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Chair: Ms. Lungu (Vice-Chair) (Romania)

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In the absence of Mr. Chindawongse (Thailand), Ms. Lungu (Romania), Vice-Chair, took the Chair.

The meeting was called to order at 3.05 p.m.

Agenda item 77: Report of the United Nations Commission on International Trade Law on the work of its fifty-sixth session (continued) (A/78/17)

1. **Mr. Ramopoulos** (Representative of the European Union, in its capacity as observer), speaking also on behalf of the candidate countries Albania, Bosnia and Herzegovina, Montenegro, the Republic of Moldova, Serbia and Ukraine, and in addition, Monaco, said that the European Union and its member States welcomed the progress made in Working Group V (Insolvency Law). They supported the discussions in the Working Group on a toolkit that would be aimed at expediting civil asset tracing and recovery in cross-border insolvencies, as well as the ongoing efforts of the Working Group to find global solutions for rules on the applicable law in cross-border insolvency proceedings.

2. With regard to the work of Working Group III (Investor-State Dispute Settlement), the European Union welcomed the finalization and adoption of the UNCITRAL Model Provisions on Mediation for International Investment Disputes, the Guidelines on Mediation for International Investment Disputes and the Code of Conduct for Arbitrators in International Investment Dispute Resolution, as well as the finalization and adoption in principle of the Code of Conduct for Judges in International Investment Dispute Resolution. The first two texts were the initial outcome of the reform initiatives undertaken in the Working Group, while the latter were part of the ongoing work on the possible establishment of a multilateral investment court. A two-tier standing mechanism would be best-placed to address effectively all the concerns identified by the Working Group with respect to the settlement of investment disputes.

3. The European Union therefore supported the adoption of all four texts by the General Assembly. It looked forward to the finalization and adoption by the Working Group of the draft provisions for the establishment of an advisory centre on international investment law, and to make progress on pressing and structural reforms, such as the establishment of a standing mechanism and an appellate mechanism, and the selection and appointment of tribunal members of a standing multilateral mechanism. The significant progress recorded so far showed that the additional one-week session and supporting resources which had been allocated to Working Group III as of the previous year had been used effectively.

4. The European Union appreciated the sixth intersessional meeting of Working Group III, which had been held in Singapore on 7–8 September 2023. Such meetings gave delegates a unique opportunity to exchange ideas on the reforms and work programme of the Working Group and provided food for thought for future sessions. Considering the significant advantages that the Commission offered in terms of transparency, openness and accessibility, the European Union encouraged all countries, international organizations and observers to participate actively in its discussions.

5. In 2023, the European Union, France and Germany had continued to contribute to the trust fund established to provide travel assistance to developing countries that are members of UNCITRAL, to ensure that the process of work in Working Group III remained as genuinely inclusive as possible. The European Union strongly encouraged other States to make similar contributions. The European Union had continued to make contributions in 2023 towards the operation of the Transparency Registry and the promotion of the UNCITRAL transparency standards. The European Union would be contributing additional funds that would allow the Transparency Registry to continue to operate until June 2024. It also intended to make an effort to continue making contributions beyond that date, and encouraged other actors to support the project with voluntary contributions.

6. **Mr. Valtýsson** (Iceland), speaking on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), said that the Nordic countries continued to support the Commission in the vital role it played in furthering rules-based cooperation in an economically interdependent world. They also appreciated the close relationship between the Commission and other key international organizations active in the field of international commercial and trade law. The Nordic countries welcomed the flexible manner and constructive spirit in which the Commission and its secretariat carried out their work, which ensured the most efficient use of limited resources. The various texts adopted by the Commission were sound proof of its ability to deliver.

7. The Nordic countries welcomed the work on a model law on warehouse receipts that was under way in Working Group I. Given the importance of warehouse receipts to agriculture and food security as well as their use in supply and value chains, the Nordic countries welcomed the aim to develop a modern and predictable legal regime concerning warehouse receipts. The background work conducted under the auspices of the International Institute for the Unification of Private Law

(UNIDROIT) provided a sound basis for further deliberations in the Working Group.

8. The Nordic countries commended Working Group II (Dispute Settlement) and Working Group III (Investor-State Dispute Settlement Reform) for the progress in their work, and noted in particular the adoption by Working Group III of the UNCITRAL Model Provisions on Mediation for International Investment Disputes, the UNCITRAL Guidelines on Mediation for International Investment Disputes, the UNCITRAL Code of Conduct for Arbitrators in International Investment Dispute Resolution and the UNCITRAL Code of Conduct for Judges in International Investment Dispute Resolution.

9. The Nordic countries looked forward to constructive and fruitful negotiations within Working Group IV on the issue of electronic commerce. Of the two important topics on which Working Group V continued to work, namely applicable law in insolvency proceedings, and civil asset tracing and recovery, the Nordic countries had more interest in the first. Nonetheless, they fully supported the approach to discuss both topics simultaneously.

10. The Nordic countries were pleased to see the reintroduction of transport law in the Commission's agenda with the new topic of negotiable multimodal transport documents, which had been assigned to Working Group VI. It was admittedly challenging to negotiate new rules in an area that was already covered by numerous conventions, instruments and practices on different modes of transport, trade and finance. While it was important that the legal framework for international transport enable the flow of electronic transport documents in a multimodal context, it was also essential to meticulously consider the possible risks involved. The Nordic countries were pleased to participate in the ongoing constructive negotiations on the topic.

11. In addition to the negotiations in the working groups, there were also ongoing consultations on areas in which international trade law could effectively support the achievement of the climate action goals set by the international community, as well as the scope and value of legal harmonization in those areas. The Nordic countries valued those efforts and looked forward to further discussions on that important topic.

12. **Ms. Grosso** (United States of America) said that her delegation welcomed the Commission's efforts to retain the hybrid meeting format in addition to returning to in-person meetings, as that would facilitate the widest possible engagement with its work and support its continuation. Her delegation was pleased that the Commission had adopted several instruments submitted by Working Group III concerning procedural reforms

for investor-State dispute settlement. The Code of Conduct for Arbitrators in International Investment Dispute Resolution was a particularly important achievement. It reflected a carefully balanced compromise among delegations that had divergent views, but that had worked in a spirit of compromise to conclude that first reform. The Code set out clearly the expectation that arbitrators would display impartiality, independence, diligence, competence and efficiency when called upon to decide international investment disputes.

13. The Code also regulated two key areas of concern regarding arbitrator ethics: the setting of limits on arbitrators serving in multiple roles, and the requirement of broad disclosure of circumstances that could give rise to a conflict of interest. Those two provisions would help to promote standardization of practices among arbitrators and disputing parties and thus address concerns about the legitimacy of the investor-State dispute settlement process and resulting awards. The Code would also have an impact on the pool of arbitrators in that it would encourage arbitrators to think carefully when accepting appointments. While her delegation welcomed that careful consideration, it would be interested to see how the Code affected the diversity of the arbitrator pool, in terms of profession, gender, geographical representation and legal background.

14. Her delegation also welcomed the Commission's adoption of documents relating to the use of mediation. In its view, the UNCITRAL Model Provisions on Mediation for International Investment Disputes struck the right balance for encouraging the use of mediation. Similarly, the UNCITRAL Guidelines on Mediation for International Investment Disputes were likely to be an important tool for disputing parties and their counsel as they considered whether or not to pursue mediation. The Guidelines might also be useful for mediators early in their career because it contained some key organizational issues that might facilitate successful mediation. The UNCITRAL Guide on Access to Credit for Micro-, Small and Medium-sized Enterprises would undoubtedly assist countries in determining the need for legal reform to facilitate credit for small and medium-sized enterprises.

