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Technical assistance

Note by the Secretariat

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I. Introduction

1. Pursuant to a decision taken at the twentieth session (1987) of the United Nations Commission on International Trade Law (UNCITRAL),¹ technical assistance activities is one of its priorities. These activities promote awareness and adoption of the legal texts produced by the Commission and are 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 societies and is an important factor in achieving sustainable development and social stability. The technical assistance activities of the Secretariat could thus play an important role in the economic integration efforts being undertaken by many countries.

2. This note lists the activities of the Secretariat subsequent to the date of the previous note submitted to the Commission at its thirty-seventh session in 2004 (A/CN.9/560 of 21 April 2004), and indicates possible future technical assistance activities in the light of the requests received by the Secretariat.

II. Texts of the United Nations Commission on International Trade Law

3. Increasing importance is being attached 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 plays an important role in developing that framework because of its mandate to prepare and promote the use and adoption of legislative and non-legislative instruments in a number of key areas of commercial law, including sales; dispute resolution; government contracting; banking, payments and insolvency; transport; and electronic commerce. These texts are widely acceptable as offering solutions appropriate to different legal traditions and to countries at different stages of economic development.

4. Those instruments include:

(a) In the area of sales, the United Nations Convention on Contracts for the International Sale of Goods² and the United Nations Convention on the Limitation Period in the International Sale of Goods;³

(b) In the area of dispute resolution, the Convention on the Recognition and Enforcement of Foreign Arbitral Awards⁴ (a United Nations convention adopted prior to the establishment of the Commission, but actively promoted by it), the UNCITRAL Arbitration Rules,⁵ the UNCITRAL Conciliation Rules,⁶ the UNCITRAL Model Law on International Commercial Arbitration,⁷ the UNCITRAL Notes on Organizing Arbitral Proceedings,⁸ and the UNCITRAL Model Law on International Commercial Conciliation;⁹

(c) In the area of government contracting, the UNCITRAL Model Law on Procurement of Goods, Construction and Services¹⁰ and the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects;¹¹

(d) In the area of banking and payments, the United Nations Convention on the Assignment of Receivables in International Trade,¹² the United Nations Convention on Independent Guarantees and Standby Letters of Credit,¹³ the UNCITRAL Model Law on International Credit Transfers,¹⁴ and the United Nations Convention on International Bills of Exchange and International Promissory Notes,¹⁵

(e) In the area of insolvency, the UNCITRAL Model Law on Cross-Border Insolvency¹⁶ and the UNCITRAL Legislative Guide on Insolvency Law;¹⁷

(f) In the area of transport, the United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules),¹⁸ and the United Nations Convention on the Liability of Operators of Transport Terminals in International Trade;¹⁹ and

(g) In the area of electronic commerce, the UNCITRAL Model Law on Electronic Commerce²⁰ and the UNCITRAL Model Law on Electronic Signatures.²¹

III. Technical assistance to law reform

5. In its resolution 58/75 of 8 January 2004, the General Assembly reaffirmed the importance, in particular for developing countries, of the technical assistance work of the Commission 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 technical assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission.

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

7. Technical assistance activities undertaken by the UNCITRAL Secretariat include: organizing briefing missions and seminars and participating in conferences to familiarize participants with UNCITRAL texts and their use; undertaking law reform assessments to assist governments, legislative organs and other authorities in developing and other countries to review existing legislation and assess their need for law reform in the commercial field; assisting with the drafting of national legislation to implement UNCITRAL texts; assisting international development agencies, such as the World Bank, to use UNCITRAL texts in their law reform activities and projects; providing advice and assistance to international and other organizations, such as professional associations, organizations of attorneys, chambers of commerce and arbitration centres, on the use of UNCITRAL texts; and organizing group training activities to facilitate the implementation and interpretation of modern commercial legislation based on UNCITRAL texts by judiciaries and legal practitioners.

IV. Technical assistance activities

8. Since the previous session, the UNCITRAL Secretariat has organized technical assistance activities in a number of States.

