

AALCO - UNCITRAL workshop

“How and why trade can enhance economic development”

**Opening Remarks by Ms. Patricia O’Brien,
Under-Secretary-General for Legal Affairs
The Legal Counsel**

**Tuesday, 7 February 2012, 1.15pm
UNHQ, Conference Room 5**

Chairman Moollan,
Permanent Observer Lee of AALCO,
Excellencies,
Distinguished delegates,
Ladies and Gentlemen,

Good afternoon!

Allow me thank the organizers of today’s meeting for their kind invitation to speak to you: Mr. Roy Lee and the Secretariat of the Asian-African Legal Consultative Organization. And also, of course, a heartfelt thanks to you - delegates and observers from AALCO member States to this week’s session of UNCITRAL’s Working Group II – for taking the time to join us today.

Mr. Roy Lee, the Permanent Observer of AALCO to the United Nations, is well-known to us in the Office of Legal Affairs, where for many years he was Director of our Codification Division. I am particularly pleased to see him here today and grateful for his leadership in organizing this event.

It is a great pleasure to welcome you to UN Headquarters on the occasion of the fifty-sixth session of UNCITRAL’s Working Group II on Arbitration and Conciliation. AALCO member States have an important contribution to make to the deliberations of this Working Group and to UNCITRAL in general. And there are prospects for significant collaboration between AALCO and UNCITRAL in the months ahead – you will be hearing more about that from Chairman Moollan and Mr. Sorieul later on in the meeting.

(final)

My work as Legal Counsel of the United Nations involves overseeing the UN's Office of Legal Affairs. UNCITRAL's Secretariat, the International Trade Law Division, is a division of OLA – and so I am very aware of the important role it plays in support of UNCITRAL and its Working Groups. Member States have come to rely on its research and analysis, as well as its administrative expertise and even-handed conduct of meetings and colloquia. It is the UNCITRAL Secretariat which has made the arrangements and prepared the documentation for the Working Group session that you are attending this week.

The United Nations Charter offers a framework of values – the maintenance of peace and security, economic progress and development, faith in fundamental human rights, the dignity and worth of the human person, the establishment of conditions under which justice and respect for international law can be maintained, the promotion of social progress and better standards of life in larger freedom – all of these values contributing to the emergence of a fair and inclusive global economy. Over several decades, UNCITRAL has made a significant contribution to facilitating initiatives that form the basis for an orderly functioning of an open economy. In this way UNCITRAL helps countries, in particular developing countries, share the benefits of the global marketplace.

One of my priorities in my function as the Legal Counsel of the United Nations is to promote the “rule of law”, a principle embedded in the UN Charter. Some may perceive rule of law as a concept only relevant for achieving peace in the aftermath of a conflict or effectively protecting human rights; yet that is not all. Respect for the rule of law is also a key factor in sustaining economic progress and development.

Addressing the Security Council on 19 January in the framework of the Council's open debate on the rule of law and transitional justice in conflict and post-conflict settings, the Secretary-General formulated this idea as follows:

“Our task is to usher in an era of respect for the law in every field: from peace and security to trade and development ... from the high seas to local communities. Never has the UN's rule of law sector faced such great challenges – or such historic opportunities.”

UNCITRAL plays a key role in the promotion of the rule of law by providing internationally acceptable rules in the field of commercial and trade law and supporting the enactment of those rules. Its work on the harmonization and modernization of commercial law benefits parties engaged in business transactions and increases the confidence of aid donors. It promotes good governance and creates the necessary conditions for investment and thus for economic growth. This work is every bit as essential to the fight against poverty, the promotion of sustainable development and economic growth, and the achievement of peace and collective security, as those of its better-known counterparts in the fields of criminal justice, security, constitution-making or transitional justice.

Think for a moment about the root causes of many domestic conflicts: extreme poverty, lack of access to basic services (such as water), unemployment, corrupt practices, absence of transparency and accountability. Or consider post-conflict societies, where a focus on police, justice and electoral reform may help in consolidating peace in the short run, but where more is needed to provide the capacity to revive the basics of economic life. Without a viable economy such societies risk sliding back into conflict or chaos.

UNCITRAL's work focuses on ensuring recognition and enforcement of property rights and binding commitments, which is the basis for any commercial activity. Its standards aim at creating legal certainty, and decreasing levels of risk and transaction costs, in order to build confidence in doing business both domestically and cross-border. This in turn stimulates commerce and the flow of investment into an economy.

Better legal standards can also lead to new commercial opportunities, for example through:

- electronic commerce;
- improved arrangements for the transport of goods;
- lowering the cost of credit by expanding the pool of assets that can be used as collateral; or
- helping businesses to recover from financial crisis and continue in healthier shape.

(final)

These and other efforts by UNCITRAL have positive effects for small and medium enterprises, the individual entrepreneurs or family businesses that are major generators of wealth in most developing countries. They all contribute to job creation, the preservation of employment, and to bringing businesses out of the informal and into to the formal sector of the economy.

Some examples can help to illustrate this: enacting public procurement legislation based on the UNCITRAL model helps countries set up procurement systems that give greater confidence to international donors. Indeed the World Bank and others use these UNCITRAL standards as a benchmark for law reform in countries where they operate. Private-sector mediation and arbitration – in commercial and other contexts – again based on UNCITRAL models, can offer a more reliable and efficient alternative to slow, costly and sometimes corrupt judicial apparatus that exists in many countries.

UNCITRAL is now undertaking new initiatives to increase its reach in providing technical assistance to developing countries, helping them implement in practice the standards they have participated in crafting. On the 10th of January this year I had the pleasure of attending the opening of the UNCITRAL Regional Centre for Asia and the Pacific in Incheon, Korea. You will hear more about it in a moment, but I want to emphasise that this exciting new venture opens doors for countries in the region to work jointly with UNCITRAL in enacting and implementing commercial law reforms that will benefit everyone in the region. I am hopeful that AALCO will take an active part in these efforts. On a wider view, we look forward to AALCO and UNCITRAL seizing opportunities to work as partners in modernising and harmonising international commercial law in both the Asian and African regions. Your presence here and your continued commitment to the work of this body are excellent signs for the future.

Allow me to close by wishing you success in your meetings, and please accept my gratitude again for the spirit which you bring to this important work.

Thank you.