15. The United States looked forward to the consideration of the UNCITRAL/UNIDROIT model law on warehouse receipts by Working Group I, which would allow for a fuller policy debate on some of the issues left unaddressed during the discussions within UNIDROIT. Her delegation also looked forward to the outcome of various projects being undertaken by the Commission, including the projects on technology-

related dispute resolution and adjudication and on the stocktaking of developments in dispute resolution in the digital economy. Her delegation also expected substantial progress on the projects related to the use of artificial intelligence and automation in contracting, data provision contracts and negotiable cargo documents.

16. Lastly, her delegation congratulated the UNCITRAL secretariat for organizing the Colloquium on Climate Change and International Trade Law, which had been held in July 2023. It also looked forward to the Commission's future work on voluntary carbon credits, in cooperation with UNIDROIT, the Hague Conference on Private International Law and other international organizations.

17. **Mr. Gorke** (Austria) said that the development of international trade law, including through the modernization and harmonization of rules of international business, was vitally important for the private sector. The work on investor-State dispute settlement reform being undertaken in Working Group III was important for States, which had an interest in enhancing legal certainty in order to foster trade and investment. Aware that it was imperative for all members of the Commission to be able to participate in its deliberations, Austria had made another contribution to the trust fund established to provide travel assistance to developing countries that are members of the Commission.

18. His delegation welcomed the progress made in the work of Working Group III, notably the adoption of the UNCITRAL Code of Conduct for Arbitrators in International Investment Dispute Resolution, the adoption in principle of the UNCITRAL Code of Conduct for Judges in International Investment Dispute Resolution, and the adoption of the UNCITRAL Model Provisions on Mediation for International Investment Disputes and the UNCITRAL Guidelines on Mediation for International Investment Disputes. As an essential source of jobs and innovation, small and medium-sized enterprises were the backbone of the Austrian economy. His delegation therefore welcomed the adoption of the recommendations on access to credit for micro-, small and medium-sized enterprises.

19. **Mr. Evseenko** (Belarus) said that his delegation took note of the UNCITRAL Model Provisions on Mediation for International Investment Disputes and the UNCITRAL Guidelines on Mediation in International Investment Disputes. Both instruments provided practical guidance on the use of mediation and reflected the unique features of that method of dispute resolution. The UNCITRAL Code of Conduct for Arbitrators in International Investment Dispute Resolution and the

UNCITRAL Code of Conduct for Judges in International Investment Dispute Resolution were intended to contribute to the establishment of ethical rules to ensure impartiality and eliminate conflicts of interest among arbitrators and judges considering investment disputes. However, the Code of Conduct for Judges had been adopted only "in principle", which showed that the desirability of establishing a standing judicial mechanism was not shared by all at the current stage. His delegation hoped that the adoption of the Code of Conduct for Judges would not be mistakenly perceived as confirmation of the acceptance of a specific option for reforming the dispute settlement system. It hoped that Working Group III would continue to make full use of the expertise of all stakeholders, under the leadership and active participation of Governments, based on consensus and full transparency.

20. His delegation welcomed the recommendations on access to credit for micro-, small and medium-sized enterprises, which were intended to provide simplified and equal access to credit resources for eligible market participants. They contained specific proposals that could be applied by rule-making and regulatory bodies to improve legislation in that area. His delegation also welcomed the draft guidance text on early dismissal and preliminary determination which had been included in the UNCITRAL Notes on Organizing Arbitral Proceedings developed by Working Group II.

21. Among the topics covered by the Commission and its working groups, those concerning investor-State dispute settlement reform, electronic commerce and digitalization, insolvency law and access to credit for micro-, small and medium-sized enterprises continued to be of greatest interest to the Republic of Belarus. His delegation supported the Commission's efforts to organize activities to assist States in adopting its texts and developing, inter alia, online training on international trade law, public procurement and public-private partnerships. Thanks to the wide membership of the Commission, examples from different legal systems, practices and traditions were successfully presented during the discussion of proposals for rule-making in the field of international trade and investment.

22. Belarus welcomed the Commission's activities regarding technical assistance to Member States for reforming their laws concerning international trade and bringing them into line with the Commission's texts. It noted with satisfaction the resumption of regional conferences and seminars held under the auspices of the Commission, as such events represented an effective tool to support the harmonization of laws and law enforcement practices in international trade and other economic activities. His delegation was counting on the

support of the Commission to have similar events held in Belarus and in its region.

23. The Commission continued to maintain a balanced and constructive approach in its activities, procedures and working methods, allowing for optimal solutions and compromise formulations in the drafting of its texts. Belarus would continue cooperating with the Commission in order to minimize and eliminate obstacles to trade flows in the world through the development of both universal international treaties and soft-law instruments.

24. **Mr. Hernandez Chavez** (Chile) said that his delegation commended the UNCITRAL secretariat for helping to facilitate the work of the working groups and to continue holding meetings in hybrid format, thus ensuring greater participation of experts from developing and less developed countries. Chile welcomed the adoption of the recommendations on access to credit for micro-, small and medium-sized enterprises, which were particularly important in the light of World Bank statistics showing that such enterprises accounted for 90 per cent of companies and 50 per cent of jobs worldwide. Chile also commended Working Group II for the adoption of the draft guidance text on early dismissal and preliminary determination of claims in the context of international arbitration, which had been incorporated into the UNCITRAL Notes on Organizing Arbitral Proceedings. Chile also commended Working Group III for finalizing and adopting four reform proposals.

25. The UNCITRAL Model Provisions on Mediation for International Investment Disputes were noteworthy in that they provided practical guidance and allowed the parties to exercise control over the mediation process to reach a self-tailored outcome and preserve their relationship. Another noteworthy achievement was the Code of Conduct for Arbitrators in International Investment Dispute Resolution, which addressed the criticism about the legitimacy of the investor-State dispute settlement system. The Code sought to promote the integrity of and reduce any possible conflicts of interest among arbitrators. Its main provisions reinforced the duty of independence and impartiality of arbitrators, expand the requirements for disclosure of information and regulate the performance of multiple roles by arbitrators.

26. Chile also commended the Commission and its secretariat for their work in coordinating legislative activities with organizations such as the Hague Conference on Private International Law, UNIDROIT and the Permanent Court of Arbitration. It also acknowledged the joint work of the Commission and

International Centre for Settlement of Investment Disputes in the negotiation and preparation of the Code of Conduct for Arbitrators in International Investment Dispute Resolution. The draft model law on warehouse receipts developed by the joint UNIDROIT and UNCITRAL Working Group was an example of the potential outcome of the collaboration between the technical teams of the two organizations.

27. Chile especially thanked the organizers of the UNCITRAL Latin American and Caribbean Day for 2023, an initiative which would help to disseminate the valuable work of Working Group IV among students and academics in the region. Lastly, his delegation welcomed the free online courses available on the Commission's website for the education of professionals in the public and private sectors, as well as the inclusion of new modules on public procurement and public-private partnerships and mediation as part of the course.

28. **Mr. Heidari** (Islamic Republic of Iran) said that his delegation noted with appreciation the finalization of the texts prepared by Working Group III in the context of investor-State dispute settlement reform. The UNCITRAL Model Provisions on Mediation for International Investment Disputes and the UNCITRAL Guidelines on Mediation for International Investment Disputes would facilitate the settlement of investment disputes while allowing the parties to preserve their relationship. The Code of Conduct for Arbitrators in International Investment Dispute Resolution was also a useful tool for the arbitration process and for avoiding unnecessary delays in proceedings. His delegation considered the adoption in principle of the Code of Conduct for Judges in International Investment Dispute Resolution to be premature, since the Code concerned the possible establishment of a standing mechanism, an idea that was still being discussed in Working Group III.