(a) The following were financed with resources from the Trust Fund for UNCITRAL Symposia (numbers of participants are approximate only):

(i) Baku, Azerbaijan (26-27 April 2004), seminar held in cooperation with the Ministry of Foreign Affairs and the Ministry of Economic Development (20 participants);

(ii) Belgrade, Serbia and Montenegro (4-5 June 2004), seminar held in cooperation with the European Centre for Peace and Development of the University of Peace (12 participants);

(iii) Bangkok, Thailand (7-9 July 2004), seminar in conjunction with ESCAP Regional Expert Conference on “Harmonized Development of Legal and Regulatory Systems for E-Commerce in Asia and the Pacific” (80 participants);

(iv) Bangkok, Thailand (12-16 July 2004), consultations with Thai judiciary on relations between court systems and arbitration (150 participants);

(v) Sao Paulo, Brazil (14-16 September 2004), seminar in cooperation with Ministry of Planning, Budget and Management on procurement and electronic commerce in the context of the Fourth International Seminar on Government Procurement (700 participants);

(vi) Ljubljana, Slovenia (18-19 February 2005), participation in the Working Group on Reform of Arbitration Law to assist with the drafting of new Slovenian legislation based on the UNCITRAL Model Laws on International Commercial Arbitration and International Commercial Conciliation (5 participants);

(vii) Ljubljana, Slovenia (18-19 February 2005), consultations with Executive Council of Slovenian Bar Association (8 participants) and seminar on international trade law for LLM program (25 participants);

(viii) Cape Town, South Africa (15-17 March 2005), seminar on UNCITRAL and the use of model laws as a tool for regional harmonization of international trade law, Association of Law Reform Agencies of Eastern and Southern Africa (ALRAESA) conference (100 participants);

(ix) Addis Ababa, Ethiopia (18-20 April 2005), seminar on the work of UNCITRAL and the United Nations Convention on Contracts for the International Sale of Goods, COMESA Officials Meeting;

(b) The UNCITRAL secretariat provided assistance from Vienna with legislative and other drafting in the following instances:

(i) EU: comments on discussion paper relating to possible ratification of the United Nations Assignment of Receivables Convention (2004 and ongoing);

(ii) Macedonia: insolvency law reform (16-17 December 2004);

(iii) Serbia: Law on Mediation (2004 and ongoing);

- (iv) Commonwealth Telecommunications Organization: arbitration and conciliation rules for a dispute resolution centre (from December 2004);
- (v) Pakistan: comments on draft legislation to implement the New York Convention (2004);
- (vi) Indonesia: assistance to bank Indonesia with a draft Funds Transfer Act (2004); and
- (vii) Jordan: comments on a draft maritime code (2005).

V. Extrabudgetary funding

(a) UNCITRAL Trust Fund for symposia

9. Given the importance of extrabudgetary funding for the implementation of the 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 symposia, 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 legislative assistance. Information on how to make contributions may be obtained from the Secretariat.

10. In the period under review, contributions were received from Switzerland, Singapore and Mexico. The Commission may wish to express its appreciation to those States.

(b) UNCITRAL Trust Fund to grant travel assistance to developing countries members of UNCITRAL

11. 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. In the period under review, no contributions were received.

12. 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.

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

(c) **Other contributions to technical assistance**

14. A number of States and organizations contribute to the Commission's programme of technical assistance by providing funds or staff or by hosting seminars. The Commission may wish to express its appreciation to those States and organizations.

VI. Participation in other activities

15. 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 either by the institution organizing the events, another organization or in some cases, partially or totally, with resources from the United Nations regular travel budget:

(a) International Bar Association regional conference "Insolvency is changing globally—How and Why?" (Seville, Spain 18-20 April 2004);

(b) Global Dispute Resolution Research Conference (The Hague, the Netherlands 22-23 April 2004);

(c) Colloquium on Reform of Secured transactions Law—the draft UNCITRAL Legislative Guide on Secured Transactions (Clermont-Ferrand, France 23 April 2004);

(d) Universidad Pablo de Olavide, lecture on electronic contracting (Seville, Spain 7 May 2004);

(e) 17th Congress of ICCA "New Horizons in International Commercial Arbitration and Beyond" (Beijing and Shanghai, PRC 16-19 May 2004);

(f) Conference sponsored by the Law Center for European and International Cooperation on the United Nations Convention on Assignment of Receivables in International Trade (Cologne, Germany 25 May 2004);

(g) Lectures for the Central European University (Budapest, Hungary 25 May 2004);

(h) ICC Commission on Contract Practices (Rome, Italy 27-28 May 2004);

(i) 38th Conference of the Comité Maritime International (CMI) (Vancouver, Canada 31 May-2 June 2004);

(j) Coordination meeting between UNCITRAL, World Trade Organization (WTO), International Trade Centre (ITC), UNIDROIT and the Hague Conference on Private International Law (Geneva, Switzerland 1 June 2004);

