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Work programme of the Commission

Note by the Secretariat

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I. 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.¹ To assist the Commission's consideration of its overall work programme and planning of its activities at the fifty-fifth session, this note covers both the current and possible future legislative work programme (chapter II). It also covers supporting activities planned for the period up to the fifty-sixth session of the Commission (chapter III).

2. When setting UNCITRAL's work programme for the forthcoming period, the Commission may also wish to recall its decision at the forty-sixth session, in 2013, 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.²

II. Legislative activities

3. At its past sessions, the Commission underscored the importance of a strategic approach to the allocation of resources to, inter alia, legislative development, in the light of the increasing number of topics referred to UNCITRAL for consideration.³ The Commission has emphasized the benefit of UNCITRAL's primary working method – that is, legislative development through formal negotiations in a working group.⁴ The Commission has also reaffirmed that it retains the authority and responsibility for setting UNCITRAL's workplan, especially as regards the mandates of working groups, though their role in identifying possible future work and the need to allow a working group the flexibility to decide on the type of legislative text to be produced were also recalled.⁵

4. At its forty-sixth session, in 2013, the Commission confirmed that it would consider whether to refer proposals for future work to a Working Group by reference to four criteria: (a) whether the Commission was satisfied that the topic was likely to be amenable to harmonization and the consensual development of a legislative text; (b) whether the scope of a possible future text and the policy issues for deliberation were clear; (c) whether there existed a sufficient likelihood that a proposed legislative text would enhance the law of international trade; and (d) whether the proposed work would duplicate work undertaken by other law reform bodies.⁶

5. Table 1 below provides an overview of the current legislative work by the Commission and its working groups as well as exploratory or preparatory work being undertaken by the UNCITRAL secretariat in accordance with the mandate given to it by the Commission.

¹ *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17 (A/68/17)*, para. 310.

² *Ibid.*, para. 305.

³ *Ibid.*, para. 294.

⁴ *Ibid.*, *Sixty-ninth Session, Supplement No. 17 (A/69/17)*, para. 249.

⁵ *Ibid.*, para. 251.

⁶ *Ibid.*, *Sixty-eighth Session, Supplement No. 17 (A/68/17)*, paras. 303 and 304.

Table 1
Current legislative work

<i>Consideration of texts by the Commission at its fifty-fifth session</i>	<i>Work by the Working Group</i>	<i>Preparatory or exploratory work currently undertaken by the Secretariat</i>	<i>Possible future work</i>
Micro, small ----- and medium- sized enterprises (MSMEs)	<p><i>Access to credit for MSMEs</i></p> <p>At its fifty-second session, in 2019, the Commission agreed to strengthen and complete its work on reducing the legal obstacles faced by MSMEs throughout their life cycles by requesting the secretariat to start preparing draft materials on MSME access to credit. It was agreed that the materials should draw, as appropriate, on the relevant recommendations and guidance contained in the UNCITRAL Model Law on Secured Transactions and be submitted for consideration to Working Group I in due course.⁷ At its fifty-third session, the Commission encouraged Working Group I to devote full consideration to the topic of access to credit for MSMEs after concluding its work on the UNCITRAL limited liability organization.⁸ Accordingly, the Working Group commenced and continued that work through its thirty-sixth and thirty-seventh sessions and the reports of those sessions (A/CN.9/1084 and A/CN.9/1090) are before the Commission at its fifty-fifth session.</p>	-----	-----

⁷ Ibid., *Seventy-fourth Session, Supplement No. 17 (A/74/17)*, para. 192 (a).

⁸ Ibid., *Seventy-fifth Session, Supplement No. 17 (A/75/17)*, part two, para. 23.

	<i>Consideration of texts by the Commission at its fifty-fifth session</i>	<i>Work by the Working Group</i>	<i>Preparatory or exploratory work currently undertaken by the Secretariat</i>	<i>Possible future work</i>
Dispute settlement	<p><i>Recommendations to assist mediation centres under the UNCITRAL Mediation Rules</i></p> <p>At its fifty-fourth session, in 2021, the Commission adopted the UNCITRAL Mediation Rules.⁹ The Commission agreed that it would be useful to prepare recommendations to assist mediation centres and other interested bodies with respect to mediation under the UNCITRAL Mediation Rules (2021), including how to adjust the Rules for use in the institutional context. The secretariat was requested to prepare such recommendations for consideration by the Commission at a future session.¹⁰ The text of the draft recommendations (A/CN.9/1118) is before the Commission for consideration.</p>	<p><i>Explanatory Note to the UNCITRAL Expedited Arbitration Rules</i></p> <p>At its fifty-fourth session, in 2021, the Commission approved the Explanatory Note to the UNCITRAL Expedited Arbitration Rules in principle and authorized Working Group II to finalize the text in 2021.¹¹ Accordingly, the Working Group finalized the Explanatory Note at its seventy-fourth session and the report of that session (A/CN.9/1085) is before the Commission.</p> <p><i>Early dismissal and preliminary determination</i></p> <p>At its fifty-fourth session, in 2021, the Commission considered the suggestion by Working Group II for it to consider and develop provisions on early dismissal and preliminary determination for possible inclusion in the UNCITRAL Arbitration Rules and requested Working Group II to discuss the topic of early dismissal at its seventy-fourth session and present the results of its discussion.¹² The results of those discussion are contained in the report of the seventy-fourth session (A/CN.9/1085) and the subsequent note by the Secretariat (A/CN.9/1114).</p>	<p><i>Report of the Colloquium on Possible Future Work in Dispute Settlement</i></p> <p>At its fifty-fourth session, in 2021, the Commission requested the secretariat to organize a colloquium during the seventy-fifth session of Working Group II to (i) further explore the relevant legal issues related to dispute resolution in the digital economy and to identify the scope and nature of possible legislative work;¹³ and (ii) discuss the desirability and feasibility of the work on adjudication.¹⁴ The report of the colloquium prepared by the secretariat (A/CN.9/1091) is before the Commission for consideration.</p>	<p>The Commission may wish to consider whether to develop rules or guidance on early dismissal and preliminary determination based on the different approaches (A/CN.9/1114).</p> <p>The Commission may also wish to consider possible future work on dispute settlement, including with regard to adjudication and technology-related dispute resolution (see section E of A/CN.9/1091).</p>
Investor-State dispute settlement (ISDS) reform	-----	<p>At its fiftieth session, in 2017, the Commission mandated Working Group III to work on the possible reform of investor-State dispute settlement.¹⁵ The Working Group continued its work on the topic at its forty-first and forty-second sessions. The reports of those sessions (A/CN.9/1086 and A/CN.9/1092) are</p>	-----	-----

