



General Assembly

Distr.: Limited
14 November 2005

Original: English

**United Nations Commission
on International Trade Law**
Working Group II (Arbitration)
Forty-fourth session
New York, 23-27 January 2006

Annotated provisional agenda

I. Provisional agenda

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Preparation of uniform provisions on interim measures of protection and on the requirement that an arbitration agreement be in writing.
5. Possible future work in the field of settlement of commercial disputes.
6. Other business.
7. Adoption of the report.

II. Composition of the Working Group

1. The Working Group is composed of all States members of the Commission, which are the following: Algeria, Argentina, Australia, Austria, Belarus, Belgium, Benin, Brazil, Cameroon, Canada, Chile, China, Colombia, Croatia, Czech Republic, Ecuador, Fiji, France, Gabon, Germany, Guatemala, India, Iran (Islamic Republic of), Israel, Italy, Japan, Jordan, Kenya, Lebanon, Lithuania, Madagascar, Mexico, Mongolia, Morocco, Nigeria, Pakistan, Paraguay, Poland, Qatar, Republic of Korea, Russian Federation, Rwanda, Serbia and Montenegro, Sierra Leone, Singapore, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, The former Yugoslav Republic of Macedonia, Tunisia, Turkey, Uganda, United Kingdom



of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela (Bolivarian Republic of) and Zimbabwe.

2. In addition, States that are not members of the Commission, as well as relevant intergovernmental organizations and international non-governmental organizations, may be invited to attend the session as observers. In accordance with established UNCITRAL practice, observer delegations may participate actively in the deliberations leading to decisions, which are taken by consensus.

III. Annotations to agenda items

1. Opening of the session and scheduling of meetings

3. The forty-fourth session of the Working Group will be held at the United Nations Headquarters, from 23 to 27 January 2006. Meeting hours will be from 10 a.m. to 1 p.m. and from 3 p.m. to 6 p.m., except on Monday 23 January 2006, when the session will be opened at 10.30 a.m. There will be five working days available for consideration of the agenda items at that session. The Working Group is expected to hold substantive deliberations during the first nine meetings (that is from Monday to Friday morning), with a draft report on the entire period being presented for adoption at the tenth and last meeting of the Working Group (on Friday afternoon).

2. Election of officers

4. In accordance with its practice at previous sessions, the Working Group may wish to elect a Chairman and a Rapporteur.

4. Preparation of uniform provisions on interim measures of protection and on the requirement that an arbitration agreement be in writing

(a) Previous deliberations of the Working Group

5. At its thirty-first session (New York, 1-12 June 1998), the Commission, with reference to discussions at the special commemorative New York Convention Day held in June 1998 to celebrate the fortieth anniversary of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958) (“the New York Convention”), considered that it would be useful to engage in a discussion of possible future work in the area of arbitration. It requested the Secretariat to prepare a note that would serve as a basis for the consideration of the Commission at its next session.¹

6. At its thirty-second session (Vienna, 17 May-4 June 1999), the Commission had before it a note entitled “Possible future work in the area of international commercial arbitration” (A/CN.9/460). Welcoming the opportunity to discuss the desirability and feasibility of further development of the law of international commercial arbitration, the Commission generally considered that the time had come to assess the extensive and favourable experience with national enactments of the UNCITRAL Model Law on International Commercial Arbitration (1985) (“the Model Law”), as well as the use of the UNCITRAL Arbitration Rules and the UNCITRAL Conciliation Rules, and to evaluate, in the universal forum of the

Commission, the acceptability of ideas and proposals for improvement of arbitration laws, rules and practices.²

7. When the Commission discussed its future work, it left open the question of what form that future work might take. It was agreed that decisions on that matter should be taken later as the substance of proposed solutions became clearer. Uniform provisions might, for example, take the form of a legislative text (such as model legislative provisions or a treaty) or a non-legislative text (such as a model contractual rule or a practice guide). It was stressed that, even if an international treaty were to be considered, it was not intended to be a modification of the New York Convention.³ After concluding the discussion on its future work in the area of international commercial arbitration, the Commission entrusted the work to one of its working groups, which it established as Working Group II (Arbitration), and decided that the priority items for the Working Group should be conciliation,⁴ requirement of written form for the arbitration agreement contained in article 7, paragraph (2), of the Model Law and article II, paragraph (2), of the New York Convention (“the writing requirement”),⁵ enforceability of interim measures of protection⁶ and possible enforceability of an award that had been set aside in the State of origin.⁷