29. The Islamic Republic of Iran welcomed the adoption of the UNCITRAL Guide on Access to Credit for Micro-, Small and Medium-sized Enterprises, which would be particularly useful for developing countries in their efforts to reduce the obstacles faced by small and medium-sized businesses in accessing credit. It was also an appropriate technical tool for financiers and guarantors. However, some of the recommendations contained in the annex to the Guide, notably recommendations 1 and 2, encroached on areas that were unrelated to the topic at hand. His delegation also noted with appreciation the decision by the Commission to include a new Note, entitled "Early dismissal and preliminary determination", into the UNCITRAL Notes on Organizing Arbitral Proceedings. The new Note

would help to reduce unnecessary delays in proceedings and business transactions.

30. The Commission should take a cautious approach and examine the appropriateness of each proposed measure concerning climate change and the law of international trade. Any work on that important issue should be undertaken with due regard for the principle of the common but differentiated responsibilities and respective capabilities of States. Moreover, the adverse effects of unilateral coercive measures on international trade in general and on climate change in particular should be duly addressed. Persons and businesses in sanctions-affected territories did not have access to the technology, equipment or funding needed to meet the requirements of climate change and were not on an equal footing with persons and businesses in non-affected territories. They should therefore be treated differently in terms of legal responsibilities. The Islamic Republic of Iran was also following with interest the exploratory work of the Commission on the digital economy and expressed support for comprehensively addressing various aspects of emerging technologies in the dispute resolution process.

31. The Islamic Republic of Iran commended the UNCITRAL secretariat for its efforts in preparing essential documents, promoting UNCITRAL texts, providing technical assistance and organizing useful events, such as the side event held during the year on quantum of damages in investor-State dispute settlement from the perspective of developing countries. The main idea presented at the event should be further explored and eventually turned into a formal agenda item for the substantive work of the Commission. The Islamic Republic of Iran would continue to make the best use of the texts prepared by the UNCITRAL to improve the efficiency of its legal framework as appropriate.

32. **Ms. Arumpac-Marte** (Philippines) said that her delegation commended the Commission for its efforts during the reporting period to establish fair, stable and predictable legal frameworks, including the finalization and adoption of various texts related to investor-State dispute settlement reform. Her delegation welcomed the finalization and adoption of the recommendations on access to credit for micro-, small and medium-sized enterprises, as well as the adoption in principle of the commentary to the recommendations. Her delegation was pleased about the UNCITRAL Colloquium on Climate Change and International Trade Law held in July 2023 to consider areas in which international trade law could effectively support the achievement of climate action goals set by the international community. The expansion of engagement with academic partners, geared towards young researchers and practitioners in

international trade law, including the UNCITRAL Asia-Pacific Days, was a welcome development that must be sustained.

33. The Philippines expressed its appreciation to the UNCITRAL Regional Centre for Asia and the Pacific, and to the Republic of Korea for its support of the Centre, which had been instrumental in building capacity in international trade law in the Asia-Pacific region. Her delegation welcomed the request made by the Commission to the secretariat to facilitate an open and flexible intersessional consultative process among States Members of the United Nations with a view to developing guidelines on streamlining and simplifying the text of future UNCITRAL draft omnibus resolutions to be adopted by the General Assembly.

34. **Ms. Lito** (United Kingdom) said that her delegation took note of the consideration of a draft model law on warehouse receipts by Working Group VI and welcomed the adoption of the UNCITRAL Guide on Access to Credit for Micro-, Small and Medium-sized Enterprises. Her delegation continued to follow with interest the consideration of the topics of technology-related dispute resolution and adjudication by Working Group II, and also noted the adoption of the guidance text on early dismissal and preliminary determination.

35. The United Kingdom had signed the Singapore Convention on Mediation on 3 May 2023, a sign of its commitment to promoting mediation as an effective dispute resolution method alongside litigation and arbitration, maintaining its position as a centre for international dispute resolution, and building on its long history of leadership in private international law. It looked forward to ratifying the Convention once domestic legislation and court rules were in place in each of its jurisdictions. Her delegation was pleased to have participated in the forty-sixth session of Working Group III (Investor-State Dispute Settlement Reform) and welcomed the progress that had been made across reform options in the past year, but most notably the finalization and adoption of the UNCITRAL Code of Conduct for Arbitrators in International Investment Dispute Resolution and the UNCITRAL Model Provisions on Mediation for International Investment Disputes.

36. The United Kingdom welcomed the continued consideration by Working Group IV of the use of artificial intelligence and automation in contracting, as well as the adoption by the General Assembly of a resolution on the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services in 2022. The Model Law would provide a standard that promoted uniformity in the

development and application of operational rules, policies and practices for identity management in the context of commercial activities and trade-related services. Her delegation looked forward to the timely publication of the accompanying explanatory note to further assist States in enacting the provisions of the Model Law, and for the exemplary guidance it contained.

37. The United Kingdom also welcomed the progress made by Working Group V in seeking to find consensus on the complex area of applicable law in insolvency situations. It also welcomed the continuing work to produce tools that might be useful for States to adopt in tracing assets dissipated in attempts to avoid detection and recovery. They were both worthy and valuable topics for the Working Group to continue considering. The United Kingdom was pleased to participate in the Working Group VI discussions regarding negotiable cargo documents and continued to follow developments in that area with interest. It welcomed the adoption of the United Nations Convention on the International Effects of Judicial Sales of Ships, and would give careful consideration to ratifying or acceding to the Convention in due course.

38. The United Kingdom was pleased to have contributed to the Colloquium on Climate Change and International Trade Law held in July 2023. It welcomed the consideration of climate change issues in respect of the Commission's work and its proposed workstream. While supporting the workstream in principle, the United Kingdom considered that it would provide the most benefit if it had a targeted focus, did not duplicate the work of UNIDROIT and could be delivered within timeframes that reflected the urgency of the climate crisis.

39. **Mr. Attelb** (Egypt) said that his delegation welcomed the work of Working Group III (Investor-State Dispute Settlement Reform) and looked forward to its discussion on such pressing issues as the establishment of an advisory centre on international investment law and the possibility of establishing a standing mechanism to resolve investment disputes. His delegation also attached great importance to the work of Working Group VI (Negotiable Multimodal Transport Documents), which would be of great benefit in the African Continental Free Trade Area.

40. His delegation welcomed all initiatives aimed at addressing the challenge of climate change and had paid close attention to the discussions on how UNCITRAL texts could be aligned with climate change goals. However, it was important not to expand the Commission's mandate in that area, in order to avoid

causing confusion and undermining ongoing efforts regarding international law and climate change. The issue therefore needed further consideration.

41. **Mr. Scott Tan** (Singapore) said that his delegation commended the Commission on the finalization and adoption of the UNCITRAL Model Provisions on Mediation for International Investment Disputes, the UNCITRAL Guidelines on Mediation for International Investment Disputes and the UNCITRAL Code of Conduct for Arbitrators in International Investment Dispute Resolution. It also congratulated the Commission on the adoption in principle of the UNCITRAL Code of Conduct for Judges in International Investment Dispute Resolution. Those texts sent a strong message that mediation was a complementary – and not merely a supplementary – means for the settlement of international investment disputes. Mediation was efficient and affordable; it also preserved the relationship between the disputing parties and encouraged non-zero-sum outcomes.

42. As an international dispute resolution hub, Singapore strongly supported mediation in all disputes. The UNCITRAL mediation texts built on the Commission's previous success with the United Nations Convention on International Settlement Agreements Resulting from Mediation, which Singapore continued to actively promote. His Government welcomed the latest ratifications and the continued strong interest from countries in becoming parties to the Convention. It was noteworthy that the finalization of the UNCITRAL Code of Conduct for Arbitrators in International Investment Dispute Resolution and adoption in principle of the UNCITRAL Code of Conduct for Judges in International Investment Dispute Resolution had only been possible following extensive consultations and because all delegations had shown flexibility during the discussions. The Codes would establish a baseline of ethical standards for further refinement and application by disputing parties in investor-State dispute settlement proceedings.