⁹ Ibid., *Seventy-sixth Session Supplement No. 17* (A/76/17), para. 101.

¹⁰ Ibid., para. 100.

¹¹ Ibid., para. 189.

¹² Ibid., para. 242.

¹³ Ibid., para. 233.

¹⁴ Ibid., para. 243.

¹⁵ Ibid., *Seventy-second Session, Supplement No. 17* (A/72/17), para. 264.

	<i>Consideration of texts by the Commission at its fifty-fifth session</i>	<i>Work by the Working Group</i>	<i>Preparatory or exploratory work currently undertaken by the Secretariat</i>	<i>Possible future work</i>
Electronic commerce	<p><i>Identity management and trust services</i></p> <p>At its fifty-first session, in 2018, the Commission requested Working Group IV to work on the preparation of a text aimed at facilitating cross-border recognition of identity management and trust services, on the basis of the principles and issues identified by the Working Group at its fifty-sixth session.¹⁶ At its fifty-seventh session, the Working Group commenced its deliberations on the subject, and continued that work through its sixty-second and sixty-third sessions (A/CN.9/1087 and A/CN.9/1093). The draft Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services and related Explanatory Note (A/CN.9/1112) as well as compilation of comments on the draft (A/CN.9/1113 and addenda) are before the Commission at its fifty-fifth session.</p>	<p>before the Commission at its fifty-fifth session. The Commission will also hear an oral report on the additional resources allocated for Working Group III.</p> <p><i>Legal issues related to the digital economy: Use of artificial intelligence and automation in contracting</i></p> <p>At its fifty-fourth session, the Commission mandated Working Group IV to hold a focused conceptual discussion on the use of artificial intelligence and automation in contracting with a view to refining the scope and nature of the work to be conducted.¹⁷ That discussion took place during the sixty-third session of Working Group IV and the report of that session (A/CN.9/1093) is before the Commission at its fifty-fifth session. A synthesis of the discussion is also included in the proposal for future work on automated contracting.</p> <p><i>Data transactions</i></p> <p>During its sixty-third session, Working Group IV set aside time for a preliminary discussion of the nature and scope of possible future work on data transactions on the basis of preparatory work undertaken by the secretariat on the topic. The Working Group was informed of the view expressed at the fifty-fourth session of the Commission that the topic might eventually be referred to Working Group IV to be dealt with in tandem with the topic of the use of artificial intelligence and automation in contracting.¹⁸ The report of that session (A/CN.9/1093) is before the</p>	<p><i>Legal issues related to the digital economy</i></p> <p>At its fifty-first session, in 2018, the Commission decided that the secretariat should compile information on legal issues related to the digital economy and report that information for consideration by the Commission at a future session.¹⁹ Progress reports on exploratory and preparatory work undertaken by the secretariat were presented to the Commission during its fifty-second and resumed fifty-third sessions.²⁰</p> <p>The work of the secretariat has shortlisted several topics for possible future work by Working Group IV, including (1) the use of artificial intelligence and automation in contracting; (2) data transactions; and (3) the use of distributed ledger technology (among others). The secretariat's exploratory work of the legal issues related to shortlisted topics is recorded in a "legal taxonomy" that the secretariat has developed. The</p>	<p>In the light of the deliberations at the sixty-third session of the Working Group, the Commission may wish to mandate Working Group IV to work concurrently on the topics of automated contracting and data transactions.</p> <p>A proposal for refining the mandate of Working Group IV is contained in chap. II of A/CN.9/1116, while a proposal for future work on data transactions is contained in A/CN.9/1117.</p> <p>The Commission will also have before it a proposal</p>

¹⁶ Ibid., *Seventy-third Session, Supplement No. 17 (A/73/17)*, para. 159.

¹⁷ Ibid., *Seventy-sixth Session, Supplement No. 17 (A/76/17)*, para. 236.

¹⁸ Ibid., para. 237.

¹⁹ Ibid., *Seventy-third Session, Supplement No. 17 (A/73/17)*, paras. 247, 248 and 253 (b).