8. At its thirty-second session (Vienna, 20-31 March 2000), the Working Group considered the possible preparation of harmonized texts on the writing requirement, interim measures of protection, and conciliation (on the basis of documents A/CN.9/WG.II/WP.108 and A/CN.9/WG.II/WP.108/Add.1). The considerations of the Working Group at that session are reflected in document A/CN.9/468. In addition, the Working Group exchanged preliminary views on other topics that might be taken up in the future (A/CN.9/468, paras. 107-114).

9. At its thirty-third session (New York, 12 June-7 July 2000), the Commission had before it the report of the Working Group on Arbitration on the work of its thirty-second session (A/CN.9/468). The Commission took note of the report with satisfaction and reaffirmed the mandate of the Working Group to decide on the time and manner of dealing with the topics identified for future work. Several statements were made to the effect that, in general, the Working Group, in deciding the priorities of the future items on its agenda, should pay particular attention to what was feasible and practical and to issues where court decisions left the legal situation uncertain or unsatisfactory. Topics that were mentioned in the Commission as potentially worthy of consideration, in addition to those which the Working Group might identify as such, were the meaning and effect of the more-favourable-right provision of article VII of the New York Convention (A/CN.9/468, para. 109 (k)); raising claims in arbitral proceedings for the purpose of set-off and the jurisdiction of the arbitral tribunal with respect to such claims (*ibid.*, para. 107 (g)); freedom of parties to be represented in arbitral proceedings by persons of their choice (*ibid.*, para. 108 (c)); residual discretionary power to grant enforcement of an award notwithstanding the existence of a ground for refusal listed in article V of the New York Convention (*ibid.*, para. 109 (i)); and the power by the arbitral tribunal to award interest (*ibid.*, para. 107 (j)). It was noted with approval that, with respect to “online” arbitrations (i.e. arbitrations in which significant parts or even all of arbitral proceedings were conducted by using electronic means of communication) (*ibid.*, para. 113), the Working Group on Arbitration would cooperate with the Working Group on Electronic Commerce. With respect to the possible enforceability

of awards that had been set aside in the State of origin (*ibid.*, para. 107 (m)), the view was expressed that the issue was not expected to raise many problems and that the case law that gave rise to the issue should not be regarded as a trend.⁸

10. At its thirty-third (Vienna, 20 November-1 December 2000) and thirty-fourth (New York, 21 May-1 June 2001) sessions, the Working Group discussed a draft interpretative instrument in respect of the writing requirement in article II, paragraph (2), of the New York Convention and the preparation of harmonized texts on: the writing requirement in article 7, paragraph (2), of the Model Law; interim measures of protection; and conciliation (on the basis of documents A/CN.9.WG.II/WP.110 and A/CN.9/WG.II/WP.111; A/CN.9.WG.II/WP.113 and A/CN.9/WG.II/WP.113.Add.1, respectively). The considerations of the Working Group at those sessions are reflected in documents A/CN.9/485 and A/CN.9/487, respectively. At its thirty-third session, the Working Group also considered likely items for future work as being: court-ordered interim measures of protection in support of arbitration; scope of interim measures that may be ordered by arbitral tribunals; and validity of agreements to arbitrate (discussed in document A/CN.9/WG.II/WP.111). The Working Group supported future work being undertaken on all these topics and requested the Secretariat to prepare, for a future session of the Working Group, preliminary studies and proposals (A/CN.9/485, paras. 104-106).

