	2
III. Extrabudgetary funding .....	6-11	3
IV. Importance of texts of the United Nations Commission on International Trade Law .....	12	4
V. Technical assistance in the preparation and implementation of legislation .....	13-16	5
VI. Seminars and briefing missions .....	17-19	5
VII. Participation in other activities .....	20-23	7
VIII. Internship programme .....	24-25	10



## **I. Introduction**

1. Pursuant to a decision taken at the twentieth session of the United Nations Commission on International Trade Law (UNCITRAL),<sup>1</sup> held in 1987, training and assistance activities count among the high priorities of UNCITRAL. The training and technical assistance programme carried out by the Secretariat under the mandate given by the Commission, in particular in developing countries and in countries with economies in transition, encompasses two main lines of activity: (a) seminars and briefing missions aimed at promoting understanding of international commercial law conventions, model laws and other legal texts; and (b) assistance to Member States with commercial law reform and adoption of UNCITRAL texts. As the ultimate goal of these activities is the adoption of UNCITRAL texts, they are an integral part of the Commission's legislative work.

2. The present note lists the activities of the Secretariat subsequent to the issuance of the previous note submitted to the Commission at its thirty-sixth session, in 2003 (A/CN.9/536 of 14 May 2003), and indicates possible future training and technical assistance activities in the light of the requests for such services from the Secretariat. The note also sets out proposals regarding technical legislative assistance in light of the decision to expand the Secretariat discussed below (see paras. 3-5).

## **II. New resources for the UNCITRAL Secretariat**

3. The Commission may recall that at its thirty-sixth session, it noted the remarks made by the Office of Internal Oversight Services, in its report on the in-depth evaluation of legal affairs (E/AC.51/2002/5, para. 64), with respect to the effectiveness of the training and assistance provided by the Secretariat and the concern that, without follow-up actions and effective cooperation and coordination between the Secretariat and development assistance agencies providing or financing technical assistance, international assistance might lead to the adoption of national laws that did not represent internationally agreed standards. In that connection, the Commission noted with appreciation the initial steps taken to implement the request of the General Assembly that the Secretary-General increase substantially both the human and the financial resources available to the Secretariat, part of which would be used to ensure the effective implementation of the technical legislative assistance programme of the Commission and the timely publication and dissemination of its work.<sup>2</sup>

4. The Commission may wish to note that in December 2003, the General Assembly approved additional human resources for the Secretariat of UNCITRAL (three professional officers) to enable the Secretariat to carry out functions with respect to technical legislative assistance, dissemination of information on legal developments in the field of international trade law and to coordinate the work of international organizations active in the field of international trade effectively and in a timely fashion. One of these additional positions has already been filled by a lateral transfer from New York and the other two positions are currently being advertised with a view to completing the recruitment process as soon as possible.

5. Once this recruitment action is completed, the Secretariat proposes devising a plan to address the ways in which the functions outlined above could be developed, and a timetable for implementation. In consultation with Permanent Missions in Vienna and New York, for example, the Secretariat may work to identify law reform needs and associated assistance requirements in the area of international trade law and, in consultation with relevant international, regional and national organizations, to identify opportunities for developing joint programmes, or for UNCITRAL participation in existing programmes related to technical assistance with law reform in the area of international trade law. It is anticipated that other initiatives will include development of materials on UNCITRAL and UNCITRAL texts to facilitate the provision of technical legislative assistance, as well as strategies to enhance coordination of the work of, and cooperation between, other organizations active in the field of international trade law. The Commission may wish to discuss the development of this work to provide guidance to the Secretariat on policy issues and priorities.

### **III. Extrabudgetary funding**

6. Given the importance of extrabudgetary funding for the implementation of the training and technical assistance component of the UNCITRAL work programme, the Commission may again wish to appeal to all States, international organizations and other interested entities to consider making contributions to the Trust Fund for UNCITRAL symposiums, if possible in the form of multi-year contributions, so as to facilitate planning and to enable the Secretariat to meet the increasing demands from developing countries and States with economies in transition for training and legislative assistance. Information on how to make contributions may be obtained from the Secretariat.