²⁰ Ibid., *Seventy-fourth Session, Supplement No. 17 (A/74/17)*, paras. 207–211; *Seventy-fifth Session, Supplement No. 17 (A/75/17)*, part two, paras. 67–76.

	<i>Consideration of texts by the Commission at its fifty-fifth session</i>	<i>Work by the Working Group</i>	<i>Preparatory or exploratory work currently undertaken by the Secretariat</i>	<i>Possible future work</i>
		<p>Commission for consideration. The preliminary discussion within the Working Group has informed the proposal for future work on data transactions.</p>	<p>secretariat's further preparatory work on the use of artificial intelligence and automation in contracting was referred to Working Group IV by the Commission at its fifty-fourth session (see the second column).</p> <p>At its fifty-fourth session, the Commission also requested the secretariat to continue to develop the legal taxonomy and authorized the secretariat to publish the content of the taxonomy.²¹ The Commission also requested the secretariat to continue preparatory work on data transactions.²²</p> <p>At its fifty-fifth session, the Commission will have before it a note by the Secretariat on the progress of its exploratory and preparatory work on legal issues related to the digital economy (A/CN.9/1116), including the development of a newly completed section of the taxonomy on the use of <i>distributed ledger technology</i>.</p>	<p>for future work by the secretariat on preparing legal guidance on issues relating to the operation of distributed ledger systems and the provision of distributed ledger technology-based services (A/CN.9/1116, chap. III).</p>
Insolvency law	<p>At its fifty-third session, in 2020, the Commission requested the secretariat to prepare and publish an update of the UNCITRAL Model Law on Cross-Border Insolvency: the Judicial Perspective as soon as practicable, as both a paper and electronic booklet, in</p>	<p><i>Insolvency of MSEs</i></p> <p>At its fifty-fourth session, the Commission adopted the Legislative Recommendations on Insolvency of Micro- and Small Enterprises and approved in principle the draft commentary to the Legislative Recommendations. The Commission requested the secretariat to revise the draft</p>	-----	-----

²¹ Ibid., *Seventy-sixth Session, Supplement No. 17 (A/76/17)*, para. 227.

²² Ibid., para. 237.

Consideration of texts by the Commission at its fifty-fifth session

Work by the Working Group

Preparatory or exploratory work currently undertaken by the Secretariat

Possible future work

the six official languages of the United Nations, using a mechanism along the lines of that used for the 2013 update of the publication.²³ Pursuant to that request, the secretariat made available updates to that publication for review by the Working Group at its sixtieth session (A/CN.9/WG.V/WP.180). The Working Group approved the updates listed in document

A/CN.9/WG.V/WP.180 with the additional changes listed in paragraph 13 of the report of the sixtieth session of the Working Group (A/CN.9/1094). It agreed to transmit the updates to the Commission for its consideration at its fifty-fifth session, in 2022. The Working Group recommended that, should the Commission be satisfied with the proposed updates, the Commission might wish to authorize the secretariat to publish the updated Judicial Perspective in the six languages of the United Nations as soon as possible in the format in which the preceding editions were published and to request the secretariat to keep the publication up to date so that it continued fulfilling its intended purpose. The Working Group underlined that the publication of the updated Judicial Perspective in 2022 would be timely in the light of the twenty-fifth anniversary of the adoption of the UNCITRAL Model Law on Cross-

commentary in the light of amendments adopted by the Commission and other relevant deliberations of the Commission and transmit the revised text for review and approval by Working Group V at its fifty-ninth session. The Commission further requested Working Group V to decide whether the approved text should be considered final or should be transmitted for finalization and adoption by the Commission at its fifty-fifth session.²⁴ During its fifty-ninth session, Working Group V reviewed and approved the revised draft commentary and agreed that the text as approved by the Working Group at the session should be considered final and should not be referred for adoption by the Commission at its fifty-fifth session in 2022 (A/CN.9/1088, para. 17). The report of the fifty-ninth session of Working Group V (A/CN.9/1088) is before the Commission at its fifty-fifth session.

Civil Asset Tracing and Recovery and Applicable law in insolvency proceedings

At its fifty-fourth session, the Commission took note of conclusions reached at the colloquiums concerning civil asset tracing and recovery as well as applicable law in insolvency proceedings, and mandated Working Group V to commence work on both topics after completing the work on the draft commentary to the Legislative Recommendations on Insolvency of Micro- and Small Enterprises.²⁵ The Commission requested Working Group V to treat both topics equally, noting that the form the work might take on both topics would be decided at a later stage.²⁶

²³ Ibid., *Seventy-fifth Session, Supplement No. 17 (A/75/17)*, part one, para. 63.

²⁴ Ibid., *Seventy-sixth Session, Supplement No. 17 (A/76/17)*, para. 77.

²⁵ Ibid., *Seventy-sixth Session, Supplement No. 17 (A/76/17)*, paras. 216–217.

²⁶ Ibid., para. 217.