11. At its thirty-fourth session (Vienna, 25 June-13 July 2001), the Commission took note with appreciation of the reports of the Working Group on the work of its thirty-third and thirty-fourth sessions (A/CN.9/485 and A/CN.9/487, respectively). The Commission commended the Working Group for the progress accomplished so far regarding the three main issues under discussion, namely, the writing requirement, the interim measures of protection and the preparation of a model law on conciliation.⁹ With regard to the writing requirement, the Commission noted that, while the Working Group should not lose sight of the importance of providing certainty as to the intent of the parties to arbitrate, it was also important to work towards facilitating a more flexible interpretation of the strict form requirement contained in the New York Convention, so as not to frustrate the expectations of the parties when they agreed to arbitrate. In that respect, the Commission took note of the possibility that the Working Group examine further the meaning and effect of the more-favourable-right provision of article VII of the New York Convention.¹⁰ With regard to conciliation, the Commission requested the Working Group to proceed with the examination of the draft model legislative provisions on a priority basis, with a view to the instrument being presented in the form of a draft model law for review and adoption by the Commission at its thirty-fifth session, in 2002.¹¹

12. At its thirty-fifth session (Vienna, 19-30 November 2001), the Working Group considered draft model legislative provisions on conciliation (on the basis of documents A/CN.9/WG.II/WP.115 and A/CN.9/WG.II/WP.116) and approved the final version of the draft provisions in the form of a draft model law on international commercial conciliation. The considerations of the Working Group at that session are reflected in document A/CN.9/506.

13. At its thirty-sixth session (New York, 4-8 March 2002), the Working Group continued its review of a draft uniform provision on the writing requirement (revision of article 7, paragraph (2), of the Model Law) (on the basis of document A/CN.9/WG.II/WP.118, para. 9) and discussed a draft interpretative instrument

regarding article II, paragraph (2), of the New York Convention (on the basis of document A/CN.9/WG.II/WP.118, paras. 25-26). The Working Group also considered a draft text for a revision of article 17 of the Model Law on the power of an arbitral tribunal to grant interim measures of protection (on the basis of document A/CN.9/WG.II/WP.119, para. 74). The secretariat was requested to prepare revised draft provisions, based on the discussion in the Working Group, for consideration at a future session.

14. At its thirty-fifth session (New York, 17-28 June 2002), the Commission adopted the UNCITRAL Model Law on International Commercial Conciliation.¹² The Commission took note with appreciation of the report of the Working Group on the work of its thirty-sixth session (A/CN.9/508).¹³

15. With regard to the writing requirement, the Commission noted that the Working Group had considered the draft model legislative provision revising article 7, paragraph (2), of the Model Law (A/CN.9/WG.II/WP.118, para. 9) and discussed a draft interpretative instrument regarding article II, paragraph (2), of the New York Convention (*ibid.*, paras. 25-26). The Commission noted that the Working Group had not reached consensus on whether to prepare an amending protocol or an interpretative instrument to the New York Convention and that both options should be kept open for consideration by the Working Group or the Commission at a later stage. The Commission noted the decision of the Working Group to offer guidance on interpretation and application of the writing requirement contained in article II, paragraph (2), of the New York Convention with a view to achieving a higher degree of uniformity. It was said that a valuable contribution to that end could be made in the guide to enactment of the draft new article 7 of the Model Law, which the Secretariat was requested to prepare for future consideration by the Working Group, by establishing a “friendly bridge” between the new provisions and the New York Convention, pending a final decision by the Working Group on how best to deal with the application of article II, paragraph (2), of the New York Convention (A/CN.9/508, para. 15). The Commission was of the view that member and observer States participating in the Working Group’s deliberations should have ample time for consultations on those important issues, including the possibility of examining further the meaning and effect of the more-favourable-right provision of article VII of the New York Convention, as noted by the Commission at its thirty-fourth session. For that purpose, the Commission considered that it might be preferable for the Working Group to postpone its discussions regarding the writing requirement and the New York Convention.¹⁴

16. With regard to the issue of interim measures of protection, the Commission noted that the Working Group had considered a draft text to revise article 17 of the Model Law on the power of an arbitral tribunal to grant interim measures of protection (A/CN.9/WG.II/WP.119, para. 74) and that the Secretariat had been requested to prepare revised draft provisions, based on the discussion in the Working Group, for consideration at a future session. It was also noted that a revised draft of a new article prepared by the Secretariat for addition to the Model Law regarding the issue of recognition and enforcement of interim measures of protection ordered by an arbitral tribunal (*ibid.*, para. 83) would be considered by the Working Group at its thirty-seventh session (A/CN.9/508, para. 16).¹⁵