7. In the period under review, contributions were received from France, Greece, Mexico and Switzerland. The Commission may wish to express its appreciation to those States and organizations which have contributed to the Commission's programme of training and assistance by providing funds or staff or by hosting seminars.

8. In that connection, the Commission may wish to recall that, in accordance with General Assembly resolution 48/32 of 9 December 1993, the Secretary-General was requested to establish a Trust Fund to grant travel assistance to developing countries that are members of UNCITRAL. The Trust Fund so established is open to voluntary financial contributions from States, intergovernmental organizations, regional economic integration organizations, national institutions and non-governmental organizations, as well as to natural and juridical persons.

9. Since the establishment of the Trust Fund, contributions have been received from Austria, Cambodia, Cyprus, Kenya and Mexico.

10. It is recalled that in its resolution 51/161 of 16 December 1996, the General Assembly decided to include the Trust Funds for UNCITRAL symposiums and travel assistance in the list of funds and programmes that are dealt with at the United Nations Pledging Conference for Development Activities.

11. In order to ensure full participation of all Member States in the sessions of UNCITRAL and its Working Groups, the Commission may wish to reiterate its appeal to the relevant bodies in the United Nations system, organizations, institutions and individuals to make voluntary contributions to the Trust Fund established to provide travel assistance to developing countries that are members of the Commission.

#### **IV. Importance of texts of the United Nations Commission on International Trade Law**

12. Increasing importance is being attributed by Governments, international organizations, including multilateral and bilateral aid agencies, and the private sector to improvement of the legal framework for international trade and investment. UNCITRAL has an important function to play in that process because it produces and promotes the use of legal instruments in a number of key areas of commercial law that represent internationally agreed standards and solutions acceptable to different legal systems. Those instruments include:

(a) In the area of sales, the United Nations Convention on Contracts for the International Sale of Goods<sup>3</sup> and the United Nations Convention on the Limitation Period in the International Sale of Goods;<sup>4</sup>

(b) In the area of dispute resolution, the Convention on the Recognition and Enforcement of Foreign Arbitral Awards<sup>5</sup> (a United Nations convention adopted prior to the establishment of the Commission, but actively promoted by it), the UNCITRAL Arbitration Rules,<sup>6</sup> the UNCITRAL Conciliation Rules,<sup>7</sup> the UNCITRAL Model Law on International Commercial Arbitration,<sup>8</sup> the UNCITRAL Notes on Organizing Arbitral Proceedings,<sup>9</sup> and the UNCITRAL Model Law on International Commercial Conciliation;<sup>10</sup>

(c) In the area of government contracting, the UNCITRAL Model Law on Procurement of Goods, Construction and Services<sup>11</sup> and the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects;<sup>12</sup>

(d) In the area of banking, payments and insolvency, the United Nations Convention on the Assignment of Receivables in International Trade (General Assembly resolution 56/81, annex), the United Nations Convention on Independent Guarantees and Standby Letters of Credit (General Assembly resolution 50/48, annex), the UNCITRAL Model Law on International Credit Transfers,<sup>13</sup> the United Nations Convention on International Bills of Exchange and International Promissory Notes (resolution 43/165, annex) and the UNCITRAL Model Law on Cross-Border Insolvency;<sup>14</sup>

(e) In the area of transport, the United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules),<sup>15</sup> and the United Nations Convention on the Liability of Operators of Transport Terminals in International Trade;<sup>16</sup> and

(f) In the area of electronic commerce and data interchange, the UNCITRAL Model Law on Electronic Commerce<sup>17</sup> and the UNCITRAL Model Law on Electronic Signatures.<sup>18</sup>