43. His delegation congratulated the People's Republic of China on the successful signing ceremony for the Beijing Convention on the Judicial Sale of Ships, held in Beijing on 5 September 2023. Singapore had been among the fifteen original signatories to the Convention. As a leading international maritime hub, Singapore welcomed the Convention, which established a harmonized regime for giving international effect to judicial sales of ships and ensured legal certainty for all relevant stakeholders.

44. Singapore commended the Commission on the adoption of the UNCITRAL Guide on Access to Credit

for Micro-, Small and Medium-sized Enterprises. Access to credit was critical for small and medium-sized enterprises, which accounted for the major share of businesses in many parts of the world. The Guide dealt with many relevant issues, especially legal obstacles to access to credit for such enterprises, and was an important addition to the Commission's series of texts on small and medium-sized enterprises. Singapore also congratulated the Commission on the finalization and adoption of the guidance text on early dismissal and preliminary determination for inclusion in the UNCITRAL Notes on Organizing Arbitral Proceedings. The text would be of great assistance to disputing parties.

45. Lastly, Singapore continued to be a strong supporter of the broader work of the Commission. In 2023, it had co-organized, with the UNCITRAL secretariat, the UNCITRAL Academy as part of the Singapore Convention Week 2023 and the sixth intersessional meeting of Working Group III. It was pleased to have received feedback that participants at the intersessional meeting had benefited from the rich, candid and in-depth discussions on important and fundamental questions relating to the possible establishment of a standing mechanism and an appellate mechanism to resolve investment disputes.

46. **Mr. Sánchez Cordero** (Mexico), welcoming the progress made by Working Group III, said that the adoption of the UNCITRAL Code of Conduct for Arbitrators in International Investment Dispute Resolution and adoption in principle of the UNCITRAL Code of Conduct for Judges in International Investment Dispute Resolution represented significant progress towards addressing the challenges associated with the lack of independence and impartiality that had been identified in the investment dispute resolution system. His delegation also welcomed the adoption of the UNCITRAL Guide on Access to Credit for Micro-, Small and Medium-sized Enterprises, as it would help ensure that national frameworks fostered the growth of such enterprises in the first years of their life cycles, which would in turn strengthen the global economy.

47. His delegation encouraged the Commission to continue its work pertaining to new realities related to digital trade and artificial intelligence. It should also continue its engagement with other relevant private international law organizations that had been working on the topic recently, in order to share the experience and technical and legal analysis that had been developed in depth in Working Group IV. Mexico was pleased that the fourth UNCITRAL Latin American and Caribbean Days event would be focused on digital trade. The Latin American and Caribbean Days had had a significant

impact in terms of raising awareness of the Commission's work among students and legal professionals in the region.

48. Mexico commended the UNCITRAL secretariat for the exploratory work it had carried out regarding the intersection between international trade law instruments and action to combat and mitigate climate change. His delegation welcomed the Commission's coordination with UNIDROIT on the cross-cutting topic of climate change and supported the proposed joint initiative to be carried out by UNCITRAL, the Hague Conference on Private International Law and UNIDROIT to develop a taxonomy for identifying the questions of international trade law, private law and private international law that had an impact on emission reduction activities under the international framework on climate change.

49. **Ms. Zhao Yanrui** (China) said that her Government had actively supported and engaged in the Commission's work, with a view to contributing to the harmonization and modernization of international trade law and the development of global trade. China commended the Commission for its recent efficient and fruitful session. It particularly welcomed the finalization of a number of texts, which would facilitate access to credit for micro-, small and medium-sized enterprises, enhance the efficiency of arbitral proceedings and assist States in enhancing their domestic laws on various areas of trade law.

50. The signing ceremony for the Beijing Convention on the Judicial Sale of Ships had been held in Beijing on 5 September 2023. It had been attended by representatives of 34 countries and regions, 15 of which had signed the Convention. China encouraged other States and regional economic integration organizations to consider signing the Convention soon, in order to contribute to the sound development of international trade and improve the rule of law in maritime trade.

51. **Ms. Motsepe** (South Africa) said that the texts developed by UNCITRAL over the years had been of great benefit to States. Given the importance of foreign investment to developing countries, her Government particularly welcomed the finalization and adoption of the UNCITRAL Model Provisions on Mediation for International Investment Disputes and the UNCITRAL Guidelines on Mediation for International Investment Disputes, which provided a framework for the mutually agreeable resolution of international investment disputes without resorting to the courts. At the national level, South Africa had adopted a law in 2015 to foster an open and transparent environment for foreign investment, striking a balance between the rights and

obligations of investors, both domestic and foreign, and those of the State.

52. Her delegation was encouraged to note that the negotiations on the UNCITRAL Code of Conduct for Arbitrators in International Investment Dispute Resolution and the UNCITRAL Code of Conduct for Judges in International Investment Dispute Resolution had finally been concluded. The two texts would significantly improve the fairness, objectivity and transparency of legal proceedings and ensure the independence and impartiality of judges and arbitrators. While her delegation appreciated the convening of the UNCITRAL Colloquium on Climate Change and International Trade Law and recognized that everyone had a role to play in addressing climate change, it reiterated its position that the United Nations Framework Convention on Climate Change was the most appropriate forum for such discussions and that any duplication of effort must be avoided.

53. **Ms. Tran Thi Phuong Ha** (Viet Nam) said that UNCITRAL was playing an expanding role in the development of a legal framework for the facilitation of international trade. Her Government highly valued the Commission's efforts to formulate model laws taking into account contemporary issues and technological advancements. Her country had recently amended its law on electronic transactions on the basis of the UNCITRAL Model Law on Electronic Commerce.

54. As a member of UNCITRAL, Viet Nam welcomed the positive outcome of the work of the Commission and its working groups over the past year. It particularly commended the progress made by Working Group III on the four texts concerning investor-State dispute settlement reform, which marked a key milestone in the third phase of the Working Group's mandate. Those texts should be disseminated widely, including to Member States, arbitrators and other legal practitioners. The Working Group should maintain its current momentum, adhere to its programme of work and consider all reform options in a comprehensive and balanced manner. Her delegation supported the allocation of an additional one-week session per year to the Working Group in order to facilitate its work. Viet Nam attached great importance to investor-State dispute settlement reform, given its concerns about the existing dispute settlement mechanisms. The discussions within Working Group III should be aimed not only at bringing about the necessary reform but also at fostering responsible investment and sustainable development.

55. Viet Nam encouraged the UNCITRAL secretariat to continue disseminating and raising awareness of the Commission's texts and assisting States in the application

of those texts. It looked forward to continuing to collaborate with UNCITRAL with a view to promoting equitable global trade and the implementation of the 2030 Agenda for Sustainable Development.

56. **Mr. Mora Fonseca** (Cuba) said that the establishment of UNCITRAL had enabled developing countries to participate more actively in the harmonization, modernization and unification of international trade law. The Commission must ensure that its structure, composition and working methods continued to be inclusive and consistent with the principle of the sovereign equality of States, in order to ensure the universal acceptance of its texts.

57. Constantly evolving technologies and the diversity of commercial activities posed challenges for the codification of international trade law. The Commission must nevertheless keep pace with developments in that field. The coronavirus disease (COVID-19) pandemic and unilateral coercive measures had hampered global trade on a much wider scale than in prior years and continued to hinder progress on the Commission's broader objective of promoting international trade.