17. At its thirty-seventh session (Vienna, 7-11 October 2002), the Working Group discussed the issue of interim measures ordered by an arbitral tribunal on the basis

of a proposal by the United States of America (A/CN.9/WG.II/WP.121) and a note prepared by the Secretariat (A/CN.9/WG.II/WP.119). The Working Group also had a brief discussion on the issue of recognition and enforcement of interim measures ordered by an arbitral tribunal (based on the document A/CN.9/WG.II/WP.119, para. 83). In that connection, another drafting proposal was made by one delegation (A/CN.9/523, paras. 78 and 79). The considerations of the Working Group at that session are reflected in document A/CN.9/523.

18. At its thirty-eighth session (New York, 12-16 May 2003), the Working Group discussed the issue of recognition and enforcement of interim measures ordered by an arbitral tribunal (based on the document A/CN.9/WG.II/WP.119, para. 83) and also considered a draft provision expressing the power of State courts to order interim measures of protection in support of arbitration (based on the document A/CN.9/WG.II/WP.119, paras. 75-81). The Secretariat was requested to prepare a revised text setting out the various options discussed by the Working Group. The considerations of the Working Group at that session are reflected in document A/CN.9/524.

19. At its thirty-sixth session (Vienna, 30 June-11 July 2003), the Commission took note with appreciation of the reports of the Working Group on the work of its thirty-seventh and thirty-eighth sessions (A/CN.9/523 and A/CN.9/524, respectively). The Commission agreed that it was unlikely that all the topics, namely, the writing requirement and the various issues to be considered in the area of interim measures of protection, could be finalized by the Working Group before the thirty-seventh session of the Commission in 2004. It was the understanding of the Commission that the Working Group would give a degree of priority to interim measures of protection and the Commission noted the suggestion that the issue of *ex parte* interim measures, which the Commission agreed remained a point of controversy, should not delay progress on that topic.¹⁶

20. At its thirty-ninth (Vienna, 10-14 November 2003) and fortieth (New York, 23-27 February 2004) sessions, the Working Group discussed the issue of interim measures ordered by an arbitral tribunal on the basis of notes prepared by the Secretariat (A/CN.9/WG.II/WP.123 and A/CN.9/WG.II/WP.128, respectively). The Working Group also commenced discussion on the issue of recognition and enforcement of interim measures ordered by an arbitral tribunal based on a note prepared by the Secretariat (A/CN.9/WG.II/WP.125). The considerations of the Working Group at those sessions are reflected in documents A/CN.9/545 and A/CN.9/547, respectively.

21. At its thirty-seventh session (New York, 14-25 June 2004), the Commission took note of the progress accomplished by the Working Group at its thirty-ninth and fortieth sessions (A/CN.9/545 and A/CN.9/547, respectively). The Commission noted that the Working Group had continued its discussions on a draft text for a revision of article 17 of the Model Law on the power of an arbitral tribunal to grant interim measures of protection, and on a draft provision on the recognition and enforcement of interim measures of protection issued by an arbitral tribunal (for insertion as a new article of the Model Law, tentatively numbered 17 bis). The Commission commended the Working Group for the progress accomplished so far regarding the issue of interim measures of protection.¹⁷

22. The Commission was informed that the Working Group intended to complete its review of draft articles 17 and 17 bis of the Model Law, including finalizing its position on how to deal with *ex parte* interim measures in the Model Law, at its forthcoming two sessions. The view was reiterated that the issue of *ex parte* interim measures, which the Commission agreed remained an important issue and a point of controversy, should not delay progress on the revision of the Model Law. The hope was expressed that consensus could be reached on the issue by the Working Group at its next session.¹⁸ The Commission noted that the Working Group had yet to complete its work in relation to the draft article dealing with interim measures issued by State courts in support of arbitration (for insertion as a new article of the Model Law, tentatively numbered 17 ter) and in relation to the writing requirement contained in article 7, paragraph (2), of the Model Law and article II, paragraph (2), of the New York Convention.

