

**Statement by Mr. Abdul Hameed, Counsellor, Permanent Mission of Pakistan to the United Nations in the Sixth Committee on Agenda Item 79: Report of the United Nations Commission on International Trade Law on the Work of Its Forty-Sixth Session (New York, 14 October 2013)**

**Mr. Chairman,**

My delegation thanks the Secretariat for the report of the United Nations Commission on International Trade Law on its forty-sixth session contained in document A/68/17. Pakistan has been a member of the Commission and its Working Groups over the years and acknowledges efforts made by Member States and Secretariat for productive negotiations and their positive results in the harmonization of international trade law.

Pakistan appreciates the decision of the Commission to adopt the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration and the UNCITRAL Arbitration Rules. We are of the view that UNCITRAL rules on transparency will help in promoting good governance, rule of law and fairness in investment and arbitration processes. . However, we also support the point made in article 7 regarding exceptions to transparency including confidential information based on public policy and protection of the arbitral process's integrity.

**Mr. Chairman,**

Our delegation notes that the question of applicability of the rules on transparency to investment treaties, which had been concluded before the adoption of these rules, got due attention of the Working Group II of the Commission. The newly adopted rules would be applicable "to the extent such application is consistent with those investment treaties." These rules would become relevant to existing investment treaties only when the concerned parties would make explicit decision to opt for them. We appreciate the wisdom behind the flexibility of the Commission's decision on this issue because many existing investment treaties were finalized long before the start of our work on legal standard for transparency. While we have noted the proposal for working on a convention to further develop the work on rules on transparency, we would advise prudence and gradualism because the standards contained in the rules on transparency are still new.

The idea of preparing a guide for the 1958 New York Convention is interesting because it would lead to common understanding and interpretation and better implementation of the Convention. The possibility of preferring one set of interpretation of the Convention over others in such a guide cannot be excluded but such concerns should not prevent us from

undertaking the project. We can find ways and means to address such concerns within the guide or by not formally endorsing it.

**Mr. Chairman,**

We appreciate the performance of working group VI that adopted the UNCITRAL Guide on the Implementation of a Security Rights Registry in the last session of the Commission. A secured transaction regime with an accessible security rights registry would ultimately benefit credit markets and promote investment, development and good governance. If national security rights registries are developed on the similar lines, it would enhance cross border flow of credit and promote international trade.

Our delegation notes with appreciation that Working Group V has adopted the Guide to Enactment and Interpretation of the UNCITRAL Model Law on Cross-Border Insolvency. It was a well-timed undertaking because the incidence of cross border insolvency proceedings had increased significantly in the recent years. Moreover, we also attach importance to the decision of the Commission to adopt legislative recommendations on directors' obligations in the period approaching insolvency as the timely measures by directors can help in addressing the effects of financial distress of companies.

**Mr. Chairman,**

Activities of the Commission should not be restricted to identification of important topics, preparation of texts and promotion of their use only. The provision of legislative technical assistance to developing countries also needs to be on the priority list of the Commission.

The relevance of the Commission's work for the rule of law, good governance, regional integration, and economic and social development is beyond doubt. There is a need to integrate the Commission's work with broader UN efforts for the promotion of rule of law at national and international levels. We gladly note that relevant aspects of the UNCITRAL's work were duly noted in the Declaration of the High Level Meeting of the General Assembly on the rule of law at national and international levels in September 2012. The implementation of the UNCITRAL instruments would help countries to attract investment, resolve commercial disputes, build the trust of international community and, most importantly, ensure good governance and rule of law.

**I thank you Mr. Chairman.**