	<i>Consideration of texts by the Commission at its fifty-fifth session</i>	<i>Work by the Working Group</i>	<i>Preparatory or exploratory work currently undertaken by the Secretariat</i>	<i>Possible future work</i>
	Border Insolvency on 30 May 2022 (A/CN.9/1094, paras. 13 and 14).	Accordingly, Working Group V commenced deliberations on both topics at its fifty-ninth and sixtieth sessions. The report of the fifty-ninth session of Working Group V (A/CN.9/1088) and the report of the sixtieth session of the Working Group (A/CN.9/1094) are before the Commission at its fifty-fifth session.		
Judicial sale of ships	Pursuant to the decision of the Commission at its fifty-first session, in 2018, ²⁷ Working Group VI has been working on the preparation of a draft instrument on the judicial sale of ships since its thirty-fifth session (New York, 13–17 May 2019) (A/CN.9/973). The Working Group continued that work through its thirty-ninth and fortieth sessions (A/CN.9/1089 and A/CN.9/1095). A draft convention on the international effects of judicial sales of ships (A/CN.9/1108), a compilation of comments on the draft convention (A/CN.9/1109) and a draft explanatory note (A/CN.9/1110 and A/CN.9/1111) are before the Commission at its fifty-fifth session.	-----	At its fifty-second session, the Commission, after considering a proposal by the Government of China on possible future work by UNCITRAL to develop a legal framework for railway consignment notes (A/CN.9/998), decided that the secretariat should conduct exploratory and preparatory work on the topic, for further consideration by the Commission. ²⁸ At its resumed fifty-third session, the Commission requested its secretariat to start preparatory work towards the development of a new international instrument on negotiable multimodal transport documents (NMTDs) that could be used for contracts not involving carriage by sea, and present the results of that work to the Commission for consideration at its next session. The secretariat was requested to carry out that work in close coordination and cooperation with relevant international organizations and convene as necessary expert group meetings. ²⁹	The Commission may wish to consider assigning this topic to Working Group VI with a view to beginning intergovernmental negotiations on a draft text to be prepared by the secretariat reflecting most recent expert consultations in the second half of 2022.

²⁷ Ibid., *Seventy-third Session, Supplement No. 17 (A/73/17)*, para. 252.

²⁸ Ibid., *Seventy-fourth Session, Supplement No. 17 (A/74/17)*, paras. 216–219 and 221 (d).

²⁹ Ibid., *Seventy-fifth Session, Supplement No. 17 (A/75/17)*, part two, paras. 16 (e) and 82.

Consideration of texts by the Commission at its fifty-fifth session

Work by the Working Group

Preparatory or exploratory work currently undertaken by the Secretariat

Possible future work

At its fifty-fourth session, the Commission welcomed the preparatory work done by the secretariat (A/CN.9/1061) and invited the secretariat to continue its work and to report to the Commission, at its fifty-fifth session, in 2022, on the progress made, including on the preparation of a preliminary draft of a new instrument on NMTDs.³⁰ The Commission agreed to give high priority to the project for assignment to the next available working group.³¹ At its fifty-fifth session, the Commission will have before it a note by the Secretariat on the subject (A/CN.9/1101).

Exploratory and preparatory work undertaken by the UNCITRAL secretariat on other topics

Warehouse receipts

At its fifty-first session, in 2018, the Commission requested the secretariat to conduct exploratory and preparatory work on the topic in order to refer that work to a working group in due course.³² At its fifty-second session, the Commission, after considering a note by the Secretariat on the topic (A/CN.9/992), decided that the secretariat should continue its preparatory work on warehouse receipts, including by organizing consultation meetings with other interested organizations, with a view to advancing the preparation of initial draft materials.³³ At its resumed fifty-third session, the Commission agreed to carry out the project jointly with Unidroit on the understanding that a preliminary draft model law on the topic would be prepared by a Unidroit study group or working group and would subsequently be submitted for intergovernmental negotiations through an UNCITRAL working group, possibly by the second half of 2022, with a view of its ultimate adoption by UNCITRAL. The Commission further agreed that the final text to be adopted by UNCITRAL would bear the names of both organizations, in recognition of their close cooperation and the contribution by Unidroit during the preparatory phase of the project. The Commission requested the secretariat to report on the progress of the work at the Commission's annual sessions.³⁴ At its fifty-fourth session, the Commission took note of the progress made (A/CN.9/1066) and agreed that the

³⁰ Ibid., *Seventy-sixth Session, Supplement No. 17 (A/76/17)*, para. 223.

³¹ Ibid., para. 224.

³² Ibid., *Seventy-third Session, Supplement No. 17 (A/73/17)*, paras. 249 and 253 (a).

³³ Ibid., *Seventy-fourth Session, Supplement No. 17 (A/74/17)*, paras. 194–196 and 221 (b).

³⁴ Ibid., *Seventy-fifth Session, Supplement No. 17 (A/75/17)*, part two, paras. 16 (d) and 61.

drafting of uniform provisions on the topic required a neutral and functional approach that respected differences in legal doctrines and practice among various legal systems. The Commission also noted that the Unidroit working group might need more than two sessions before it could submit a preliminary draft model law on the private law aspects of warehouse receipts for consideration by the Unidroit Governing Council, possibly in 2023, and subsequent transmittal to the first available UNCITRAL Working Group.³⁵ At its fifty-fifth session, the Commission will have before it a note by the Secretariat on the subject (A/CN.9/1102).