(k) Fourth Annual Conference on International Commercial Arbitration sponsored by the Canadian Bar Association (Ottawa, Canada 10-12 June 2004);

(l) UNCTAD XI (Sao Paulo, Brazil 13-18 June 2004);

(m) Symposium on Online Dispute Resolution sponsored by UN/ECE (Geneva, Switzerland 14-16 June 2004);

- (n) Dispute Resolution in the Global Economy conference (Bologna, Italy 18 June 2004);
- (o) Regional Expert Conference sponsored by ESCAP on harmonized development of legal and regulatory systems for E-commerce in Asia and the Pacific (Bangkok, Thailand 7-9 July 2004);
- (p) Briefing on the legal framework for E-commerce in cooperation with the International Telecommunications Union (ITU) (Dar Es Salaam, Tanzania (13-16 July 2004);
- (q) Undergraduate Student Summer Programme sponsored by the University of Economic and Law, Hamburg and the University of Technology, Sydney (Hamburg, Germany 19-20 July 2004);
- (r) Symposium “1er Symposium sur le Renforcement des Centres d’arbitrage et de mediation” (Chamonix, France 2-3 September 2004);
- (s) Balkan Legal Forum 2004, Business and law in South East Europe (Sofia, Bulgaria 17 September 2004);
- (t) UNIDROIT Study Group on Harmonized Substantive Rules regarding Securities Held with an Intermediary (Budapest, Hungary 18-22 September 2004);
- (u) Consultations with the Ministry of Foreign Affairs and Ministry of Justice (Paris, 20 September 2004) and the European Commission (Brussels, 27 September 2004);
- (v) Symposium “The Swedish Arbitration Act 1999: 5 Years On: A Critical Review of Strengths and Weaknesses” (Stockholm, Sweden 7-8 October 2004);
- (w) INSOL Regional Conference (Prague, Czech Republic 7-8 October 2004);
- (x) Meeting of UNCTAD Trade and Development Board (Geneva, Switzerland 14 October 2004);
- (y) Conference on Alternative Dispute Resolution Administered by Chambers of Commerce sponsored by the Naples Chamber of Commerce (Naples, Italy 22 October 2004);
- (z) Annual Conference of the International Bar Association (Auckland, New Zealand 25-28 October 2004);
- (aa) Conference on the private international law issues raised by electronic commerce sponsored by the Hague Conference on Private International Law (The Hague, the Netherlands 25-28 October 2004);
- (bb) Conference sponsored by the International Association of Lawyers on international arbitration in Spain (Madrid, Spain 3-5 November 2004);
- (cc) Follow-up meetings to foster regional cooperation sponsored by USAID and Chemonics (Almaty, Kazakhstan and Bishkek, Kyrgyzstan 15-17 November 2004);
- (dd) Consultations with German Ministry of Justice on the draft Legislative Guide on Secured Transactions (Berlin, Germany 15 November 2004);

(ee) International Chamber of Commerce Commission on Commercial Practice and Law (Paris, France 17 November 2004);

(ff) Seminar sponsored by the T.M.C. Asser Institute on private international law and arbitration in the enlarged European Union (Prague, Czech Republic 19 November 2004);

(gg) Consultations with the Director, Division of International Trade in Goods, Services and Commodities, UNCTAD; conference sponsored by the Swiss Arbitration Association on on-line dispute resolution (Geneva, Switzerland 24-25 November 2004);

(hh) Lecture on the UNCITRAL Model Law on International Commercial Arbitration and the UNCITRAL Model Law on International Commercial Conciliation sponsored by the University of Valencia (Valencia, Spain 26 November 2004);

(ii) Twelfth Croatian Arbitration Conference (Zagreb, Croatia 2-3 December 2004);

(jj) Symposium on International Financing Instruments sponsored by APEC (Singapore, 14-16 December 2004);

(kk) Consultations with Ministry of Justice, Serbia and SEED Working Group on draft law on mediation (Belgrade, Serbia 14 December 2004);

(ll) Enterprise and Development Lawyers Course sponsored by IDLO (Rome, Italy 9-10 February 2005);

(mm) Comité Maritime International (CMI) and Government of Sweden Roundtable on E-Commerce, Transport Documents, Rights of Control and Transfer of Rights (London, 23-25 February 2005);

(nn) Conference on arbitration law sponsored by R.I.Z., UNCITRAL and DIS and Petersberger Arbitration Days 2005 (Cologne and Petersberg, Germany 2-5 March 2005);

(oo) Sixth Multinational Judicial Colloquium sponsored by INSOL and UNCITRAL and the Seventh World Congress of INSOL International (Sydney, Australia 11-16 March 2005);

(pp) Commercial Law Seminar presented by the Commercial Law Development Reform (CDLP) (Manama, Bahrain 27-29 March 2005);

(qq) Conference on conciliation sponsored by Southeast Europe Enterprise Development (SEED) (Belgrade, Serbia 31 March 2005).

