<u>Answers to questionnaire on the topic "Settlement of international disputes to which international organizations are parties"</u>

1. Disputes between UNCTAD and private parties and disputes with other international organizations.

2. The vast majority of disputes are resolved through negotiation and amicable settlement. In the case of disputes with private parties, occasionally, we may resort to arbitration.

3. Given that arbitration is very costly and time consuming, we attempt to resolve as many disputes as possible through negotiation and amicable settlement.

4. This depends on the dispute itself, the identity of the other party to the dispute, and the resources available. Since we usually strive to maintain a positive working relationship with the other party (be it a Member State, another international organization or a private party), we would favor amicable settlement or negotiation in the majority of cases. However, there are some instances where it is in the Organization's interests to take a strong stance and pursue a claim through formal channels, *e.g.*, if there are allegations of fraud/misconduct against a vendor. In such cases, a formal arbitration process would be considered optimal.

5. Overall trend toward litigiousness, especially in the private sector.

6. We should have more streamlined arbitration procedures (that are less costly and less onerous) for disputes with individual contractors/consultants.

7. No.

8. Yes. We include standard dispute settlement clauses in our agreements and project documents.

9. Example of a dispute settlement clause:

"The Parties shall use their best efforts to amicably settle any dispute, controversy or claim arising out of this MoU or the breach, termination or invalidity thereof.

"Any dispute, controversy, or claim between the Parties arising out of this MoU or the breach, termination, or invalidity thereof, unless settled amicably under paragraph 1 of this Article within sixty (60) days after receipt by one Party of the other Party's written request for such amicable settlement, shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The decisions of the arbitral tribunal shall be based on general principles of international commercial law. The arbitral tribunal shall be empowered to order the return or destruction of goods or any property, whether tangible or intangible, or of any confidential information provided under this MoU, order the termination of this MoU, or order that any other protective measures be taken with respect to the goods, services or any other property, whether tangible or intangible, or of any confidential information provided under this MoU, as appropriate, all in accordance with the authority of the arbitral tribunal pursuant to Article 26 ("Interim measures") and Article 34 ("Form and effect of the award") of the UNCITRAL Arbitration Rules. The arbitral tribunal shall have no authority to award punitive damages. In addition, unless otherwise expressly provided in this Agreement, the arbitral tribunal shall have no authority to award interest in excess of the Federal Reserve Bank of New York's Secured Overnight Financing Rate then prevailing, and any such interest shall be simple interest only. The arbitral proceedings shall take place in Geneva, Switzerland, provided that, in light of the privileges and immunities of the United Nations, such reference to the place of arbitration shall connote only the physical place of the arbitral proceedings and not the jurisdictional seat of the arbitration. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim."

10. Yes, we have interpreted it as encompassing tort related claims. Given our privileges and immunities, we usually do not bind ourselves to the substantive laws of Member States, and would, instead, apply general principles of international law. Methods of settling tort claims include negotiation, settlement and/or arbitration.

11. No.