58. His delegation recognized the progress made by the Commission at its fifty-sixth session, including the finalization and adoption of several texts. Cuba had made combating climate change a priority in its macroeconomic and trade policies and, therefore, particularly welcomed the holding of the UNCITRAL Colloquium on Climate Change and International Trade Law. The Colloquium represented another step towards the achievement of international climate objectives and legal harmonization and the provision of relevant guidance for legislators, policymakers, courts and dispute settlement bodies.

59. **Ms. Flores Soto** (El Salvador) said that the UNCITRAL working groups made a valuable contribution to the codification of international trade law. El Salvador had recently signed the Beijing Convention on the Judicial Sale of Ships and encouraged other States to do likewise. Her delegation welcomed the adoption of the UNCITRAL Guide on Access to Credit for Micro-, Small and Medium-sized Enterprises, which was aimed at reducing the legal obstacles that such enterprises could face throughout their life cycles. Her delegation also welcomed the holding of the UNCITRAL Latin American and Caribbean Days and intended to organize an event on its national law on electronic commerce under that framework.

60. As a current member of UNCITRAL, El Salvador also shared the Commission's satisfaction with the secretariat's efforts to cooperate with other

organizations and entities, both within and outside the United Nations system, to help prevent duplication of work and promote efficiency, uniformity and coherence in the unification and harmonization of international trade law. Her delegation remained committed to working with UNCITRAL to promote the adoption and use of legislative and non-legislative instruments and strengthen national legal systems in international trade law.

61. **Ms. Nachom** (Thailand) said that as an active member of UNCITRAL and an aspiring regional centre for business and commerce, Thailand was convinced that the removal of legal obstacles to international trade and the progressive harmonization of international trade law were crucial to ensuring that all were able to benefit from such trade.

62. Her delegation welcomed the work conducted by all six of the Commission's working groups over the past year. In particular, it commended the finalization and adoption of the UNCITRAL Guide on Access to Credit for Micro-, Small and Medium-sized Enterprises, which should help her country in strengthening and diversifying its economy; the guidance text on early dismissal and preliminary determination, which would be a useful supplement to the UNCITRAL Notes on Organizing Arbitral Proceedings; and the first set of texts concerning investor-State dispute settlement reform, which would pave the way for a more effective and balanced system. Her delegation recognized the adoption in principle of the UNCITRAL Code of Conduct for Judges in International Investment Dispute Resolution, but noted that the text would need to be further refined in the light of developments that might take place in the coming years.

63. Thailand commended the successful organization of the UNCITRAL Colloquium on Climate Change and International Trade Law and would support efforts by the Commission to explore its potential role in efforts to combat climate change. Thailand reiterated its commitment to the work of UNCITRAL and, in particular, its readiness to host an intersessional meeting of Working Group III, possibly on the topic of the establishment of an advisory centre on international investment law. The establishment of such a centre should be a high priority for the Working Group.

64. **Mr. Milano** (Italy) said that his delegation welcomed the progress made by Working Group III on the first set of texts concerning investor-State dispute settlement reform, in particular the adoption in principle of the UNCITRAL Code of Conduct for Judges in International Investment Dispute Resolution. Investor-State dispute settlement reform was critical for the

future governance of international trade and investment. Italy trusted that the Working Group would continue to make tangible progress, including on the structural reform of investor-State dispute settlement, at its upcoming sessions.

65. His delegation had participated actively in the negotiations on the recommendations on access to credit for micro-, small and medium-sized enterprises and welcomed the successful completion of the Commission's work on the topic. It was convinced that the recommendations would help reduce the legal obstacles faced by such enterprises in international, regional and national markets throughout their life cycles. Italy was pleased that the Commission had entrusted Working Group I with the preparation of a text on warehouse receipts on the basis of the important work already carried out by UNIDROIT. It also welcomed the progress made by Working Group IV on data provision contracts and automated contracting. Lastly, Italy encouraged the Commission to expand its cooperation with UNIDROIT and the Hague Conference on Private International Law.

66. **Ms. Bhat** (India) said that her delegation was pleased that the second UNCITRAL South Asia Conference had been held in her country in September 2023, with more than 1,800 in-person and virtual participants. It greatly appreciated the efforts of Working Group I to develop the UNCITRAL Guide on Access to Credit for Micro-, Small and Medium-sized Enterprises. The recommendations contained therein were consistent with General Assembly resolution [77/160](#), in which the Assembly had recognized the importance of encouraging the participation and growth of micro-, small and medium-sized enterprises, in particular those owned by women, in international, regional and national markets. Her delegation agreed with the Commission that the guidance provided by its texts on simplification of business incorporation and registration, simplified legal forms for micro-, small and medium-sized enterprises, security interests and insolvency for micro-, small and medium-sized enterprises could assist States in creating a sound legal framework that promoted access to credit for small businesses.

67. Her delegation took note of the work undertaken by the Working Group II on technology-related dispute resolution and adjudication and on ways to further accelerate the resolution of disputes. That work had resulted in the adoption of the guidance text on early dismissal and preliminary determination for inclusion in the UNCITRAL Notes on Organizing Arbitral Proceedings. India welcomed the outcome of the deliberations on investor-State dispute settlement

reform and noted with appreciation the progress made by Working Group III on the draft provisions on mediation. Mediation was still an underutilized method of dispute settlement, and work on the question would encourage parties to conduct mediation, where appropriate, on a voluntary basis. Mediation was not only a cost-effective and time-saving method of dispute settlement, but also allowed the parties to preserve their relationship.

68. The UNCITRAL Mediation Rules and the Guide to Enactment and Use of the UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation (2018) were of immense value to the parties to mediation proceedings, mediators and mediation institutions. They could also be used for academic and training purposes. The draft legislative guide on investment dispute prevention and mitigation should be transformed into a non-prescriptive guidance document, aimed primarily at States. In that regard, the UNCITRAL secretariat should continue to compile information on best practices, while avoiding a one-size-fits-all approach.

69. As a subsidiary body of the General Assembly, the Commission could play a valuable role in global climate change mitigation, adaptation and resilience efforts. However, any future work in that direction should be consistent with existing international law and treaties on climate change. Due regard should be given to the principle of common but differentiated responsibilities and the respective capabilities of States. Furthermore, such work should be guided by the principle of equity, reflect differing national circumstances, and be based upon respect for national sovereignty over natural wealth and resources. Above all, any measures taken must not permit arbitrary or unjustifiable discrimination or serve as a pretext for placing restrictions on international trade.

70. Technical cooperation and assistance to help developing countries adopt and use the Commission's texts remained important. In that regard, her delegation was pleased to note that the UNCITRAL secretariat had continued to hold and participate in numerous activities remotely and to focus on beneficiary countries with lower levels of development and countries from the Latin America and the Caribbean and African regions.

71. India was pleased to note that the outreach and capacity-building activities led by the UNCITRAL secretariat, including through its online and social media presence, had generated increased interest in UNCITRAL among a broad audience, including some that had not previously engaged with the Commission.

It also welcomed the secretariat's work on the digests of case law related to the Commission's texts and the increase in the number of abstracts of cases available through the Case Law on UNCITRAL Texts (CLOUT) system.

72. **Mr. Ikondere** (Uganda) said that the Commission was to be congratulated for the adoption of six legislative texts, including the three texts related to investor-State dispute settlement reform resulting from several years of work by Working Group III. His delegation recommended that States consider including the provisions of the UNCITRAL Model Provisions on Mediation for International Investment Disputes in their national laws and requested the Secretary-General to publish the Model Provisions, including electronically, in the six official languages of the United Nations, and to disseminate them broadly to Governments and other interested bodies.

