

**Address to the Sixth Committee
of the General Assembly
by H.E. Philbert Abaka Johnson (Ghana)
Chairperson of the fifty-fourth session of
the United Nations Commission on International
Trade Law
(UNCITRAL)
18 October 2021**

- the UNCITRAL Legislative Guide on Limited Liability Enterprises;
- the UNCITRAL Legislative Recommendations on Insolvency of Micro- and Small Enterprises;
- the UNCITRAL

[II. TEXTS ADOPTED BY THE COMMISSION]

Texts for MSMEs

Two new UNCITRAL texts were adopted this year for micro, small and medium sized enterprises (MSMEs) and will be published as part of the UNCITRAL MSME texts series that focus on facilitating procedures and transactions along the life cycle of MSMEs. These texts are (1) the *Legislative Guide on Limited Liability Enterprises* and (2) the *Legislative Recommendations on Insolvency of Micro- and Small Enterprises*. You will agree with me that these texts are timely considering the impact of the coronavirus disease 2019 (COVID-19) pandemic and as it had been highlighted during the last session in 2020. These texts are expected to assist States in mitigating the effects of the pandemic and to assist in their economic recovery efforts.

The new text on limited liability enterprises aims at assisting States at offering a simplified legal form for MSMEs that can best encourage their formation in the formal economy and facilitate operation, thus, enhancing

their sustainability and chances of success and growth. It commercial law reform should start with a focus on the actual needs of the smallest businesses and avoid placing unnecessary legal burdens on them.

The new text on insolvency of micro and small enterprises (MSEs) recommends to States to put in place expeditious, simple, flexible and low-cost insolvency proceedings and to make them available and easily accessible to MSEs. While promoting an MSE

In the area of mediation, the Commission adopted three new texts: (1) *Mediation Rules*, which provide comprehensive procedural rules for the conduct of

thus, achieving better cost and time effectiveness. The Rules balance on the one hand, the efficiency of the arbitral proceedings and on the other hand, the rights of the parties to due process and fair treatment.

[III. FUTURE WORK BY WORKING GROUPS]

In addition to finalizing texts, the Commission also took note of the progress made by its working groups during the last cycle, always working under the difficult hybrid conditions. It confirmed the work programme of six working groups:

- Working Group I will start working on access to credit for MSMEs;
- Working Group II will start working on issues concerning early dismissal in international arbitration;
- Working Group III will continue its work on the reform of investor-State dispute settlement system;
- Working Group IV will continue its work towards a text on legal issues related to identity

management and trust services with a view to bringing it to you for adoption next year, and begin its new work on the use of artificial intelligence and automation in contracting by conceptualizing and refining the scope and nature of the work to be conducted;

- Working Group V will embark on civil asset tracing and recovery as well as applicabl119(b.7 Tm1T)3

the Legislative Recommendations on Insolvency of MSEs; and

- Working Group VI will continue preparing an international instrument on the judicial sale of ships

continue its preparatory work towards the development of a model law on the private law aspects of warehouse receipts, noting the coordination between the UNCITRAL secretariat and the International Institute for the Unification of Private Law (Unidroit) on this matter.

The Commission also requested the secretariat to continue its preparatory work on

this work to include dispute resolution in the digital economy.

The Commission further requested the secretariat to continue its exploratory work on legal issues related to the

Another highlight of this session was a decision of the Commission to request from the General Assembly, additional conference and supporting resources to implement the work programme with respect to investor-State dispute settlement reform that has been developed and agreed upon by Working Group III and that would allow for a comprehensive reform package to be adopted by the Commission and then by the General Assembly in 2026 at the latest, with some reform elements coming for adoption before that time when they are ready.

At its fiftieth session in 2017, the Commission entrusted its Working Group III with a broad mandate to work on the possible reform of investor-State dispute settlement. In discharging the mandate, the Working Group was requested to ensure that the deliberations, while benefiting from the widest possible breadth of available expertise from all stakeholders, should be government-led with high-level input from all governments, consensus-based and be fully transparent. The Working Group has entered into the third phase of its

work, which is to develop relevant solutions to reform the investor-State dispute settlement mechanism.

During its 54th session, the Commission decided to recommend to the General Assembly that additional conference and supporting resources be allocated to the secretariat for a single period of four years, from 2022 to 2025, so as to allow Working Group III to maintain its momentum and advance on its work, which foresees the completion of the reform project in 2026. This project is both ambitious and complex, and it is particularly important in this regard to ensure inclusiveness and transparency of this work.

In this context, the Commission expressed its appreciation for financial and other support provided by France, Germany and the European Union that allowed the secretariat to organize intersessional meetings of Working Group III in different regions in order to ensure that the work on reform of investor-State dispute settlement could be conducted leaving no country behind.

[VI. ENLARGEMENT OF UNCITRAL MEMBERSHIP]

Let me turn now, Mr. Chairperson, distinguished delegates, to the conclusion of the deliberations on the enlargement of UNCITRAL membership.

At its 52nd session, in 2019, the Commission heard a proposal for enlarging the membership of UNCITRAL. Thanks to the efforts by the coordinator of the informal consultations from the Government of Japan, the Commission, at its 54th session, decided to recommend the enlargement of UNCITRAL membership from 60 to 70 States. It was noted that wider participation of States in the work of the Commission wou-17 g0 G[(Co)-18(mmi)-17(s)-1

Introduction to the United Nations Commission

, that I would like to encourage you to look at when preparing for the UNCITRAL-related topics in your Committee.

Acknowledging that the ability of the s

With respect to the transparency repository established under the Rules on Transparency in Treaty-based Investor-State Arbitration, the Commission also expressed its gratitude to the European Union, Germany and the OPEC Fund for International Development for their contributions.

During the 54th session, v

implementing measures to rejuvenate CLOUT, and expressed its gratitude for the compilation of cases and the establishment of CLOUT partnerships. The Commission expressed appreciation to the secretariat for its continued efforts to update the existing digests of case law on

UNCITRAL 20.2 nB3ln07 175(1), 176(s), 177(ii), 179(s), 180(a), 181(s), 182(w), 183(g), 184(d)

whose able leadership, the secretariat of UNCITRAL has once again discharged its duties professionally and efficiently to the Commission. As my predecessors have done, I appeal to all concerned for their continued support of UNCITRAL.

The objectives that motivated the General Assembly to establish UNCITRAL 55 years ago are as relevant today as they were at that time, and even more so in the light of COVID-19 pandemic, evolving business practices, the digital revolution and the potentially disruptive effects of new technologies. These developments call for sustained attention to the harmonization and modernization of international trade law. When such modernization does not occur or it occurs in a disharmonized way, international trade suffers.

With that, I would like to conclude my address to you on the work carried by UNCITRAL during its 54th session.

I thank you for your attention!