The impact of COVID-19 on international trade law

At its resumed fifty-third session, the Commission had before it a proposal by Armenia, the Russian Federation and Viet Nam to update the work programme to include the consideration of measures to combat the consequences of the global COVID-19 pandemic and other emergencies that entail material restrictions to global trade (A/CN.9/1039). The Commission requested further exploration of the proposal, in particular by identifying what had been done by other organizations on that topic, and by organizing online round tables or meetings. The secretariat was requested to report back to the Commission at its fifty-fourth session on the impact that the COVID-19 pandemic had on international trade, the legislative responses of States and areas where the Commission could embark on future work.³⁶ At its fifty-fourth session, the Commission took note of the progress report (A/CN.9/1079, A/CN.9/1080 and A/CN.9/1081) and expressed its appreciation to States that shared best practices and experiences through their responses to the questionnaire circulated by the secretariat.³⁷ The Commission requested the secretariat to continue its exploratory work of the issues identified in the progress report as possible issues falling within the mandate of UNCITRAL and to continue to hold expert meetings and other events with interested stakeholders to further advance the exploratory work. The Commission further requested the secretariat to continue exploring the options for establishing an online platform for information exchange by States.³⁸ At its fifty-fifth session, the Commission will have before it a note by the Secretariat on the subject (A/CN.9/1119).

Climate change mitigation, adaptation and resilience

At its fifty-fourth session, the Commission heard a proposal to examine (a) how existing UNCITRAL texts could be aligned with climate change mitigation, adaptation and resilience goals, and (b) whether further work could be done by UNCITRAL to facilitate those goals in the implementation of those texts or through the development of new texts.³⁹ While broad support was expressed for the Commission to consider the proposal further, it was noted that member States might need to carry out further internal consultations across different government agencies before a decision on future work could be taken, and that such work would need to be undertaken within existing public international law frameworks, such as the Paris Agreement on climate change of 2015.⁴⁰ The Commission requested the secretariat to consult with interested States with a view to developing a more detailed proposal on the topic for presentation to the Commission for its consideration at its next session, in 2022.⁴¹ At its fifty-fifth session, the Commission will have before it a note by the Secretariat on the subject (A/CN.9/1120 and A/CN.9/1120/Add.1).

³⁵ Ibid., *Seventy-sixth Session, Supplement No. 17 (A/76/17)*, para. 220.

³⁶ Ibid., *Seventy-fifth Session, Supplement No. 17 (A/75/17)*, part two, paras. 16 (i), 86 and 89.

³⁷ Ibid., *Seventy-sixth Session, Supplement No. 17 (A/76/17)*, paras. 238–239.

³⁸ Ibid., para. 241.

³⁹ Ibid., para. 244.

⁴⁰ Ibid., para. 245.

⁴¹ Ibid., para. 246.

III. Supporting activities

6. Table 2 lists activities of the Secretariat planned until the fifty-sixth session of the Commission in support of the legislative work by the Commission and its working groups.⁴² It is separated in two parts: part (a) lists one-time events; and part (b) lists recurrent or ongoing activities. These activities include work by the secretariat, alone or in cooperation with other organizations, to prepare texts and explanatory materials to support the acceptance, understanding, uniform interpretation and application of UNCTRAL texts. Previous versions of this document also used to set out in this table specific or recurring activities to disseminate information on and support the enactment and effective implementation of UNCITRAL texts. Those activities, which are more closely related to the technical assistance work of the secretariat, will no longer be presented in the report (see instead A/CN.9/1098, A/CN.9/1099 and A/CN.9/1100).

Table 2

Supporting activities

(a) Specific activities

<i>Description of the activity</i>	<i>Place and date</i>
Working Group III (ISDS Reform)	Support to host countries in organization of intersessional meetings Hosting a number of informal online meetings on various topics including with ICSID on the Code of Conduct and with OECD on shareholder claims
Working Group on a Model Law on Warehouse Receipts convened by Unidroit in consultation with UNCITRAL	September 2022
Working Group on a Model Law on Factoring convened by Unidroit	December 2022
Sixth and seventh expert group meetings on the development of a new international instrument on NMTDs, if required	September 2022

(b) Recurrent or ongoing activities

7. Table 2, part (b) lists recurrent or ongoing activities, some of which are undertaken pursuant to partnerships or other collaborative initiatives (for a description of such initiatives undertaken to support the promotion, adoption and use of UNCITRAL texts, see the note by the Secretariat on technical cooperation and assistance (A/CN.9/1099)).

<i>Subject area</i>	<i>Description of the activity</i>
Dispute settlement	Stocktaking of developments in dispute resolution in the digital economy Establishment of the Inclusive Global Legal Innovation Platform on Online Dispute Resolution
Insolvency law	Participation in the World Bank Group's Insolvency and Creditor/Debtor Regimes Task Force Ongoing work on the unified Insolvency and Creditor Rights Standard ⁴³

⁴² Dates and location of events are tentative. They may have to be cancelled or postponed depending on measures that States and the United Nations may continue putting in place in connection with the COVID-19 pandemic.

⁴³ Comprised of the UNCITRAL Legislative Guide on Insolvency Law and the World Bank Principles for Effective Insolvency and Creditor/Debtor Regimes, recognized by the Financial Stability Board as one of the key standards for sound financial systems, representing the international consensus on best practices for evaluating and strengthening insolvency regimes. See Insolvency and Creditor Rights Standard – Financial Stability Board (fsb.org).