## **V. Technical assistance in the preparation and implementation of legislation**

13. Technical assistance is provided to States preparing legislation based on UNCITRAL texts. Such assistance is provided in various forms, including review of preparatory drafts of legislation from the viewpoint of UNCITRAL texts, technical consultancy services and assistance in the preparation of legislation based on UNCITRAL texts, preparation of regulations implementing such legislation and comments on reports of law reform commissions, as well as briefings for legislators, judges, arbitrators, procurement officials and other users of UNCITRAL texts embodied in national legislation. Another form of technical assistance provided by the Secretariat consists of advising on the establishment of institutional arrangements for international commercial arbitration, including training seminars for arbitrators, judges and practitioners in the area. Training and technical assistance promotes awareness and wider adoption of the legal texts produced by the Commission and is particularly useful for developing countries lacking expertise in the areas of trade and commercial law covered by the work of UNCITRAL. Commercial law reform, based on harmonized international instruments, has a clear impact on the ability of enterprising persons in all States to participate in international trade. This trade plays an important part in increasing the well-being of their societies and is an important factor in achieving sustainable development and social stability. The training and technical assistance activities of the Secretariat could thus play an important role in the economic integration efforts being undertaken by many countries.

14. In its resolution 58/75 of 8 January 2004, the General Assembly reaffirmed the importance, in particular for developing countries, of the work of the Commission concerned with training and technical assistance in the field of international trade law and reiterated its appeal to the United Nations Development Programme and other bodies responsible for development assistance, such as the World Bank and regional development banks, as well as to Governments in their bilateral aid programmes, to support the training and technical assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission.

15. In the same resolution, the General Assembly stressed the importance of bringing into effect the conventions emanating from the work of the Commission for the global unification and harmonization of international trade law, and to this end urged States that have not yet done so to consider signing, ratifying or acceding to those conventions.

16. The UNCITRAL Secretariat is prepared to provide technical assistance and advice to States considering signature, ratification or accession to UNCITRAL conventions, as well as to States that are in the process of revising their trade legislation.

## **VI. Seminars and briefing missions**

17. The activities of UNCITRAL are typically carried out through seminars and briefing missions for government officials from interested ministries (such as trade,

foreign affairs, justice and transport), judges, arbitrators, practising lawyers, the commercial and trading community, scholars and other interested individuals. Seminars and briefing missions are designed to explain the salient features and utility of international trade law instruments of UNCITRAL. Information is also provided on certain important legal texts of other organizations, for example, Uniform Customs and Practice for Documentary Credits and Incoterms of the International Chamber of Commerce.

18. Lectures at UNCITRAL seminars are generally conducted by one or two members of the UNCITRAL Secretariat, experts from the host countries and, occasionally, external consultants. After the seminars, the Secretariat maintains contact with seminar participants in order to provide the host countries with the maximum possible support during the process leading up to the adoption and use of UNCITRAL texts.

19. Since the previous session, the Secretariat of the Commission has organized seminars in a number of States, which have typically included briefing missions. The following seminars were financed with resources from the Trust Fund for UNCITRAL symposiums (numbers of participants are approximate only):

(a) Lima (19-21 May 2003), seminar held in cooperation with the Inter-American Bar Association (120 participants);

(b) Ulan Bator (26-28 May 2003), seminar held in cooperation with the Government of Mongolia and the Mongolian Chamber of Commerce (60 participants);

(c) Belgrade (6-7 June 2003), seminar held in cooperation with the European Center for Peace and Development of the University of Peace (15 participants);

(d) Auckland, New Zealand (10-12 June 2003), seminar held in cooperation with the Ministry of Foreign Affairs and Trade for Small Pacific States (20 participants);

(e) Gaborone (9-10 September 2003), seminar held in cooperation with the Government of Botswana and the United Nations Development Programme (UNDP) Botswana (80 participants);

(f) Seoul (24-26 September 2003), seminar held in cooperation with the Ministry of Justice (70 participants);

(g) Vladivostok, Russian Federation (29 September-1 October 2003), seminar held in cooperation with the Chamber of Commerce and Industry of the Russian Federation (50 participants);

