



STATEMENT BY MR. RAVI SHANKAR PRASAD, MEMBER OF PARLIAMENT AND  
MEMBER OF THE INDIAN DELEGATION, ON AGENDA ITEM 77: REPORT OF THE  
UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE  
WORK OF ITS THIRTY-NINTH SESSION AT THE SIXTH COMMITTEE OF THE UN  
GENERAL ASSEMBLY ON OCTOBER 10, 2006

Mr. Chairman

At the outset, I would like to take the opportunity to congratulate you on your election as Chairman of the Sixth Committee and assure you of our full cooperation and support. We also congratulate the other members of the Bureau on their election.

The 39th annual session the United Nations Commission on International Trade Law was convened for three weeks this year and we are happy to note the substantial progress made during this session.

The Commission in this session approved in principle the key provisions of a draft legislative guide on secured transactions. Its purpose is to provide a legal framework that promotes access to low-cost secured credit. The guide addresses security rights in movable property, including inventory, equipment, receivables and other types of asset. The recommendations approved include: key objectives and scope of application, basic approaches to security, creation of the security right, effectiveness of the security right against third parties and registration, priority of the security right over the rights of competing claimants, pre-default rights and obligations of the parties, rights and obligations of third-party obligors, default and enforcement, insolvency, acquisition financing devices, conflict of laws and transitional arrangements.

Mr. Chairman,

The guide presents recommendations for establishing a secured transactions regime that is efficient, transparent, balances the interests of the parties and meets the goal of facilitating access to credit at lower cost. The regime is expected to provide greater legal certainty both to lender and borrower. We are sure that the legislative guide will assist countries in adopting modern secured transactions legislation - a necessary condition for increasing access to low-cost credit, thus facilitating the cross-border movement of goods and services and contributing to economic development. We also take this opportunity to note the cooperation between Unidroit and the UNCITRAL Secretariat to ensure consistency between the draft Unidroit securities convention and UNCITRAL legislative guide on secured transactions. The discussions between the two secretariats would give them an opportunity to reach an agreement on coverage of cross over issues.

The Commission this year also adopted revised legislative provisions on interim measures of protection and the form of the arbitration agreement. The new provisions on arbitration address the requirement for aligning the 1985 UNCITRAL Model Law on International Commercial Arbitration with current practices in international trade, particularly with respect to the form in which arbitration agreements are concluded and the granting of interim measures of protection. The requirement under former Article 7 is that the Agreement has to be in writing. The text has been amended to provide that the requirement that an arbitration agreement be in writing is met by an electronic communication if the information contained therein is accessible so as to be useable for subsequent reference or if it is contained in an exchange of statements of claim and defence in which the existence of an agreement is alleged by one party and not denied by the other. These provisions are expected to significantly update the provisions of the Model Law and further facilitate the use of arbitration as a dispute settlement mechanism in international commercial relations.

The Commission has also identified future areas of work for different Working Groups. As regards the future work on arbitration, the Commission has decided to give priority to revision of the UNCITRAL Arbitration Rules and consideration of the arbitrability of intra-corporate disputes. It has also recommended to States to consider the possibility of examination of other issues relating to arbitrability, for example, in the fields of intellectual property rights, investment disputes, insolvency or unfair competition. Once again we would advise caution in undertaking a revision of UNCITRAL Arbitration Rules of 1976 which enjoy widespread recognition and have served as a model for national legislation of several countries and for dispute settlement mechanism in bilateral investment protection agreements. The desired flexibility, as was indicated by several States during the Session, should not be lost in any future revision.

As regards insolvency law, the Commission agreed that the working group should consider the treatment of corporate groups in insolvency, including post-commencement finance. It also recommended promotion of practical experience on negotiating and informal development of cross-border protocols in transnational insolvency cases in consultation with judges and insolvency practitioners. We hope that this work will build upon and complement the work already completed by the Commission in the area of insolvency law.

We also note with satisfaction the progress of the Working Group on Transport law, which is developing a new international transport convention with multi-modal application, and the Working Group on Procurement that is revising the 1994 Model Law on Procurement of Goods, Construction and Services, to reflect new practices, in particular those that resulted from the use of electronic communications in public procurement.

We appreciate the UNCITRAL Secretariat for their cooperation with the United Nations Office on Drugs and Crime in the area of commercial fraud. The UNCITRAL's private law perspective and understanding would contribute to the full understanding of this problem and would be helpful in recommending measures to address it.

10. We would also like to express our appreciation to the Secretariat for its technical assistance activities and collection and dissemination of case law on UNCITRAL texts (CLOUT), which are important for promoting awareness of the work done by UNCITRAL in the field of development and harmonization of international law as well as encouraging wider acceptance of Conventions and Models adopted by it.

Thank You, Mr.Chairman

[BACK TO TABLE OF CONTENTS](#)