

**STATEMENT BY UNCITRAL**

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**AT THE UNITED NATIONS CONFERENCE  
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**São Paulo, Brazil  
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Statement by the secretariat of UNCITRAL

Made on 17 June 2004

At the General Debate

On the occasion of the

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United Nations Conference on Trade and Development  
(UNCTAD XI)

São Paulo, Brazil  
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Mr. President,

Distinguished delegates and observers,

Allow me to start by congratulating UNCTAD on its fortieth anniversary and to convey to you the best wishes of the United Nations Commission on International Trade Law (UNCITRAL), which is currently holding its thirty-seventh annual session in New York, and of its secretariat, for a fruitful conference. In his statement last Monday, the Secretary-General expressed the shared sentiment of the United Nations family when he pointed out that the debate on development in the last forty years would have been much poorer without your work.

As a subsidiary body of the United Nations General Assembly, and within the limits of its mandate, UNCITRAL is committed to contribute its share to the success of your work and we are very happy about the level of cooperation that has been achieved between our organizations, resulting from a clear recognition of the complementary nature of our respective lines of work.

A commonly held view in days past regarded the promotion of welfare essentially as a function of the right development strategy and the necessary capital investment. Sadly, the 20th century saw many hopes of lasting prosperity postponed because the development strategy chosen was not sustainable.

One of the lessons learned was that sustainable economic and social development is the result of a complex balance of a large number of factors, one of which is the respect for the rule of law. Law reform has therefore become an essential component of modernization programmes in most developing and transition countries.

Ladies and gentlemen,

UNCITRAL was established by the General Assembly in 1966 in view of the fact that disparities in national laws governing international trade created obstacles to the flow of trade. UNCITRAL was thus given the general mandate to further the progressive harmonization and unification of the law of international trade.

The result of its nearly forty years of work represents a significant contribution to the modernization of national laws facilitating a number of economic activities that form the basis of an orderly functioning open economy, thus helping developing countries to create the conditions to participate in the benefits of the global marketplace.

Among the various instruments that have been prepared by UNCITRAL we count instruments such as the United Nations Convention on Contracts for the International Sale of Goods, which has been ratified by States representing some two thirds of the world trade in goods, the UNCITRAL Model Law on International Commercial Arbitration, with a geographic coverage of approximately one third of the world's territory, and innovative instruments, such as the UNCITRAL Model Law on Electronic Commerce. Currently, UNCITRAL is preparing legislative texts designed to assist countries to modernize their laws in areas such as insolvency law, secured transactions, public procurement, carriage of goods and commercial dispute settlement.

The UNCITRAL secretariat is currently developing a "toolbox" that could be used to help developing countries elaborate the necessary legislative instruments to implement modern international commercial law standards at the national level.

Trade law harmonization and modernization should not be seen as a luxury that makes sense only for wealthy countries, because of the direct relationship between sustainable development and business law reform.

Laws that are outdated and that are not based on harmonized or transparent standards pose a major obstacle to economic growth and sustainable development. They increase commercial risks and transaction costs and may seriously hamper the activities of commercial entities and their participation in international trade. In such a legal environment, small and medium-sized enterprises with limited experience and access to legal advice often encounter particular difficulty in penetrating new markets, establishing new trade relations and resolving disagreements in a predictable and efficient manner. Moreover, investment can be severely hampered or may not take place at all. Allow me to give you just one example.

Electronic commerce has become a very important - if not indispensable - tool for developing countries to reduce transaction costs and facilitate penetration of new markets, as we all know thanks to the remarkable work of research and analysis that has been done by UNCTAD. Empirical information on the use of electronic commerce has demonstrated its unique potential for generating wealth by securing the access of traders in even the most remote regions to foreign markets. However, electronic commerce and, in particular, foreign confidence in trading points in developing countries, cannot prosper without the adaptation of national as well as international laws, which were largely written against the background of paper - based commercial communications.

Ideally, such adaptation of laws should be based on the harmonized, balanced standards elaborated by the United Nations. The UNCITRAL Model Law on

Electronic Commerce, adopted in 1996, has already been enacted in various jurisdictions from both developed and developing countries and is widely regarded as the most authoritative set of international legal standards for electronic commerce. Implementation of the Model Law by developing States fosters the confidence of business entities established in those States as well as their partners abroad in e-commerce, thus helping them keep pace with the globalization of international trade.

Mr. Chairman,

This is only one example of the many areas where our organizations pursue converging goals. We sincerely hope that the years to come will provide us with increased opportunities to deepen our cooperation, to the benefit of better economic and legal environment for trade and development.

Thank you.

Jernej Sekolec  
Secretary  
United Nations Commission on International Trade Law