(h) Havana (29 September-3 October 2003), seminar held in cooperation with the Cuban Society for Law and Information Technology of the National Union of Cuban Jurists (250 participants);

(i) Caracas (19-21 November 2003), seminar held in cooperation with the Government of Venezuela (120 participants);

(j) Bogota (25-28 November 2003), seminar held in cooperation with the Government of Colombia (300 participants);

(k) Khartoum (26-29 January 2004), seminar held in cooperation with the Government of Sudan (60 participants);

(l) Belgrade (5-7 February 2004), seminar held in cooperation with the European Center for Peace and Development of the University of Peace (10 participants); and

(m) Sanaa (8-10 March 2004), seminar held in cooperation with the Ministry of Justice and the Yemen Arbitration Centre (110 participants).

## VII. Participation in other activities

20. Members of the UNCITRAL Secretariat have participated as speakers in various seminars, conferences and courses where UNCITRAL texts were presented for examination and possible adoption or use. The participation of members of the Secretariat in the seminars, conferences and courses listed below was financed by the institution organizing the events or by another organization. Participation to some of those seminars, conferences and courses was financed, partially or totally, with resources from the United Nations regular travel budget:

(a) London Court of International Arbitration (LCIA) European Council Symposium (interim measures of protection in arbitration) (London, 5-9 May 2003);

(b) Permanent Court of Arbitration and International Centre for Dispute Resolution Forum (interim measures of protection in arbitration) (Brussels, 28 May 2003);

(c) Colloquium on International Commercial Arbitration and African States (London, 4-5 June 2003);

(d) Comité Maritime International (CMI) Colloquium (Bordeaux, France, 11-13 June 2003);

(e) UN/CEFACT Legal Working Group (Geneva, 16-17 June 2003);

(f) Information Session for WTO Members on Government Procurement (Geneva, 19 June 2003);

(g) UNCTAD Regional High Level Conference for Africa on Electronic Commerce Strategies for Development (Tunis, 19-21 June 2003);

(h) Alternative Dispute Resolution Conference: Alternative Resolution of Civil and Commercial Disputes in the Global Business Environment (Rome, 3 July 2003);

(i) Undergraduate Student Summer School Programme sponsored by the University of Economics and Law, Hamburg, and the University of Technology, Sydney (Hamburg, 21-22 July 2003);

(j) E-Commerce Current Commercial Law Workshop sponsored by the University of Pretoria (Pretoria, 28 August 2003);

(k) International Bar Association Annual Conference (San Francisco, California, United States of America, 18-19 September 2003);

(l) International Multi-National Judicial Colloquium sponsored by UNCITRAL and the International Federation of Insolvency Professionals (INSOL) and INSOL Annual Regional Conference (Las Vegas, Nevada, United States of America, 20-23 September 2003);

(m) Postgraduate Programme Lectures on International Trade Law sponsored by the Federal University of Rio Grande do Sul (Porto Alegre, Brazil, 29 September-2 October 2003);

(n) Insolvency Symposium 2003 sponsored by the European Central Bank (Frankfurt, Germany, 30 September-1 October 2003);

(o) UNCTAD/ECE High Level Regional Conference for Transition Economies on "ICT and E-Commerce Strategies for Development" (Geneva, 20-21 October 2003);

(p) New York State Bar Association Programme on Receivables, Mobile Equipment and Securities sponsored by the New York State Bar Association, the International Bar Association and Union Internationale des Avocats (Amsterdam, 24 October 2003);

(q) USAID Commercial Dispute Project Conference on the Use of Mediation in Countries of South East Europe (Ljubljana, 27-29 October 2003);

(r) International Conference on Secured Transactions sponsored by the Law School of the University of Manchester (Manchester, United Kingdom, 29-30 October 2003);

(s) Electronic Commerce Seminar sponsored by Ecole De Hautes Etudes Commerciales du Nord (EDHEC) (Nice, France, 6-7 November 2003);

