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United Nations Commission on International Trade Law

Working Group VI (Security Interests)
First session
New York, 20-24 May 2002

Provisional Agenda

1. Election of officers
2. Adoption of the agenda
3. Preparation of a legislative guide on secured transactions
4. Other business
5. Adoption of the report

Notes on the provisional agenda

1. At its present session, the Working Group begins its work on the development of an efficient legal regime for security rights in goods involved in a commercial activity, including inventory.¹
2. The Commission's decision to undertake work in the area of secured credit law was taken in response to the need for an efficient legal regime that would remove legal obstacles to secured credit and could thus have a beneficial impact on the availability and the cost of credit.²
3. At its thirty-third session (2000), the Commission discussed a report prepared by the Secretariat on issues to be addressed in the area of secured credit law (A/CN.9/475). At that session, the Commission agreed that secured credit law was an

¹ *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 17 (A/56/17)*, para. 358.

² *Ibid.*, *Fifty-fifth Session, Supplement No. 17 (A/55/17)*, para. 455, and *Fifty-Sixth Session, Supplement No. 17 (A/56/17)*, para. 347.

important subject and had been brought to the attention of the Commission at the right time, in particular in view of its close link with the work of the Commission on insolvency law. It was widely felt that modern secured credit laws could have a significant impact on the availability and the cost of credit and thus on international trade. It was also widely felt that modern secured credit laws could alleviate the inequalities in the access to lower-cost credit between parties in developed countries and parties in developing countries, and in the share such parties had in the benefits of international trade. A note of caution was struck, however, in that regard to the effect that such laws needed to strike an appropriate balance in the treatment of privileged, secured and unsecured creditors so as to become acceptable to States. Furthermore, it was stated that, in view of the divergent policies of States, a flexible approach aimed at the preparation of a set of principles with a guide, rather than a model law, would be advisable.³

4. At its thirty-fifth session (2001), the Commission considered another report prepared by the Secretariat (A/CN.9/496) and agreed that work should be undertaken in view of the beneficial economic impact of a modern secured credit law. It was stated that experience had shown that deficiencies in that area could have major negative effects on a country's economic and financial system. It was also stated that an effective and predictable legal framework had both short- and long-term macroeconomic benefits. In the short term, namely, when countries faced crises in their financial sector, an effective and predictable legal framework was necessary, in particular in terms of enforcement of financial claims, to assist the banks and other financial institutions in controlling the deterioration of their claims through quick enforcement mechanisms and to facilitate corporate restructuring by providing a vehicle that would create incentives for interim financing. In the longer term, a flexible and effective legal framework for security rights could serve as a useful tool to increase economic growth. Indeed, without access to affordable credit, economic growth, competitiveness and international trade could not be fostered, with enterprises being prevented from expanding to meet their full potential.⁴ As to the form of work, the Commission considered that a model law would be too rigid and noted the suggestions made for a set of principles with a legislative guide that would include legislative recommendations.⁵

5. The Working Group is composed of all States members of the Commission: Austria, Benin, Brazil, Burkina Faso, Cameroon, Canada, China, Colombia, Fiji, France, Germany, Honduras, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Kenya, Lithuania, Mexico, Morocco, Paraguay, Romania, Russian Federation, Rwanda, Sierra Leone, Singapore, Spain, Sudan, Sweden, Thailand, The former Yugoslav Republic of Macedonia, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay (which alternates annually with Argentina).

³ *Ibid.*, *Fifty-fifth Session, Supplement No. 17 (A/55/17)*, para. 459.

⁴ *Ibid.*, *Fifty-sixth Session, Supplement No. 17(A/56/17)*, para. 351.

⁵ *Ibid.*, para. 357.

Item 1. Election of officers

6. The Working Group, in accordance with previous practice, may wish to elect a Chairman and a Rapporteur.

Item 3. Preparation of a legislative guide on secured transactions

7. The Working Group will have before it, and may wish to use as a basis for its deliberations, notes by the Secretariat entitled: "Draft legislative guide on secured transactions" (A/CN.9/WG.VI/WP.2 and Addenda). The electronic version of these documents will become available also through the website of the UNCITRAL secretariat (<http://www.uncitral.org>).

Item 4. Other business

8. A further session of the Working Group has tentatively been scheduled for 16 to 20 December 2002 (five days) in Vienna (these dates are subject to approval by the Commission at its thirty-fifth session, which is scheduled to take place in New York from 17 to 28 June 2002).

Item 5. Adoption of the report

9. The Working Group may wish to adopt, at the close of its session, a report for submission to the thirty-fifth session of the Commission.

Scheduling of meetings

10. The first session of the Working Group will be held at the United Nations Headquarters, in New York, from 20 to 24 May 2002. There will be five working days available for consideration of the agenda items. Except on Monday, 20 May 2002, when the session will commence at 10.30, meeting hours will be from 10.00 to 13.00 and from 15:00 to 18:00. The Working Group may wish to note that, consistent with decisions taken by the Commission at its thirty-fourth session (see A/56/17, para. 381), the Working Group is expected to hold substantive deliberations during the first nine half-day meetings (that is, from Monday to Friday morning), with a draft report on the entire period being prepared by the Secretariat for adoption at the tenth and last meeting of the Working Group (on Friday afternoon).