23. At its forty-first session (Vienna, 13-17 September 2004), the Working Group focussed its discussions on the issue of interim measures of protection issued by an arbitral tribunal *ex parte*, on the basis of a text prepared by the Secretariat (reproduced in A/CN.9/WG.II/WP.131, para. 4). The considerations of the Working Group at that session are reflected in document A/CN.9/569. The Working Group considered as well the question of the inclusion of a reference to the New York Convention in the draft convention currently being prepared by Working Group IV, on the use of electronic communications in the formation and performance of international contracts (see document A/CN.9/WG.II/WP.132).

24. At its forty-second session (New York, 10-14 January 2005), the Working Group continued its review of the draft texts revising: article 17, paragraph (7), of the Model Law on the power of an arbitral tribunal to grant preliminary orders (reproduced in A/CN.9/WG.II/WP.134); article 17 bis on the recognition and enforcement of interim measures of protection issued by an arbitral tribunal (reproduced in A/CN.9/WG.II/WP.131, para. 46); and article 17 ter relating to interim measures of protection ordered by State courts in support of arbitration (reproduced in A/CN.9/WG.II/WP.125, para. 42). The considerations of the Working Group at that session are reflected in document A/CN.9/573. The Working Group continued its discussion on the question of the inclusion of a reference to the New York Convention in the draft convention currently being prepared by Working Group IV, on the use of electronic communications in the formation and performance of international contracts (see document A/CN.9/WG.II/WP.132). Overall support was expressed in favour of the inclusion of a reference to the New York Convention in the draft convention, which was expected to provide welcome clarity to the writing requirement contained in article II, paragraph (2), and other requirements for written communications in the text of the New York Convention (A/CN.9/573, paras. 96-97).

25. At its thirty-eighth session (Vienna, 4-15 July 2005), the Commission took note of the progress made by the Working Group at its forty-first and forty-second sessions (A/CN.9/569 and A/CN.9/573, respectively) regarding the issue of interim measures of protection, including the power of an arbitral tribunal to grant interim measures of protection on an *ex parte* basis (draft article 17, paragraph 7). The Commission noted that, notwithstanding the wide divergence of views, the Working Group had agreed, at its forty-second session, to include a compromise text of the revised draft of paragraph 7 in draft article 17, on the basis of the principles that that

paragraph would apply unless otherwise agreed by the parties, that it should be made clear that preliminary orders had the nature of procedural orders and not of awards and that no enforcement procedure would be provided for such orders in article 17 bis. The Commission also noted that the Working Group had yet to finalize its work on draft articles 17, 17 bis and 17 ter, including the issue of the form in which the current and the revised provisions could be presented in the Model Law. Also, the Commission noted that the Working Group was expected to complete its work on the writing requirement and on its relation to article II, paragraph 2, of the New York Convention. The Commission expressed its expectation that the Working Group would be able, with two additional sessions, to present its proposals for final review and adoption to the Commission at its thirty-ninth session, in 2006.¹⁹

26. At its forty-third session, the Working Group completed its work on uniform provisions on interim measures contained in draft articles 17, 17 bis and 17 ter (reproduced in A/CN.9/WG.II/WP.138) and discussed the issue of the writing requirement on the basis of a note prepared by the Secretariat (A/CN.9/WG.II/WP.136) and of a proposal from the Mexican delegation (reproduced in A/CN.9/WG.II/WP.137 and A/CN.9/WG.II/WP.137/Add.1). The considerations of the Working Group at that session are reflected in document A/CN.9/589.

27. At its forty-fourth session, the Working Group is expected to complete its work on uniform provisions for a revision of the writing requirement contained in article 7, paragraph (2), of the Model Law and to further consider how to offer guidance on the interpretation and application of the writing requirement contained in article II, paragraph (2), of the New York Convention with a view to achieving a higher degree of uniformity. The Working Group is also expected to decide how the uniform provisions on interim measures (revision of article 17, and draft articles 17 bis and 17 ter) and on the writing requirement (revision of article 7, paragraph (2)), prepared for inclusion in the Model Law, will be presented for review and adoption by the Commission at its thirty-ninth session, in 2006.