VII. Future activities

16. For the remainder of 2005, seminars and legal assistance briefing missions are being planned in Africa, Asia, Eastern Europe and South America. Since the travel costs of technical assistance activities are 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 symposia.

17. As 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, which is discussed below in paragraph 19.

VIII. Willem C. Vis International Commercial Arbitration Moot

18. As it has done since its inception, the Secretariat co-sponsored the eleventh Willem C. Vis International Commercial Arbitration Moot in Vienna from 19 to 24 March 2005. The Moot is principally organized by Prof. Eric Bergsten of the Institute of International Commercial Law at Pace University School of Law and takes place principally at the Faculty of Law of the University of Vienna. With its broad international participation, involving 154 teams from 49 countries in 2005, the Moot is seen as an excellent way of disseminating information about uniform law texts and teaching international trade law. As in the past, the Secretariat offered lectures to participants of the Moot.

IX. Internship programme

19. 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 14 interns, from Argentina, Australia, Austria, Brazil, Canada, Germany, India, Indonesia, Slovenia, Spain, and Tunisia. 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 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 that already do so, to consider sponsoring the participation of young lawyers, in particular from developing countries, in the United Nations internship programme with UNCITRAL.

20. 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. In the past year, research has been conducted at UNCITRAL by 35 scholars from 15 countries.

Notes

- ¹ *Official Records of the General Assembly, Forty-second Session, Supplement No. 17 (A/42/17)*, para. 335.
- ² 11 April 1980, United Nations, *Treaty Series*, vol. 1489, p. 3; *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.
- ³ *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; United Nations, *Treaty Series*, vol. 1511, pp. 77 and 99; UNCITRAL *Yearbook* 1980, part three, chap. I, sect. C.
- ⁴ United Nations, *Treaty Series*, vol. 330, No. 4739.
- ⁵ *Official Records of the General Assembly, Thirty-first Session, Supplement No. 17 (A/31/17)*, para. 57; UNCITRAL *Yearbook* 1976, part one, chap. II, sect. A.
- ⁶ *Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 17 (A/35/17)* chap. V, sect. A, para. 106; UNCITRAL *Yearbook* 1980, part three, chap. II.
- ⁷ *Official Records of the General Assembly, Fortieth Session, Supplement No. 17 (A/40/17)* Annex I; UNCITRAL *Yearbook* 1985, part three, chap. I.
- ⁸ UNCITRAL *Yearbook* 1996, part three, chap. II.
- ⁹ *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 17 (A/57/17)*, Annex I; UNCITRAL *Yearbook* 2002, part three.
- ¹⁰ *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 17 (A/49/17)*, Annex I; UNCITRAL *Yearbook* 1994, part three, chap. I.
- ¹¹ United Nations publication, Sales No. E.01.V.4, A/CN.9/SER.B/4.
- ¹² UNCITRAL *Yearbook* 2002, part three; *General Assembly resolution 56/81, annex*.
- ¹³ New York, 11 December 1995, United Nations, *Treaty Series*, vol. 2169, p. 163; *Official Records of the General Assembly, Fiftieth Session, Supplement No. 17 (A/50/17)* annex I.
- ¹⁴ *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 17 (A/47/17)*, annex I.
- ¹⁵ UNCITRAL *Yearbook* 1988, part three, chap. I; *General Assembly Resolution 43/165, annex*.
- ¹⁶ UNCITRAL *Yearbook* 1992, part three, chap. I
- ¹⁷ *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 17 (A/59/17)*, para. 55.
- ¹⁸ Hamburg, 31 March 1978 United Nations, *Treaty Series*, vol. 1695, p. 3; *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.
- ¹⁹ A/CONF.152/13, annex.
- ²⁰ *Official Records of the General Assembly, Fifty-first Session, Supplement No. 17 (A/51/17)*, annex I.
- ²¹ *Ibid.*, *Fifty-sixth Session, Supplement No. 17 (A/56/17)*, annex II.