(t) OECD Forum for Asian Insolvency Reform (Seoul, 10-11 November 2003);

(u) UNIDROIT Study Group S78 and Colloquium on Harmonized Substantive Rules Regarding Securities Held with an Intermediary (Rome, 12-14 November 2003);

(v) Comité Maritime International (CMI) International Sub-Committee on Issues of Transport Law (London, 17 November 2003);

(w) Commercial Dispute Resolution Symposium sponsored by USAID (Moscow, 19-21 November 2003);

(x) Conference on Cross-Border Security for Credit sponsored by the Academy of European Law (Trier, Germany, 4-5 December 2003);

(y) Conference on Commercial Mediation and Arbitration in Croatia and the Balkan Region sponsored by the Croatian Chamber of Commerce (Zagreb, 4 December 2003);

(z) Conference on Contractual Rights and Obligations in Central and South-eastern Europe and the Commonwealth of Independent States sponsored by the European Bank for Reconstruction and Development (EBRD) (London, 5 December 2003);



(aa) International Chamber of Commerce (ICC) Commission on Banking Technique and Practice and ICC International Conference on Banking and Trade Finance (New Delhi, 9-11 December 2003);

(bb) E-Commerce Conference and Judicial Colloquium sponsored by the Cairo Regional Centre for International Commercial Arbitration (Cairo, 17-19 January 2004);

(cc) Conference on “The New Swiss Rules for International Arbitration” sponsored by the Swiss Arbitration Association (Zurich, Switzerland, 23 January 2003);

(dd) Conference on Balancing Recovery, Restructuring and Liquidation—Emerging Challenges in Asia sponsored by INSOL India and Business Recovery and Insolvency Professionals of Sri Lanka (Colombo, 13-15 February 2004);

(ee) Comité Maritime International (CMI)/UNCITRAL Roundtable on Freedom of Contract (London, 20-21 February 2004);

(ff) Moroccan Ministry of Justice Discussion Seminar on its Draft Arbitration Law, Casablanca, Morocco, 3-4 March 2004);

(gg) Congress on the management of conflicts—new perspectives and methodologies in conciliation (Turin, 5 March 2004);

(hh) Good Governance Consortium, European Union Regional Planning Meeting (Vienna, 5 March 2004);

(ii) Electronic Signatures—Advancing E-Commerce in Egypt Conference under the auspices of the Ministry of Communication and Information Technology, Egypt, sponsored by the United States Department of Commerce and USAID (Cairo, 27-28 March 2004);

(jj) International Trade Law Postgraduate Course, sponsored by the International Training Centre of the International Labour Organization (ILO) and the University Institute of European Studies (Turin, Italy, 2 April 2004); and

(kk) Joint Conference: Current and Future Work of UNCITRAL on International Commercial Arbitration—Partners in Europe: Arbitration in Central and Eastern European Countries sponsored by UNCITRAL and the International Arbitral Centre of the Austrian Federal Economic Chamber (Vienna, 1-2 April 2004).

21. For the remainder of 2004, seminars and legal assistance briefing missions are being planned in Africa, Asia and Eastern Europe. Since the travel cost of training and technical assistance activities is not covered by the regular budget, the ability of the Secretariat to implement those plans is contingent upon the receipt of sufficient funds in the form of contributions to the Trust Fund for UNCITRAL symposiums.

22. As it has done in recent years, the Secretariat has agreed to co-sponsor the next three-month international trade law postgraduate course to be organized by the University Institute of European Studies and the International Training Centre of ILO in Turin. Typically, approximately half the participants are from Italy, with many of the remainder coming from developing countries. The contribution from the UNCITRAL Secretariat to the next course will focus on issues of harmonization of laws on international trade law from the perspective of UNCITRAL, including

past and current work. It is hoped that at least one student from the course will participate in the United Nations internship programme with UNCITRAL. The internship programme is discussed below in paragraphs 24-25.