<i>Subject area</i>	<i>Description of the activity</i>
Secured transactions	Participation in the Fifth Conference on International Coordination of Secured Transactions Reform and the Joint Network for Coordinating Secured Transactions and Related Reforms (with the World Bank Group, Unidroit, Organization of American States and Kozolchyk National Law Centre)
Judicial sale of ships	Revision of the explanatory note on the draft convention on the international effects of judicial sales of ships (a draft of which, contained in A/CN.9/1110 and A/CN.9/1111, will be before the Commission at its fifty-fifth session, as indicated in table 1 above)
General	Participation at the tripartite coordination meeting of UNCITRAL, Unidroit and HCCH at which current work of the three organizations, areas of mutual interest and possible joint activities are regularly discussed Coordination of the current legislative work of UNCITRAL and preparatory work of its secretariat with the relevant projects of Unidroit and Hcch (currently, effective enforcement and digital assets) Participation in the International Organisations' Partnership for Effective International Rule-Making, led by the Organisation for Economic Co-operation and Development Operation of the Transparency Registry, a repository of published information in accordance with article 8 of the Rules on Transparency ⁴⁴ Contribution to periodicals, reports and other writings on the work of UNCITRAL ⁴⁵

IV. Possible adjustments in methods of work of UNCITRAL

A. Consideration of the role of UNCITRAL in promoting the rule of law at the national and international levels

8. The Commission has considered the topic “Role of UNCITRAL in promoting the rule of law at the national and international levels” since 2008. During its fifty-first session, in 2018, the Commission reviewed the manner in which this topic was handled within the Commission and decided to broaden the discussion on this topic to a discussion of the way the work of UNCITRAL relates to the 2030 Agenda for Sustainable Development and 17 Sustainable Development Goals.⁴⁶ At that session, however, the Commission did not discuss the desirability for the secretariat to continue organizing briefings by the Rule of Law Unit biannually during Commission sessions.

9. By way of background, during its forty-third session, in 2010, the Commission considered it essential to keep a regular dialogue with the Rule of Law Group through the Rule of Law Unit and to keep abreast of progress made in the integration of the work of UNCITRAL into the United Nations joint rule of law activities. To that end, it requested the secretariat to organize briefings by the Rule of Law Unit biannually, when sessions of the Commission were held in New York.⁴⁷ At its fifty-third session, in 2020, the Commission recalled that the briefings consequently took place at the Commission’s forty-fifth, forty-seventh, forty-ninth and fifty-first sessions, in 2012, 2014, 2016 and 2018⁴⁸ respectively. The Commission noted that a briefing could not

⁴⁴ With voluntary contributions from the European Union, the OPEC Fund and (BMZ). For details, see the note by the Secretariat [A/CN.9/1060](#), para. 16.

⁴⁵ For details of these and other general supporting activities, see the relevant reports by the Secretariat to the Commission ([A/CN.9/1096](#), [A/CN.9/1097](#), [A/CN.9/1098](#), [A/CN.9/1099](#), [A/CN.9/1100](#), [A/CN.9/1104](#), [A/CN.9/1105](#), [A/CN.9/1106](#) and [A/CN.9/1107](#)).

⁴⁶ *Official Records of the General Assembly, Seventy-third Session, Supplement No. 17 (A/73/17)*, paras. 260–267.

⁴⁷ *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 17 (A/65/17)*, para. 335.

⁴⁸ *Ibid.*, *Sixty-seventh Session, Supplement No. 17 (A/67/17)*, paras. 199–210; *ibid.*, *Sixty-ninth Session, Supplement No. 17 (A/69/17)*, paras. 229–233; *ibid.*, *Seventy-first Session, Supplement No. 17 (A/71/17)*, paras. 313–317; and *ibid.*, *Seventy-third Session, Supplement No. 17 (A/73/17)*, paras. 230–231.

take place at its fifty-third session because of the changes to the agenda in response to the COVID-19 pandemic.⁴⁹ Consequently, the fifty-fifth session will be the first time since 2018 when the Commission session is to take place in New York.

10. The Commission may wish to recall that the notes by the Secretariat on “Role of UNCITRAL in promoting the rule of law at the national and international levels” presented to the Commission at each session since 2019 already discuss the relevance of texts that are expected to be considered by the Commission at each session to the promotion of the rule of law and the implementation of the Sustainable Development Goals, as well as the expected contribution of UNCITRAL’s programme to the promotion of the rule of law and the achievement of the Sustainable Development Goals (see, for example, A/CN.9/1105). Furthermore, the secretariat also provides inputs every year to the Rule of Law Unit for the annual reports of the Secretary-General on “Strengthening and coordinating United Nations rule of law activities” (see, for example, A/76/235). In order to make the Commission sessions more efficient and effective, the Commission may wish to consider whether the practice of organizing briefings by the Rule of Law Unit biannually during Commission sessions should be discontinued.

B. Working methods of UNCITRAL

11. The COVID-19 pandemic has severely disrupted the ability of the United Nations Secretariat to service intergovernmental meetings, but also limited the availability of delegates and experts for in-person meetings. One of the most immediate consequences has been a significant reduction of the time available for intergovernmental meetings supported by interpretation services as well as the need to take into account significant time differences for delegates participating remotely. In practical terms, whereas UNCITRAL working groups are entitled to two three-hour meetings per day for in-person meetings, this entitlement has been reduced for online meetings to a maximum of four hours or even only two hours per day, partly depending on the time zone from which the meetings are supported (i.e. EST or CET).