73. His delegation agreed that the proposed guidance document on legal issues relating to the use of distributed ledger systems in trade could provide explanations useful to commercial operators, especially micro-, small and medium-sized enterprises and operators located in developing countries, such as Uganda, in assessing whether distributed ledger technology-enabled services addressed their needs, and the impact of the use of such services on their business. Raising awareness of those legal issues could also promote greater security and sustainability in digital transformation efforts, including within the United Nations system.

74. His delegation wished to commend the progress made by Working Group II in recent years, in particular the finalization of the explanatory note to the UNCITRAL Expedited Arbitration Rules, and expressed its appreciation to the secretariat for presenting the legislative options with regard early dismissal and preliminary determination, based on the deliberations of the Working Group. Further work on dispute settlement would do much to save States the costs of protracted litigation.

75. Uganda commended the progress made by Working Group III (Investor-State Dispute Settlement Reform) in the third phase of its mandate, which was to develop concrete reform elements to be recommended to the Commission. It also commended the Working Group for completing the first reading of the draft code of conduct for adjudicators and for considering the selection and appointment of investor-State dispute settlement tribunal members to a standing multilateral mechanism during its recent sessions. His delegation appreciated the secretariat's close cooperation with the

secretariat of the Organisation for Economic Co-operation and Development on shareholder claims and reflective loss.

76. Uganda supported the Commission's further expansion of its engagement with academic partners, geared towards young researchers and practitioners in international trade law, including the UNCITRAL Asia-Pacific Days, the UNCITRAL Latin American and Caribbean Days and the UNCITRAL Days in Africa. The inaugural Days in Africa series, held in 2022, had provided an opportunity to raise awareness among institutions of higher learning that might host activities in the future. The Days in Africa provided an extremely valuable opportunity for African countries to develop legal infrastructure that would allow them to benefit from the digital economy. His delegation's priorities in that regard included the establishment of a harmonized legal framework for the fair and efficient settlement of international disputes, as well as the promotion of transparency, accountability and good governance in the international commercial law framework.

77. **Mr. Alenezi** (Kuwait) said that, as part of its national development plan, his Government sought to turn Kuwait into an international financial and commercial hub. In that context, it was implementing a public-private partnership programme to promote private sector investment in infrastructure development. International trade law was extremely important to his Government, as several major projects involving cooperation with international companies were currently under way.

78. His Government also attached great importance to the development of the law related to electronic commerce. Kuwait had consistently been an early adopter of the newest digital technologies and was currently working to use modern technology to achieve inclusive sustainable development through international trade. To ensure that its laws on electronic commerce were effective, it had adopted accompanying legislation to combat cybercrime, which would protect the interests of investors.

79. The role of UNCITRAL in the elaboration of international instruments should be enhanced, in order to promote the development of a fair framework for international trade. The Commission's work to strengthen economic and commercial international relations should also be intensified. A strong framework for international trade and respect for the rule of law would, together, promote global economic development and prosperity, which would in turn promote sound international relations. His delegation also wished to highlight the importance of the Commission's work to

establish an international legal framework for the settlement of disputes.

80. **Ms. Tabuteau-Mangels** (France) said that investor-State dispute settlement reform was a priority for her Government. Her delegation therefore welcomed the allocation of an additional week of conference time per year to Working Group III, which had allowed the Working Group to deliver the first tangible results of its work on the topic since the commencement of deliberations in 2017, namely the adoption of the UNCITRAL Model Provisions on Mediation for International Investment Disputes and the UNCITRAL Code of Conduct for Arbitrators in International Investment Dispute Resolution, and the adoption in principle of the UNCITRAL Code of Conduct for Judges in International Investment Dispute Resolution. The Codes of Conduct would apply to arbiters and judges appointed to a future standing multilateral mechanism for the settlement of investment disputes that might be established as part of the structural reform of investor-State dispute settlement. It was crucial to ensure that Working Group III had the necessary human and financial resources to complete its work on the topic within a reasonable time frame.

81. France welcomed the Commission's efforts to broaden the scope of its activities to encompass relevant areas such as the digital economy and climate change. Her delegation was particularly interested in the promising new practices that had come to light as a result of the project on the stocktaking of developments in dispute resolution in the digital economy.

82. With regard to the Commission's working methods, it was worth recalling that France and Switzerland had suggested some basic rules for the conduct of the remote informal consultations that had been taking place since the time of the COVID-19 pandemic. The suggestions were aimed at ensuring transparency and respect for the rules regarding the Commission's working languages, bearing in mind that the working groups were carrying out mandates conferred upon them by the Commission.

83. **Mr. Choi Taeun** (Republic of Korea) said that his country was striving to strengthen its role as a "global pivotal State", and one of its key policy goals was to improve its laws and systems to meet global standards. The Republic of Korea had been actively participating in UNCITRAL discussions and enhancing its cooperation with the Commission through the UNCITRAL Regional Centre for Asia and the Pacific.

84. His delegation welcomed the adoption of the UNCITRAL Model Provisions on Mediation for International Investment Disputes, the UNCITRAL

Guidelines on Mediation for International Investment Disputes and the UNCITRAL Code of Conduct for Arbitrators in International Investment Dispute Resolution, and the adoption in principle of the UNCITRAL Code of Conduct for Judges in International Investment Dispute Resolution, which had been discussed in Working Group III (Investor-State Dispute Settlement Reform). Those texts would greatly contribute to the prevention of disputes at an early stage and to the independence and transparency of arbitrators and judges. His Government would spare no effort to fulfil its responsibilities as a member of the international community and would continue to support the work of Working Group III.

85. The UNCITRAL Regional Centre for Asia and the Pacific was intensifying its efforts to enhance the capacity of, and provide legislative support to, Member States in the region. The Republic of Korea welcomed the work undertaken by the Regional Centre to assist public, private and civil society initiatives aimed at promoting international trade and development, and would continue to support the Centre with financial and human resources. In September 2023, the Regional Centre and the Ministry of Justice of the Republic of Korea had co-hosted the third Incheon Law and Business Forum, on the theme “From Documents to Data: Legal and Commercial Solutions for Digital Trade”. In November 2023, UNCITRAL and the Ministry of Justice would co-host a special session on investor-State dispute settlement reform at the Seoul Alternative Dispute Resolution Festival, with a view to raising awareness of recent developments in the Commission’s work on the topic.

86. **Mr. Escobar Ullauri** (Ecuador) said that his Government recognized the work of the Commission, which served to facilitate economic cooperation among all States on the basis of equality, equity, common interest and respect for the rule of law, as well as to prevent duplication of work among the organizations that developed international trade law standards. His delegation welcomed the results of the Commission’s fifty-sixth session; in particular, the finalization and adoption of the UNCITRAL Model Provisions on Mediation for International Investment Disputes, the UNCITRAL Guidelines on Mediation for International Investment Disputes and the UNCITRAL Code of Conduct for Arbitrators in International Investment Dispute Resolution, and the adoption in principle of the UNCITRAL Code of Conduct for Judges in International Investment Dispute Resolution. The adoption of those instruments was an important step towards fulfilling the mandate of Working Group III

and, therefore, improving the investor-State dispute settlement system.

87. His delegation also welcomed the finalization and adoption of the recommendations on access to credit for micro-, small and medium-sized enterprises, which would contribute to the development of national policies to support those enterprises, which played a fundamental role in production and job creation in developing countries. In that connection, the UNCITRAL secretariat should continue to provide technical assistance to help developing countries develop their capacities in international trade law.

88. Lastly, his delegation stressed the importance of the trust fund established to provide travel assistance to developing countries that are members of UNCITRAL. It welcomed the contribution made by Austria to the fund at the fifty-fifth session, as well as the multi-year contributions of Switzerland and the European Union, and joined the call by the UNCITRAL secretariat for other States and organizations to contribute to the fund.

