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**Statement of the UN Secretary-General's Special Representative on
Business and Human Rights, Professor John Ruggie**

To the

**UNCITRAL Working Group II (Arbitration and Conciliation),
48th session, New York, USA**

February 4-8, 2008

Mr Chairman, esteemed delegates,

I would like to thank the Secretary of UNCITRAL, Mr Jernej Sekolec, for inviting me to participate in this important meeting of the Working Group. I regret that I am unable to attend in person due to my teaching obligations at Harvard University, but am pleased to be able to make this statement through my representative, Caroline Rees.

The growing recognition that the rules governing global business may have significant effects on human rights practices led the United Nations to appoint me the first ever special representative for business and human rights—and I understand that I am the first ever representative of the UN human rights system to address this body. The results of my initial work under the mandate were submitted in a report to the Human Rights Council in 2007. They were well-received both by Governments in the Council and by the 2007 G8 Summit. The report surveyed a range of significant legal and policy innovations in the field of business and human rights by states, business and civil society. Yet it concluded that imbalances remain between the scope of markets and business organisations on the one hand, and the capacity of societies to protect and promote the core values of social community on the other: imbalances that can only be corrected by embedding global markets with shared values and institutional practices.

As I look ahead to making specific recommendations to the Human Rights Council in June of this year, I shall base my report on three core principles that have gathered broad support in the course of my consultations: first, the 'state duty to protect' with respect to preventing and punishing corporate abuse of human rights; second, the corporate

responsibility to respect human rights in the course of their operations; and third, grievance and accountability mechanisms for addressing and redressing abuses.

Let me focus on one part of my work that may be of particular relevance to this Working Group. Together with the International Finance Corporation (the private lending arm of the World Bank Group), we are conducting an empirical study exploring some aspects of private investment agreements between investors and host states. We are also exploring some issues relative to bilateral and regional investment treaties.

There are two dimensions of our research that I would like to bring to your attention.

First, we are assessing whether and to what extent various stabilisation provisions in those agreements may constrain a state's ability to fulfil its international human rights obligations, and, if they do, how the legitimate needs of investors and governments can better be balanced.

Second, we are looking at the transparency or the lack thereof in arbitration processes with regard to disputes that raise human rights and other public policy issues.

I am therefore greatly interested by your own review of the UNCITRAL Arbitration Rules and the place that transparency of process and outcomes might have in cases of investor-state disputes. From the perspective of my mandate, adequate transparency where human rights and other state responsibilities are concerned is essential if publics are to be aware of proceedings that may affect the public interest. Indeed, such transparency lies at the very foundation of what the United Nations and other authoritative entities have been promulgating as the precepts of good governance.

It is for the members of this Working Group to decide how to take these issues forward. I am grateful for this opportunity to bring to your attention my own work and reflections, and hope that they may be useful to you in your deliberations. I am firmly convinced of the benefits of this kind of cross-UN discussion of how shared values, including human rights, can be embedded into institutional practices in the context of economic globalisation. I wish you well in your work.

Thank you.