12. UNCITRAL States members have reacted to the constraints caused by the pandemic by adopting various adjustments to its working methods (see A/75/17, part two, paras. 11–12 and 126–131; A/76/17, paras. 247–248).

13. In the light of the experience accumulated from the holding of UNCITRAL sessions during the COVID-19 pandemic, the secretariat invites the Commission to consider further adjustments to its methods of work, in particular:

1. Procedure for adoption of the report of a working group

14. One of the adjustments to the work methods of UNCITRAL during the COVID-19 pandemic included changes to the adoption of reports by its working groups, which were to be done after the session and not during the session as had been the practice in UNCITRAL (as set out in paragraph 16 below).

15. By way of background, the practice for adopting reports for working group sessions at UNCITRAL has been as follows: since the thirty-fourth session of the Commission in 2001, the report for any given working group session has been adopted at the tenth and last meeting during the working group’s session (on Friday afternoon) and main conclusions reached during the ninth meeting (on Friday morning) were summarily read out for the record at the tenth meeting and subsequently incorporated into the report (A/CN.9/638, para. 22). It is expected that the working groups will revert to this practice beginning from the second half of 2022.

⁴⁹ *Official Records of the General Assembly, Seventy-fifth Session, Supplement No. 17 (A/75/17)*, part one, para. 101.

16. During the COVID-19 pandemic, it was agreed that the report of the working group sessions would be adopted in the following manner (see [A/CN.9/1038](#), annex I, paragraph 6):

“The chairperson and the rapporteur of each working group will prepare a summary reflecting the deliberations and any conclusions reached during the session. After the session, the chairperson and the rapporteur shall circulate their summary for comments to the delegations of the working group. Based on the comments received, the chairperson and the rapporteur will revise the summary and present it as such to the fifty-fourth session of the Commission, unless it has been adopted by the working group as its report.”

17. As decided by UNCITRAL at its first session, rules relating to the procedure of committees of the General Assembly of the United Nations, as well as rules 45 and 60,⁵⁰ shall apply to the procedure of the Commission. As the Commission has further decided, on matters not covered by those rules, the Commission shall be guided by the general principle that the rules of procedure of the General Assembly should apply, *mutatis mutandis*, to the Commission as may be appropriate for the performance of its functions ([A/65/17](#), annex III). Considering the limited guidance on agenda and organization of work in the procedure of committees of the General Assembly, the formulation of meeting agenda (including the time and manner for the adoption of the report of a meeting) is largely based on practice and such practice varies among various United Nations bodies, including the subsidiary organs of the General Assembly.⁵¹ Accordingly, it is understood that the Commission has the authority to determine how the reports of its working group are to be adopted.

18. Suggestions have been made that the Commission should consider whether changes adopted on an exceptional and temporary basis during the COVID-19 pandemic could be retained as a standard practice ([A/76/17](#), para. 249). During the resumed fortieth session when discussing the workplan to implement ISDS reform, Working Group III considered the practice of dedicating one day per one-week session for adopting the report. At that session, support was expressed for utilizing that day for substantive deliberations and for adopting the report after the session through a procedure similar to that applied during the COVID-19 pandemic. It was suggested that this would provide additional time to progress the work, thereby increasing efficiency ([A/CN.9/1054](#), para. 27).

19. Accordingly, the Commission may wish to consider allowing Working Group III to adopt its report in the following manner, which would be quite similar to that provided in paragraph 16 above.

“The chairperson and the rapporteur of Working Group III will prepare a summary reflecting the deliberations and any conclusions reached during the session, which would be circulated during or after the session for comments by delegations.

⁵⁰ Rule 45 provides that “The Secretary-General shall act in that capacity in all meetings of the General Assembly, its committees and its subcommittees. He may designate a member of the Secretariat to act in his place at these meetings.” Rule 60 provides that “The meetings of the General Assembly and its Main Committees shall be held in public unless the organ concerned decides that exceptional circumstances require that the meeting be held in private. Meetings of other committees and subcommittees shall also be held in public unless the organ concerned decides otherwise.”

⁵¹ As a general matter, subsidiary organs of the General Assembly either adopt a procedural report, which is finalized by the rapporteur with the assistance of the Secretariat, or a substantive report, which is adopted by the body concerned. In some exceptional cases, reports with substantive content are not adopted by the body concerned (e.g. the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, see 2020 Report [A/75/23](#), para. 26, and Note by the Chair on Organization of Work, [A/AC.109/2020/L.2](#), para. 8; the Human Rights Council, see for example [A/HRC/45/2](#), para. 82; the Meeting of States Parties to the United Nations Convention on the Law of the Sea (a United Nations body but not a subsidiary organ of the General Assembly), see rule 26 of the Rules of Procedure for Meetings of States Parties).

Based on the comments received, a revised summary would be prepared and circulated for adoption by the Working Group as its report [in accordance with the procedure for taking decisions of UNCITRAL during the COVID-19 pandemic as set out in A/CN.9/1013, annex I]. In case there are objections, it will be presented as the summary of the chairperson and the rapporteur for consideration and action by the Commission as it deems appropriate. The summary may be adopted by the Working Group as its report at the following session.”

