

**Statement of the United States of America
Sixth Committee**

**Report of the United Nations Commission of International Trade Law on the work of its
forty-fifth session**

**67th United Nations General Assembly
Item 77**

Mr. Chairman:

The United States wishes to commend the UNCITRAL Secretariat for its continuing work in promoting the harmonization of international trade law. The Report of the 45th session of the Commission reveals significant accomplishments during the past year.

We welcome the adoption of the Guide to Enactment to accompany the 2011 UNCITRAL Model Law on Public Procurement. The Guide to Enactment will assist states in implementing in their domestic systems the Model Law, which provides a blueprint for states seeking to establish a modern, transparent, and efficient government procurement system. We also note favorably the adoption of the “Recommendations to Assist Arbitral Institutions and Other Interested Bodies with Regard to Arbitration under the UNCITRAL Arbitration Rules (as revised in 2010).” These updated Recommendations will provide important practical guidance to arbitral institutions and others regarding application of the revised Arbitration Rules, which differ in some key respects from the earlier 1976 Arbitration Rules. The Recommendations should help promote the continued broad global use of the UNCITRAL Arbitration Rules.

The Report highlights the important role of UNCITRAL in furthering the broader rule of law agenda of the UN. We continue to believe that, through the practical mechanism of international instruments designed to harmonize international trade law, UNCITRAL contributes in a very concrete manner to promotion of the rule of law internationally. We think that UNCITRAL deserves recognition for this contribution.

We are pleased to see the progress noted in the Report made by the new UNCITRAL Regional Center for Asia and the Pacific, which opened in Incheon, Korea last January.

The Report also details the ongoing work in the various UNCITRAL working groups: in Working Group II, development of new rules on transparency in investor-State arbitration; the drafting in Working Group III of generic procedural rules for online dispute resolution for the resolution of disputes arising from cross-border electronic commerce; Working Group IV’s consideration of the electronic transferability of rights; continued work in Working Group V on the concept of the center of main interests and the responsibilities of directors and officers in the period approaching insolvency; and, in Working Group VI, development of a registry guide that would supplement the UNCITRAL Legislative Guide on Secured Transactions.

In terms of future work, our government supports the proposal, endorsed by the Commission, to prepare a model law on secured transactions. We note favorably that the Commission agreed that priority should be given to the holding of a colloquium or colloquia on microfinance and related matters, specifically, facilitating simplified business incorporation and registration; access to credit for micro, small and medium sized enterprises; dispute resolution applicable to microfinance transactions; and other topics related to creating an enabling legal environment for micro, small and medium sized enterprises. We also support the holding of a colloquium to address the scope of possible work and primary issues to be addressed in the area of public-private partnerships (PPPs) specifically in the context of privately financed infrastructure projects (PFIPs), taking into account previous UNCITRAL work in that area.

Our government would like, however, to reiterate its concerns regarding another proposal that was considered at the Commission regarding the further harmonization of principles of contract law. The Report of the Commission shows that several delegations – the United States was among them – objected to the Chair’s determination that there was a prevailing majority view in favor of holding a colloquium or colloquia on that subject. As noted in the Report, in the discussion of that proposal, a number of delegations had expressed clear opposition and strong reservations to further work on the topic. In such circumstances, in our view, while we respect the Commission’s Rules of Procedure and methods of work, it was improper to conclude that there was consensus support for further work. We continue to believe that the proposal to further harmonize principles of contract law, while perhaps well intentioned, does not merit the expenditure of valuable UNCITRAL resources, because neither the need for nor the feasibility of such a project has been demonstrated.

Thank you, Mr. Chairman.