



**PERMANENT MISSION OF SINGAPORE
TO THE UNITED NATIONS**

318 EAST 48TH STREET, NEW YORK, NY 10017
TEL: (212) 826 0840 FAX: (212) 826 2964

**STATEMENT BY MRS. NATALIE Y. MORRIS-SHARMA, COUNSELLOR,
PERMANENT MISSION OF SINGAPORE TO THE UNITED NATIONS,
ON AGENDA ITEM 76, ON THE REPORT OF THE UNITED NATIONS
COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS FORTY-
SEVENTH SESSION, SIXTH COMMITTEE, 13 OCTOBER 2014**

Please check against delivery

1. Mr. Chairman, my delegation would like to thank the Chairman of the United Nations Commission on International Trade Law (“UNCITRAL”) and the UNCITRAL Secretariat for the report on the 47th Session of the Commission, and to congratulate the Chairman and the UNCITRAL Secretariat for the successful completion of the Session. My delegation would like to focus our statement on two broad areas: (i) progress of UNCITRAL’s work; and (ii) UNCITRAL’s resource constraints.

Progress of UNCITRAL’s work

2. We note that, at its 47th Session, the Commission finalised and approved the draft convention on transparency in treaty-based investor-State arbitration. This followed from the Commission’s approval, at its 46th Session, of the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration (the “Transparency Rules”). The Transparency Rules provide a framework for publication of information regarding investment arbitrations. The Rules apply only to investor-State arbitrations provided for in “future” investment agreements, concluded on or after 1 April 2014; they do not apply to “existing” investment agreements. States are at full liberty to decide whether or not to apply the Transparency Rules to “existing” investment agreements. States that wish to do

so may apply the Transparency Rules to their existing investment agreements by acceding to the recently concluded convention – which provides these States with one mechanism to apply the Transparency Rules to such agreements.

3. Under the rubric of the Transparency Rules, my delegation notes the UNCITRAL Secretariat's report on steps taken for it to perform the function of the repository established under these Rules. My delegation is supportive of having a repository function as this will promote the availability of the decisions of arbitral tribunals. Access to a growing body of jurisprudence, over time, will enable States and investors to better understand the rules which govern the investment landscape and to make more informed decisions. By the same token, we also welcome the fact that the repository will be accessible online. The online platform will allow States, investors, and persons interested in arbitration jurisprudence convenient access to the information, regardless of their geographical location. That said, there are aspects of this repository function under the Transparency Rules which are still not that clear. One example is how pleadings and awards are to be redacted, and the extent of redactions to be made when parties are unable to agree and when the tribunal is not available to provide a ruling. There are also possible issues relating to liabilities that the repository may encounter, as well as the vexed issue of costs and how these are to be provided for. We are confident that all these will be resolved through practice.

UNCITRAL's resource constraints

4. My delegation would also like to recognise and appreciate the efforts of the UNCITRAL Secretariat, as well as of the Commission and Working Groups. The Secretariat, Commission and Working Groups have worked consistently throughout the past year on various aspects of the law of international trade, in furtherance of the UNCITRAL mandate to advance the progressive harmonisation and unification of the law of international trade. The UNCITRAL Secretariat, in particular, has produced high quality working papers with well thought through suggestions for the consideration of the

Commission and its various Working Groups.

5. There are however numerous demands made on the Secretariat and the resources of UNCITRAL generally. The Commission's report refers repeatedly to these in different contexts. We note the call made at the last Commission session for the Secretariat to consider redeploying resources within the Secretariat in order to meet these demands. My delegation is of the view that optimising the use of UNCITRAL's scarce resources is imperative. These include not only the Secretariat but also its Working Groups.

6. At the last Commission session, consideration was given to whether certain Working Groups that have already completed the work for which they were initially established should continue, including where these Working Groups have continued asking for mandates to work on different aspects of the same subject-matter. Given the limitations on the number of Working Groups that UNCITRAL is allowed to convene and finite resources, extending the lifespans of certain Working Groups would mean that many other areas where the law urgently needs to be harmonised cannot be addressed by UNCITRAL. My delegation supports the view expressed at the recent Commission session that the Commission must exercise greater control over its Working Groups and must prioritise the subjects that each Working Group is to address. We also question whether every matter must be referred to a Working Group. Certain matters can be more optimally worked on by the Secretariat in consultation with experts. These include soft-law texts such as Notes or Guides on already completed UNCITRAL texts, which can then be deliberated and approved at a Commission session without the need to establish costly Working Groups.

7. My delegation is also concerned over duplication of work. Subjects addressed by one Working Group should not be addressed by another Working Group as this would not only be a waste of resources but can lead to different outcomes and thus a failure to harmonise the law. In this connection, we note that it has been proposed that the recently established Working Group on Micro-, Small- and Medium-sized Enterprises

(“MSMEs”) also work on electronic commerce, insolvency law, and security interests. There are already Working Groups that are working on these same subjects. The UNCITRAL Secretariat and Commission should therefore consider carefully how UNCITRAL’s work can be streamlined to ensure that there is no duplication and no inconsistency in outcomes. In this regard, we think it is safe to assume that Working Groups would, in their work, provide for all interests, including in particular the interests of developing countries and their MSMEs.

The 35th anniversary of the UN Sales Convention

8. Mr. Chairman, looking forward, my delegation has great hopes for UNCITRAL and the continuation of its good work. We also look forward to celebrating the success of UNCITRAL’s past work.

9. Next year marks the 35th anniversary of the UN Convention on Contracts for the International Sale of Goods (“CISG”). The CISG was a major achievement for UNCITRAL. Singapore is a party to the CISG and it has been enacted as part of our national laws. We would like to take this opportunity to announce that efforts are underway to organise a commemoration event in Singapore, on 23 and 24 April 2015 to promote the adoption of the CISG. This is a major law event on our calendar for next year, and we look forward to other delegations joining us at this event.

10. Thank you, Mr. Chairman.

.....