20. Should the Commission wish to allow Working Group III to adopt its reports as mentioned above, it may wish to allow other working groups to adopt their reports in the same manner. In addition, the Commission may wish to consider specifying the language(s) in which comments from delegations of working groups could be handled and circulated by the secretariat.⁵²

2. Holding of hybrid meetings

21. In the light of the positive feedback received from a number of delegations about the format of UNCITRAL meetings during the COVID-19 pandemic, the Commission may wish to consider allowing the holding of hybrid meetings for working group sessions even after the prevailing restrictions are waived. It was noted that such format allowed States and invited organizations to ensure the participation of their delegations at the sessions and expand the composition of those delegations. There is a growing concern about the severe budgetary impact of the pandemic, which may negatively impact the capacity of States and organizations to finance travel of their delegations to UNCITRAL meetings still in years to come. The secretariat notes, also in this context, the wish expressed by delegations participating in the deliberations of Working Group III (ISDS) to extend the authorization to hold meetings in a hybrid format to maintain the high level of attendance and participation that this format of meetings has allowed.

22. In this context, the Commission may wish to consider the desirability of hybrid meetings and the extent of remote participation (e.g. whether remote participants would be able to access real-time streaming and/or intervene during the session). The Commission may wish to note that at the moment arranging real-time streaming of the session would have budgetary implications, and allowing remote participants to intervene during the session is likely to result in reduced meeting time (from three hours to two hours per meeting).

3. Holding of informal consultations

23. The Commission may wish to consider encouraging working groups to avail themselves of various tools in order to enhance the efficiency and productivity of deliberations within working groups, including holding informal consultations between its sessions or in conjunction with a session. The Commission may wish to note that the secretariat has received extrabudgetary contributions to procure interpretation in the working languages of the secretariat (English and French) and may wish to call upon all States, international organizations and other interested entities to consider making such contributions.

24. The Commission may wish to note that it had previously invited delegations to resort to informal consultations prior to actual meetings, with a view to making optimal use of conference time.⁵³ More recently, when considering the resource

⁵² *Official Records of the General Assembly, Seventy-sixth Session, Supplement No. 17 (A/76/17)*, para. 249.

⁵³ At the thirty-fourth Commission session in 2001, it was stated that “With a view to making optimal use of conference time, the Commission invited delegations to resort to informal consultations prior to actual meetings, thus reserving conference time only for those issues which required extensive deliberation, both formal and informal, in the context of Commission and working group meetings.” See *Official Records of the General Assembly, Thirty-fourth Session, Supplement No. 17 (A/34/17)*, para. 382.

requirements for the work of Working Group III (ISDS), the Commission also made reference to the use of other effective tools to advance the work, including through virtual informal meetings and intersessional meetings.⁵⁴ On another occasion, the Commission expressed support for holding intersessional informal consultations but at the same time emphasized the need for endorsement by working groups of conclusions reached at those informal meetings.⁵⁵ During the fifty-fourth Commission session in 2021, while the usefulness of informal consultations as a means for clarifying positions, explaining issues and canvassing options was widely acknowledged, delegations emphasized the need to clearly differentiate them from working group sessions, which were the proper forum for taking decisions. In that context, concerns were expressed that rules on the organization of informal consultations would need to be further discussed, including frequency, advance notice, moderation and role of a working group's chairperson.⁵⁶ The Commission may wish to request the secretariat to facilitate the holding of informal consultations, as appropriate, bearing in mind the need to ensure transparency and inclusiveness.

4. Use of tools for collecting contact details of delegates and observers

25. The Commission may wish to consider enhancing tools that the UNCITRAL secretariat uses for collecting and keeping current contact details of delegates and observers, subject to the required personal data protection. That information is used by the bureaux of UNCITRAL and its working groups as well as by the UNCITRAL secretariat for communication with delegations to UNCITRAL sessions intersessionally (for commencing a silence procedure, circulating invitations to informal consultations, webinars or colloquiums or information about other events organized by the UNCITRAL secretariat or for other needs). Resources required to put in place such tools would need to be appropriately budgeted.

26. During the fifty-fourth Commission session in 2021, there was broad support for making contact details available to delegates, with a strong preference being expressed for a closed password-protected system which could be accessed by delegates; however, it was emphasized that Permanent Missions of States Members of the United Nations should continue to receive all relevant communications.⁵⁷

⁵⁴ At the fifty-third Commission session in 2020, it was stated that “the Working Group would need to consider more comprehensively how it could efficiently use the time it had, as well as consider other options, such as requesting any available time of the Commission and using other tools more effectively such as small drafting groups, virtual informal meetings, written procedures and intersessional meetings, before requesting an increase in the number of working group sessions per year.” See *Official Records of the General Assembly, Seventy-fifth Session, Supplement No. 17 (A/75/17)*, part two, para. 107.

⁵⁵ At the fifty-second Commission session in 2019, it was stated that “While support was expressed for holding intersessional informal consultations and expert group meetings, the need for endorsement by [Working Group V] of conclusions reached at those informal meetings was emphasized.” See *Official Records of the General Assembly, Seventy-fourth Session, Supplement No. 17 (A/74/17)*, para. 180.

⁵⁶ *Official Records of the General Assembly, Seventy-sixth Session, Supplement No. 17 (A/76/17)*, para. 249.

⁵⁷ *Ibid.*.