(b) Documentation

28. The Working Group will have before it the following documents:

- Concerning the preparation of uniform provisions on the writing requirement:
 - A note by the Secretariat regarding the preparation of a model legislative provision on written form for the arbitration agreement (A/CN.9/WG.II/WP.136);
 - A note by the Secretariat regarding the interpretation and application of the writing requirement contained in article II, paragraph (2), of the New York Convention (A/CN.9/WG.II/WP.139); and
- Concerning the preparation of uniform provisions on interim measures of protection:
 - A note by the Secretariat on newly revised drafts of articles 17, 17 bis and 17 ter, for insertion in the Model Law, prepared by the Secretariat

pursuant to the decisions made by the Working Group at its forty-third session (A/CN.9/WG.II/WP.141).

29. A limited number of the following background documents will be made available at the session:

- UNCITRAL Model Law on International Commercial Arbitration;
- Reports of the United Nations Commission on International Trade Law on the work of its of its thirty-second session (*Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 17 (A/54/17)*); thirty-third session (*Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 17 (A/55/17)*); thirty-fourth session (*Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 17 (A/56/17)*); thirty-fifth session (*Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 17 (A/57/17)*); thirty-sixth session (*Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 17 (A/58/17)*); thirty-seventh session (*Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 17 (A/59/17)*); and thirty-eighth session (*Official Records of the General Assembly, Sixtieth Session, Supplement No. 17 (A/60/17)*);
- Reports of Working Group II (Arbitration) on the work of its thirty-second session (A/CN.9/468); thirty-third session (A/CN.9/485); thirty-fourth session (A/CN.9/487); thirty-sixth session (A/CN.9/508); thirty-seventh session (A/CN.9/523); thirty-eighth session (A/CN.9/524); thirty-ninth session (A/CN.9/545); fortieth session (A/CN.9/547); forty-first session (A/CN.9/569); forty-second session (A/CN.9/573); and forty-third session (A/CN.9/589);
- *Possible future work in the area of international commercial arbitration*: note by the Secretariat (A/CN.9/460);
- *Possible uniform rules on certain issues concerning settlement of commercial disputes: conciliation, interim measures of protection, written form for arbitration agreement*: report of the Secretary-General (A/CN.9/WG.II/WP.108 and Add.1);
- *Possible uniform rules on certain issues concerning settlement of commercial disputes: written form for arbitration agreement, interim measures of protection, conciliation*: report of the Secretary-General (A/CN.9/WG.II/ WP.110);
- *Possible future work: court-ordered interim measures of protection in support of arbitration, scope of interim measures that may be issued by arbitral tribunals, validity of the agreement to arbitrate*: report of the Secretary-General (A/CN.9/WG.II/WP.111);
- *Preparation of uniform provisions on: written form for arbitration agreements, interim measures of protection, and conciliation*: report of the Secretary-General (A/CN.9/WG.II/WP.113);
- *Settlement of commercial disputes: Preparation of uniform provisions on interim measures of protection*: note by the Secretariat (A/CN.9/WG.II/WP.119);

- *Settlement of commercial disputes: interim measures of protection*: Proposal by the United States of America (A/CN.9/WG.II/WP.121);
- *Settlement of commercial disputes: interim measures of protection*: note by the Secretariat (A/CN.9/WG.II/WP.123);
- *Settlement of commercial disputes: interim measures of protection*: note by the Secretariat (A/CN.9/WG.II/WP.128)
- *Settlement of commercial disputes: interim measures of protection*: note by the Secretariat (A/CN.9/WG.II/WP.131)
- *Settlement of commercial disputes*: inclusion of a reference to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards in the draft convention on the use of electronic communications in international contracts (A/CN.9/WG.II/WP.132)
- *Settlement of commercial disputes: interim measures of protection*: note by the Secretariat (A/CN.9/WG.II/WP.134);
- *Settlement of commercial disputes*: preparation of uniform provisions on written form for the arbitration agreements—Proposal from the Mexican delegation (A/CN.9/WG.II/WP.137 and A/CN.9/WG.II/WP.137/Add.1);
- *Settlement of commercial disputes: interim measures of protection*: note by the Secretariat (A/CN.9/WG.II/WP.138);
- *Enforcing Arbitration Awards under the New York Convention: Experience and Prospects* (United Nations publication, Sales No. E.99.V.2).

