

**Forty-third Session of the  
United Nations Commission on International Trade Law**  
Conference Room 2, NLB  
Monday, 21 June 2010, 11:00 a.m.

**Opening remarks by Ms. Patricia O'Brien  
Under-Secretary-General for Legal Affairs  
The Legal Counsel**

Distinguished delegates and observers,

It is a great pleasure to welcome you to UN Headquarters on the occasion of the forty-third session of UNCITRAL. I am particularly pleased to be addressing you for the first time since taking up my duties as Under-Secretary-General for Legal Affairs.

As Legal Counsel of the United Nations and head of the Office of Legal Affairs, it is my responsibility to support your activities through the International Trade Law Division. My colleagues in the Division and I are proud to take up this responsibility and to contribute to the success of your efforts.

Much of the work in the United Nations system does not appear in the headline news. We rarely see mention of the many day-to-day examples of fruitful and constructive international cooperation. And yet this quiet work – including your work – is an integral part of the objectives of the United Nations to promote higher standards of living, social progress and economic development.

The United Nations Charter offers a framework of values – the maintenance of peace and security, the faith in fundamental human rights, in 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.

The Organization establishes global norms and standards to further develop those values. They make our international system function and, in the case of UNCITRAL, facilitate the movement of people and goods, as well as the peaceful settlement of commercial disputes, enhance judicial cooperation, as well as the availability of credit, and bring more predictability, as well as legal certainty, in such areas as international investment and electronic communications.

This standard-setting work has become ever more important in this era of globalization.

Over more than forty years, UNCITRAL has made a significant contribution to facilitating initiatives that form the basis for an orderly function of an open economy. In this way UNCITRAL helps countries, in particular developing countries, share the benefits of the global marketplace.

The General Assembly Resolutions founding your Commission did not limit its activities to the technicalities of commercial law but established UNCITRAL as the “core legal body within the United Nations system in the field of international trade law”, with a broad mandate to “further the progressive harmonization and unification of the law of international trade by .... taking any action it may deem useful to fulfil its functions” [GA Resolution 2205 (XXI)].

The agenda of your current session provides us with good examples of such efforts. Three important texts involving various fields of, and reflecting recent developments in, international trade law will be before the Commission at this session.

Arbitration. First, you will have before you for adoption a revised version of one of the most successful international instruments of a contractual nature in the field of arbitration, the UNCITRAL Arbitration Rules. The Rules, which were adopted in 1976, are amended for the first time to take into account developments in arbitration practice over the past years. The revisions are aimed at enhancing efficiency of arbitration, and the Rules will certainly continue contributing to the development of harmonious international economic relations.

Security Interests. A draft Supplement to the UNCITRAL Legislative Guide on Secured Transactions has been prepared, complementing that Legislative Guide on issues related to security rights in intellectual property. In line with the overall objective of the Guide, the draft Supplement is intended to make credit more available and at lower cost to intellectual property owners and other intellectual property rights holders, thus enhancing the value of intellectual property rights. The draft Supplement, however, seeks to achieve this objective without interfering with fundamental policies of law relating to intellectual property.

Insolvency. Since 2006 there has been increasing interest, given new impetus by the global financial crisis, in the development of mechanisms to better handle the insolvency of large multinational enterprise groups. When finalized and adopted, the draft text to be considered by the Commission will form part three of the UNCITRAL Legislative Guide on Insolvency Law and

provide timely guidance on how to improve the global administration of enterprise group insolvencies.

UNCITRAL is also currently engaged in the revision of its 1994 Model Law on Procurement of Goods, Construction and Services and in the consideration of its possible future work in the areas of electronic commerce, security interests and insolvency law.

Following up on the direction from the Commission at its 42nd session, this session will consider a paper on “Microfinance in the context of international economic development” and what further action might be taken in that field.

You will also be turning your attention to the challenges associated with facilitating online dispute resolution in cross-border electronic commerce transactions, a subject first broached in the Commission in the year 2000 and one which continues to gain significance with the rapid expansion of international electronic commerce.

In addition to assisting UNCITRAL with fulfilling its legislative mandate, ITLD is carrying out work towards promotion of UNCITRAL legal texts, and ways and means of ensuring their uniform interpretation and application, in particular through: technical assistance and cooperation activities, the system of collection and dissemination of case law on UNCITRAL texts (known as CLOUT), and Digests of case law. Case law collected through the CLOUT network - currently over 900 cases relating to various UNCITRAL Conventions and Model Laws - facilitates cross-fertilization among jurisdictions, increasing certainty and predictability in commercial law. Drawing on this material, the forthcoming Digests will identify trends in the interpretation of a given Convention or Model Law. CLOUT and the Digests

will benefit judges, arbitrators, practitioners, academics and government officials in their everyday work. ITLD also assists UNCITRAL in coordinating activities with relevant international organizations, undertaking a comprehensive review of its working methods, and monitoring the implementation of the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards, also known as the "New York Convention".

Finally, I would like to say a few words about the role of UNCITRAL in the broader work of the UN to strengthen the rule of law. We are all aware of the supportive role effective commercial law plays in addressing root causes of many international problems, such as migration caused by impoverishment, inequality and internal conflicts, or inequitable access to shared resources. UNCITRAL's role in promoting the rule of law has been the subject of discussion at the Commission in its forty-first and forty-second sessions, and the Commission has transmitted its comments on the issue to the General Assembly in subsequent annual reports. The General Assembly decided that the debate on rule of law, at its sixty-fifth session in September, will focus on the sub-topic "Laws and practices of Member States in implementing international law". This will be the focus of a panel discussion here in the Commission on July 7 which, I am very pleased to note, will be opened by the Deputy Secretary-General. Panelists will include representatives of relevant States as well as the Rule of Law Unit, the World Bank and EBRD, who will provide the background to the issue, followed by a general debate in the Commission. UNDP has also been invited. The fruit of that discussion will no doubt be of great benefit to the General Assembly in its deliberations.

You may also wish to address another aspect, equally of interest to the General Assembly: the rule of law and transitional justice in conflict and

post-conflict situations. The fields of arbitration and conciliation and public procurement, and possible future work in the area of microfinance, would seem particularly relevant to post-conflict reconstruction in general.

Ladies and gentlemen,

As has been the case for many years, you are at the beginning of a busy session, which, judging by past experience, will be a fruitful one. With these remarks, I have the pleasure of declaring the session open and wishing you the best of success in your deliberations.