23. Also, as it has done for the past seven years, the Secretariat co-sponsored the tenth Willem C. Vis International Commercial Arbitration Moot in Vienna from 2 to 8 April 2004. The Moot is principally organized by the Institute of International Commercial Law at Pace University School of Law. With its broad international participation, involving 136 teams from 42 countries in 2004, it is seen as an excellent way to disseminate information about uniform law texts and teaching international trade law. As in the past, the Secretariat offered lectures to participants of the Moot.

## VIII. Internship programme

24. The internship programme is designed to give young lawyers the opportunity to become familiar with the work of UNCITRAL and to increase their knowledge of specific areas in the field of international trade law. During the past year, the Secretariat has hosted nine interns from Argentina, Mexico, Sweden, Trinidad, Tunisia and Venezuela. Interns are assigned tasks such as basic or advanced research, collection and systematization of information and materials or assistance in preparing background papers. The experience of UNCITRAL with the internship programme has been positive. However, as no funds are available to the Secretariat to assist interns to cover their travel or other expenses, interns have to be sponsored by an organization, university or government agency, or to meet their expenses from their own means. As a result, there is limited participation of interns from developing countries. In that connection, the Commission may wish to invite Member States, universities and other organizations, in addition to those which already do so, to consider sponsoring the participation of young lawyers, in particular from developing countries, in the United Nations internship programme with UNCITRAL.

25. The Secretariat also occasionally accommodates requests by scholars and legal practitioners who wish to conduct research in the UNCITRAL law library for a limited period of time.

### Notes

<sup>1</sup> *Official Records of the General Assembly, Forty-second Session, Supplement No. 17 (A/42/17)*, para. 335.

<sup>2</sup> *Ibid.*, *Fifty-eighth Session, Supplement No. 17 (A/58/17)*, para. 251 and also see paras. 256-261.

<sup>3</sup> *Official Records of the United Nations Conference on Contracts for the International Sale of Goods, Vienna, 10 March-11 April 1980* (United Nations publication, Sales No. E.82.V.5), part I.

<sup>4</sup> *Official Records of the United Nations Conference on Prescription (Limitation) in the International Sale of Goods, New York, 20 May-14 June 1974* (United Nations publication, Sales No. E.74.V.8), part I.

<sup>5</sup> United Nations, *Treaty Series*, vol. 330, No. 4739.

- 
- <sup>6</sup> *Official Records of the General Assembly, Thirty-first Session, Supplement No. 17 (A/31/17)*, para. 57.
- <sup>7</sup> *Ibid.*, *Thirty-fifth Session, Supplement No. 17 (A/35/17)*, para. 106.
- <sup>8</sup> *Ibid.*, *Fortieth Session, Supplement No. 17 (A/40/17)*, annex I.
- <sup>9</sup> *Ibid.*, *Fifty-first Session, Supplement No. 17 (A/51/17)*, chap. II.
- <sup>10</sup> *Ibid.*, *Fifty-seventh Session, Supplement No. 17 (A/57/17)*, annex I.
- <sup>11</sup> *Ibid.*, *Forty-ninth Session, Supplement No. 17 and corrigendum (A/49/17 and Corr.1)*, annex I.
- <sup>12</sup> United Nations publication, Sales No. E.01.V.4.
- <sup>13</sup> *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 17 (A/47/17)*, annex I.
- <sup>14</sup> *Ibid.*, *Fifty-second Session, Supplement No. 17 (A/52/17)*, annex I.
- <sup>15</sup> *Official Records of the United Nations Conference on the Carriage of Goods by Sea, Hamburg, 6-31 March 1978* (United Nations publication, Sales No. E.80.VIII.1), document A/CONF.89/13, annex I.
- <sup>16</sup> A/CONF.152/13, annex.
- <sup>17</sup> *Official Records of the General Assembly, Fifty-first Session, Supplement No. 17 (A/51/17)*, annex I.
- <sup>18</sup> *Ibid.*, *Fifty-sixth Session, Supplement No. 17 (A/56/17)*, annex II.
-