30. UNCITRAL documents are posted on the UNCITRAL web site (<http://www.uncitral.org>) upon their issuance in all the official languages of the United Nations. Delegates may wish to check the availability of the documents by accessing the Working Group's page in the "Working Groups" section of the UNCITRAL website.

5. Possible future work in the field of settlement of commercial disputes

31. With respect to future work in the field of settlement of commercial disputes, the Working Group might wish to have preliminary consultations regarding the desirability and feasibility of undertaking work on various issues, outlined in previous documents (A/CN.9/468, paras. 107-109; A/55/17, para. 396; A/60/17, para. 178) and to discuss the order in which those issues might be addressed. Among possible new topics, the Working Group may wish to focus its attention on the possible revision of the UNCITRAL Arbitration Rules, arbitrability of intra-corporate disputes (and other issues relating to arbitrability, for example, arbitrability in the fields of immovable property, insolvency or unfair competition), online dispute resolution (ODR) and State immunity in light of the recently adopted International Law Commission Convention on Jurisdictional Immunities of States and their property (hereafter "the Jurisdictional Immunities Convention").

32. The Working Group may wish to recall that, on the question of State immunity, the Commission agreed that given that that matter remained under consideration by the International Law Commission, and given that the General Assembly has decided to establish a working group of the Sixth Committee to consider

outstanding substantive issues related to the Draft Articles of the International Law Commission at its fifty-fourth session, beginning in 1999, the Commission requested the Secretariat to monitor that work and to report on the outcome of those discussions. The Working Group may wish to take note that in December 2004, the General Assembly adopted the Jurisdictional Immunities Convention (see resolution 59/38). The Jurisdictional Immunities Convention applies to the immunity of a State and its property from the jurisdiction of the courts of another State. The Working Group might wish to consider whether, taking account of the application of that Convention, the question of immunity is a matter that needs to be addressed in the context of arbitration from the perspective of a State agreement to participate in arbitration and enforcement of an arbitral awards against a State.

7. Adoption of the report

33. The Working Group may wish to adopt, at the close of its session, a report for submission to the thirty-ninth session of the Commission, scheduled to be held in New York from 19 June to 14 July 2006. The main conclusions reached by the Working Group at its ninth meeting (on Friday morning) will be summarily read out for the record at the tenth meeting and subsequently incorporated into the report.

Notes

¹ *Official Records of the General Assembly, Fifty-third Session, Supplement No. 17 (A/53/17)*, para. 235.

² *Ibid.*, *Fifty-fourth Session, Supplement No. 17 (A/54/17)*, para. 337.

³ *Ibid.*, para. 338.

⁴ *Ibid.*, paras. 340-343.

⁵ *Ibid.*, paras. 344-350.

⁶ *Ibid.*, paras. 371-373.

⁷ *Ibid.*, paras. 374-376.

⁸ *Ibid.*, *Fifty-fifth Session, Supplement No. 17 (A/55/17)*, para. 396.

⁹ *Ibid.*, *Fifty-sixth Session, Supplement No. 17 (A/56/17)*, paras. 312-314.

¹⁰ *Ibid.*, para. 313.

¹¹ *Ibid.*, para. 315.

¹² *Ibid.*, *Fifty-seventh Session, Supplement No. 17 (A/57/17)*, paras. 13-177.

¹³ *Ibid.*, para. 182.

¹⁴ *Ibid.*, para. 183.

¹⁵ *Ibid.*, para. 184.

¹⁶ *Ibid.*, *Fifty-eighth Session, Supplement No. 17 (A/58/17)*, para. 203.

¹⁷ *Ibid.*, *Fifty-ninth Session, Supplement No. 17 (A/59/17)*, para. 57.

¹⁸ *Ibid.*, para. 58.

¹⁹ *Ibid.*, *Sixtieth Session, Supplement No. 17 (A/60/17)*, paras. 174-177.