89. **Mr. Nagano** (Japan) said that, on 1 October 2023, Japan had acceded to the United Nations Convention on International Settlement Agreements Resulting from Mediation, which established a framework for the enforcement of international settlement agreements resulting from mediation, with a view to promoting the use of mediation to resolve international commercial disputes. Prior to its accession to the Convention, Japan had not had legal frameworks for the enforcement of international settlement agreements, such that its people had used arbitration more than mediation to resolve such disputes. Japan intended to play a leading role in encouraging other States to accede to the Convention.

90. Japan appreciated the support of Member States and the extraordinary efforts undertaken by the secretariat to make progress on the stocktaking project on dispute resolution in the digital economy which it had proposed at the Commission’s fifty-fourth session. Recognizing the significance of the work to be carried out, Japan had contributed the funds necessary to implement the project in its second year and stood ready to contribute the funds needed for the third year. Japan looked forward to continuing to collaborate with the secretariat, interested States and other stakeholders on its implementation.

91. **Ms. Abd Karim** (Malaysia) said that her delegation took note of the finalization and adoption of the UNCITRAL Guide on Access to Credit for Micro-, Small and Medium-sized Enterprises, the guidance text on early dismissal and preliminary determination, the UNCITRAL Model Provisions on Mediation for International Investment Disputes, the UNCITRAL

Guidelines on Mediation for International Investment Disputes and the UNCITRAL Code of Conduct for Arbitrators in International Investment Dispute Resolution, as well as the adoption in principle of the UNCITRAL Code of Conduct for Judges in International Investment Dispute Resolution. Those instruments would serve as guidance for Member States and would facilitate international trade and investment procedures.

92. Her delegation acknowledged the efforts made by Working Groups II and III to improve alternative dispute resolution procedures and their consideration of the possibility of establishing a standing multilateral mechanism for international investment disputes. Procedural issues being discussed included the scope of the standing tribunal, its jurisdiction and the selection of its members. However, it was also important to address non-procedural matters, including the professionalism of the adjudicators and the issue of third-party funding, particularly for investors without sufficient financial resources to cover the costs of bringing arbitration claims against host States. Greater transparency was also needed with regard to such funding, as the entities involved generally preferred not to disclose information on their role to the other parties to the dispute or to the arbitrators. Third-party funding should be regulated, with clear rules and procedures, in order to minimize the risk of abuse.

93. **Mr. Mead** (Canada) said that his delegation had taken note of the adoption of the UNCITRAL Model Provisions on Mediation for International Investment Disputes, the UNCITRAL Guidelines on Mediation for International Investment Disputes and the UNCITRAL Code of Conduct for Arbitrators in International Investment Dispute Resolution, and the adoption in principle of the UNCITRAL Code of Conduct for Judges in International Investment Dispute Resolution. His delegation looked forward to the completion of work to reform investor-State dispute settlement processes. Canada also welcomed the Commission's adoption of the UNCITRAL Guide on Access to Credit for Micro-, Small and Medium-sized Enterprises. The recommendations contained therein would support the achievement of several of the Sustainable Development Goals by facilitating access to credit by women entrepreneurs and entrepreneurs from disadvantaged groups.

94. His delegation noted the progress of work on civil asset tracing and recovery tools and on the law applicable in insolvency proceedings. The latter was especially useful as cross-border insolvency proceedings were becoming increasingly common. His delegation was pleased with the progress of the joint

work of the Commission and UNIDROIT to develop a model law on warehouse receipts. An important aspect of the project would be to provide a structure that would enable the use of electronic warehouse receipts in financing and trade.

95. His delegation noted the valuable discussions that had taken place in the context of the Colloquium on Climate Change and International Trade Law and during the session. It supported the Commission's planned work on a detailed study of the aspects of international trade law related to voluntary carbon credits, and was pleased that that exploratory work would involve further collaboration with UNIDROIT and many other organizations with relevant expertise and Member States, in particular developing countries.

96. His delegation recognized the Commission's ambitious and forward-looking work programme, notably its planned work on the digital economy. In order for the Commission to remain relevant in the field of international trade law, it was important for it to address subjects that posed clearly defined legal problems and that could benefit from workable solutions in a global context. His delegation looked forward to working with other Member States and the secretariat between sessions with a view to streamlining and simplifying the text of future draft omnibus resolutions to be adopted by the General Assembly.

97. **Ms. Bouziane** (Morocco) said that the Commission's participatory approach to its work, including with respect to developing countries, facilitated in-depth reflection on the reform of the legal and procedural regimes applicable to international trade law, including investment arbitration and the settlement of investment disputes. That reform, to which Morocco attached great importance, would foster responsible international investment, contribute to the fight against fraudulent practices and the establishment of an investor-State dispute settlement system that was fair and equitable and that offered equal protection to foreign investors, while preserving the right of States to regulate foreign investments in their territory in accordance with the legitimate aims of their public policies.

98. Her country's proactive, consistent participation in the various sessions of the Commission and its working groups, as well as in intersessional meetings, had culminated in its election to the Commission. Morocco had undertaken structural reforms aimed at modernizing its legal framework governing various economic sectors which were related to the work of the Commission. Morocco had also reformed its legal framework governing business and investment to align it with

international standards, including those set by the Commission.

99. Morocco was embarking on a new era of international trade cooperation and liberalization with its foreign partners, with the conclusion and revision of free trade agreements and agreements on the promotion and protection of investments based on models derived from the legal rules of the Commission. In addition, it had focused its efforts on the development of new methods of dispute settlement through arbitration and mediation, electronic commerce, micro-, small and medium-sized enterprises, insolvency and the transportation sector.

100. Morocco, which welcomed the joint efforts of the Commission and its member States with regard to technical assistance, recognized the value of such activities to help States to improve their domestic legal systems and ensure that they were in conformity with the Commission's legal rules. However, in order to harmonize State practice in international trade law, the Commission should further expand the scope of its activities in that regard to developing countries. It should also increase its efforts to meet the needs of its member States, notably the developing countries, by providing them with the appropriate technical assistance to enable them to better assimilate and understand the Commission's body of legal texts. Demands on the Commission were growing as a result of global changes that affected the international economy and the needs of its member States. The Commission and its member States should continue to work together to develop trade solutions that would strengthen international peace and stability.

101. **Mr. Khokhar** (Pakistan) said that his country had been an active member of the Commission and its working groups for a considerable period. His delegation took note of the finalization and adoption of the UNCITRAL Model Provisions on Mediation for International Investment Disputes, the UNCITRAL Guidelines on Mediation for International Investment Disputes and the UNCITRAL Code of Conduct for Arbitrators in International Investment Dispute Resolution, as well as the adoption in principle of the UNCITRAL Code of Conduct for Judges in International Investment Dispute Resolution.

102. With respect to Working Group I, Pakistan recognized the importance of reducing the legal obstacles faced by micro-, small and medium-sized enterprises throughout their life cycles, in particular in developing economies. His delegation remained actively involved in the ongoing discussions within Working Group III (Investor-State Dispute Settlement

Reform). It hoped that the UNCITRAL Code of Conduct for Arbitrators in International Investment Dispute Resolution and the UNCITRAL Code of Conduct for Judges in International Investment Dispute Resolution, which had been developed by the Working Group, would help to mitigate the concerns of developing countries concerning the composition of arbitral tribunals and the overall fairness of arbitral proceedings.

