



**PERMANENT MISSION OF SINGAPORE  
TO THE UNITED NATIONS**

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**STATEMENT BY MRS RENA LEE,  
DELEGATE TO THE 68<sup>TH</sup> SESSION  
OF THE UNITED NATIONS GENERAL ASSEMBLY  
ON AGENDA ITEM 79,  
ON REPORT OF THE UNITED NATIONS COMMISSION ON  
INTERNATIONAL TRADE LAW ON THE WORK OF ITS FORTY-SIXTH  
SESSION,  
SIXTH COMMITTEE,  
14 OCTOBER 2013**

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*[Please check against delivery]*

1. Mr Chairman, I would first like to congratulate Your Excellency on your election as Chairperson of the Sixth Committee. On a similar note, I would also like to congratulate the other members of the Bureau on their election. The delegation of Singapore wishes you and the members of your Bureau every success and assures you of Singapore's unqualified support and cooperation during the deliberations of this Committee.
2. Singapore would like to thank the Chairman of the United Nations Commission on International Trade Law (UNCITRAL) Mr Michael Scholl for his effective stewardship of the Commission Session in Vienna in July this year. We would also like to thank him for his report on the 46th Session of the Commission. We would also like to acknowledge and thank the Secretary and the officers and staff of the UNCITRAL Secretariat and the experts who worked with them for the work they have done in preparing for the many meetings of the Working Groups and the UNCITRAL Commission session. Without their efforts UNCITRAL

would not have been able to achieve its objective in promoting international trade through the harmonisation of the rules of international trade law.

3. Singapore notes that at its 46<sup>th</sup> session, the Commission emphasized the importance of formulating legislative texts (as opposed to soft law instruments) on which it was likely that consensus could be achieved, and for which an economic need existed and which would have a beneficial effect on the development of international trade law. In relation to strong views expressed that the Commission should prioritize sustainable economic and social development and the rule of law when formulating its programmes, it was noted that these would be the effect of achieving the Commission's mandate of harmonising and modernizing international trade law [*see A/68/17, paragraph 297*].

4. Singapore agrees with this conclusion. Harmonization and modernization of international trade law is most optimally achieved through legislative texts. Soft law instruments such as guides and notes have a place in the harmonization and modernization of international trade law. At the same time, perhaps these could be more optimally formulated by the Secretariat working with experts with the outcomes discussed and approved by the Commission itself, rather than by Working Groups comprising largely of states whose processes can be extremely arduous and expensive.

5. The recent Commission Session saw a number of developments which are substantial and useful, but also some that give rise to concerns. The Commission approved the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration (the "Transparency Rules"). The work on these Rules was extremely difficult. Investor-State arbitrations are not commercial arbitrations. They are governed by Public International Law and not the national law chosen by the

parties. So it is trite that the paradigms, values and techniques of commercial arbitration cannot apply to Investor-State arbitrations. Singapore supports transparency in Investor-State arbitration. Transparency is one means of ensuring the integrity of such arbitrations, which has of late been subject to criticism. However, Singapore shares the concerns of various states over instituting processes which would facilitate interventions by non-governmental organisations in Investor-State arbitrations. The Transparency Rules formulated represent a compromise of different interests. Central to this compromise is that the Transparency Rules apply only to future investment agreements.

6. The Commission has mandated the Working Group II (Arbitration and Conciliation) to formulate a draft Convention on the application of the Transparency Rules to existing treaties. It was underscored that this Convention was to give those States that wished to make the Transparency Rules applicable to existing treaties an efficient mechanism to do so, without creating any expectation that other States would or should use the mechanism offered by this Convention. It was also agreed that there was not, and should not be, any value judgment attached to whether a State decided to accede to this Convention, and that pressure ought not be brought to bear on States to accede to this Convention. Applying the Transparency Rules to existing treaties raises grave issues. Investments made pursuant to those treaties are premised on the legal environment established by these treaties. Unilaterally changing this environment after the investments have been made demolishes the certainty of the rules applicable to these investments. This cannot be said to be compliant with the Rule of Law

7. A major issue which the Commission addressed was whether it should establish "semi-permanent" or "permanent" Working Groups whose remit and mandate were not regularly reviewed. Singapore notes that several of

UNCITRAL's Working Groups have moved from working on legislative texts to working on more detailed soft law instruments arising from these legislative texts, such as model legislative provisions, guides to implementation and notes on these guides. Working Groups have asked for and received mandates to work on very narrow topics. Even though the legal issues which may arise are interesting, such work would not have the kind of impact legislative text has on advancing the cause for the harmonization of international trade law.

8. Mr Chairman, Singapore has been an active and committed member of UNCITRAL. We hope that we have made contributions to UNCITRAL's work. We strongly advocate the adoption of UNCITRAL texts among our ASEAN partners. Towards this end, we have organised various events to inform our regional partners on these texts, and we will continue to do so vigorously. We are committed to UNCITRAL, and its central objective of the promotion of international trade through the harmonisation of trade laws. Thank you, Mr Chairman.

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