103. With regard to the work of Working Group III, the quantum of damages in arbitral awards was the single most important issue in the investor-State dispute settlement reform process. At the fifty-sixth session, Pakistan had organized a side event to highlight the significance of the issue from the perspective of developing countries in the global South. It was crucial to develop clear, objective guidelines for determining damages in investor-State dispute settlement cases. That could be achieved, for example, by moving away from models based on speculative projections of future revenue, such as the discounted cash flow method, and focusing instead on assessing damages against actual investments, and, more generally, the development of scientific criteria for quantifying damages.

104. In its future work on the reform process, the Working Group should pay more attention to the subject of damages, as the magnitude of damages awarded against States in recent years had been a primary critique of investment arbitration. The Working Group should also consider the limited resources at the disposal of developing States and the technical challenges they faced, which limited their effective participation in informal sessions. It should reconsider the adoption of prospective reform elements on a rolling basis, because they might not provide the opportunity for issues of particular interest to developing States to be addressed promptly. The Working Group should also bear in mind that the success and reliability of the reforms initiative hinged on the comprehensive and active participation of both developed and developing countries.

105. The Commission's secretariat played a clear pivotal role, offering valuable insight concerning the trajectory, substance and scope of potential reforms. While UNCITRAL was undertaking groundbreaking reforms on investor-State dispute settlement, it might be valuable for it to review ongoing investor-State dispute settlement cases against States and suggest capping arbitral awards, and, potentially, establishing a moratorium on awarding damages against sovereign States. His delegation appreciated the secretariat's preparation of high-quality documentation, including the draft provisions on an advisory centre on international investment law and texts on a number of procedural and cross-cutting issues, and the support it

provided to the delegates of developing States with a view to promoting inclusivity.

106. **Mr. Skachkov** (Russian Federation) said that his delegation welcomed the finalization of a number of texts through Working Group III (Investor-State Dispute Settlement Reform), which would serve as further evidence of the Commission's success in its effort to progressively develop and harmonize international trade law. In its future work, the Working Group should adopt a cautious and balanced approach based on broad consensus and the objective outcomes of the analysis of existing investor-State dispute settlement mechanisms. It should also take into consideration the special characteristics of the legal relationships pertaining to investment and regional peculiarities in investment regulations.

107. His delegation commended the secretariat for the work carried out pursuant to a joint initiative put forward by the Republic of Armenia, the Russian Federation and the Socialist Republic of Viet Nam to address the consequences of the coronavirus disease (COVID-19) pandemic on international trade. His delegation was convinced that the Commission would be able to contribute to the fight against the negative repercussions of the pandemic and also to the creation of a more stable legal environment for the development of international trade in the future, and hoped that the topic would be developed further.

108. The Commission's consideration of climate issues should be undertaken solely within the confines of its mandate and within the framework of the existing international institutional and regulatory system, and any texts resulting from its work on the topic should only be recommendatory in nature.

109. **Ms. Sabo** (Chair of the United Nations Commission on International Trade Law) said that the Commission appreciated the support that it consistently received from the Sixth Committee. States' participation in the work of the Commission had made 2023 a productive year. With the continued support of States and of the UNCITRAL secretariat, she was confident that the Commission would continue to deliver on its mandate and on its work programme.

Agenda item 170: Observer status for the International Parliamentarians' Congress in the General Assembly (A/78/141 and A/C.6/78/L.2)

Draft resolution A/C.6/78/L.2: Observer status for the International Parliamentarians' Congress in the General Assembly

110. **Mr. Akram** (Pakistan), introducing the draft resolution, said that the International Parliamentarians' Congress had been established in 2019 by the Senate of Pakistan. It was a worldwide network of legislators working on critical issues such as climate change, human rights and peace and security. Its areas of focus aligned with the core objectives of the United Nations. The Congress aimed to promote collaboration among individual parliamentarians by facilitating open dialogue and mutual understanding. It also served as a platform for parliamentarians to exchange ideas, which not only contributed to global legislative synergies, but also supported the development of policies that addressed shared global challenges and drove common objectives. The Congress currently had 198 individual members from 52 countries. Granting it observer status would bolster its international engagement and help it to build more robust relationships with different Member States and multilateral agencies and entities. In addition, by drawing on a wider range of perspectives, it would support the United Nations to better build shared responses to the challenges currently confronting the world. The support of Member States for the draft resolution would demonstrate their shared commitment to an inclusive, global world order based on cooperation.

111. **Ms. Bhat** (India) said that the International Parliamentarians' Congress was not an intergovernmental organization and therefore did not meet the criteria set out in General Assembly decision 49/426. In addition, the Inter-Parliamentary Union, another world organization of parliaments, already had observer status in the General Assembly, pursuant to Assembly resolution 57/32. Her delegation wished to know how the International Parliamentarians' Congress would add value to the work of the Assembly.

112. **Ms. Patton** (United States of America) said that in its decision 49/426 of 9 December 1994, the General Assembly had decided to limit eligibility for observer status to States and to those intergovernmental organizations whose activities covered matters of interest to the Assembly. While the United States welcomed the goals of the International Parliamentarians' Congress, it believed that the Congress was not eligible for observer status because it was not an intergovernmental organization: its

membership was not made up of States, but rather, of individual members of national parliaments. It had also been created by a resolution of the Senate of Pakistan, and not as part of an international agreement between sovereign States.

113. In its resolution [71/156](#), the General Assembly had not intended to create a new, potentially limitless category of exceptionally unique organizations. To the contrary, it had emphasized that the eligibility criteria in its decision 49/426 remained unchanged. The United States was concerned that additional exceptions would eventually render the General Assembly's decision meaningless, essentially changing the rule without debate on the merits of abandoning the criteria. The United States supported the objectives of the International Parliamentarians' Congress, and supported the inclusion of the perspectives of such organizations in United Nations deliberations. However, it could not support the request for observer status.

114. **Mr. Akram** (Pakistan) said that, in the past, the Sixth Committee had taken decisions which did not fully conform to the high standards referred to by the representative of the United States. If the eligibility criteria had been applied strictly, a number of intergovernmental and other organizations which had been granted observer status would not have been considered eligible for such status. The rules of the General Assembly must be applied consistently. If the draft resolution under consideration was not adopted, his delegation would initiate consultations to examine the status of other organizations which had been granted observer status contrary to the rules which had been cited.

Agenda item 171: Observer status for the Organization of Ibero-American States for Education, Science and Culture in the General Assembly ([A/78/191](#) and [A/C.6/78/L.3](#))

Draft resolution [A/C.6/78/L.3](#): Observer status for the Organization of Ibero-American States for Education, Science and Culture in the General Assembly

115. **Ms. Squeff** (Argentina), introducing the draft resolution on behalf of the sponsors, said that Brazil, Honduras and Mexico had become sponsors of the draft resolution. The Organization of Ibero-American States for Education, Science and Culture was an intergovernmental organization for cooperation in the fields of education, science, technology and culture. It had been founded in 1949 as the Ibero-American Education Office and, in 1954, had been transformed into an intergovernmental organization. It was currently composed of 23 Ibero-American States and was

governed by three main bodies: a general assembly, a governing council and a general secretariat. The headquarters of the general secretariat was in Madrid, and the Organization had offices in 19 of its 23 member countries. Its work was linked to the work of the General Assembly and aligned with the 2030 Agenda for Sustainable Development. It embodied a renewed, inclusive multilateralism and focused on addressing the challenges currently facing Ibero-America through the achievement of the targets under Sustainable Development Goal 4, on education.

116. If the Organization was granted observer status in the General Assembly, it would be able to assist the international community more effectively in its efforts to achieve the Sustainable Development Goals. It could bring a wealth of experience and knowledge, built up over more than 70 years of activity in Latin America and the Caribbean, thereby enabling a fuller understanding of the specificities of the region. It would also be able to share good practices from its region that could be emulated by other regions in order to make progress towards achieving the Goals.

The meeting rose at 5.55 p.m.