



**51st Session of the
United Nations Commission on International Trade Law**

Address

by

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Under-Secretary-General for Legal Affairs
and United Nations Legal Counsel

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Distinguished Delegates,
Ladies and Gentlemen,

Good morning,

It is my pleasure to open the fifty-first session of the United Nations Commission on International Trade Law here in New York. You have a full agenda and important work ahead of you. I am grateful for this opportunity to briefly highlight some of the topical issues of this coming session.

Please allow me, first of all, to introduce the new Secretary of UNCITRAL, Ms. Anna Joubin-Bret. Ms. Joubin-Bret joined the Office of Legal Affairs as Director of the Division on International Trade Law in November of last year and is, therefore, already well known to a number of delegations here. I have full confidence in her ability to lead the Secretariat of the Commission in the best possible way. She will be able to count on a good team in the Secretariat to support the legislative work and the dissemination of the instruments you adopt.

You will have before you a draft Convention and a draft Model Law on international commercial settlement agreements resulting from mediation. It is my hope that the Convention and the Model Law - once adopted and open for signature - will have the same success as the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and become the corner stone for the international framework on mediation.

Mediation has many advantages, including that it enables parties to keep their business relationships, it facilitates the conduct of international transactions, and it entails savings for the administration of justice by States. Mediation is becoming important in a number



of jurisdictions where it constitutes a credible alternative to litigation - encouraged by courts - or even a mandatory form of settling certain types of disputes.

In other regions, mediation has always been a traditional means of dispute settlement that has developed way before arbitration became known and was used. However, what the international mediation framework has clearly been lacking is the important element of cross border enforcement.

With the draft Convention before you and the draft Model Law, a settlement agreement obtained with the assistance of a mediator will be enforceable in all the States Members to the Convention and a mediated settlement agreement can be invoked in order to prove that the matter has already been resolved.

During this session, you will also deliberate the first chapter of an ambitious project to promote an enabling legal environment for the operation of micro, small and medium-sized enterprises (MSMEs), in the form of a legislative guide on key principles of a business registry. MSMEs are the largest employers in many regions and the main actors of domestic trade.

Referring to studies by the International Finance Corporation and the Global Partnership for Financial Inclusion, UNCITRAL took note that 90% of the MSMEs in developing countries operate in the informal sector despite the need for a formal status to enter into contracts, to obtain financing, to operate and to grow. This makes up 60% of the world's workers employed by the informal sector according to the OECD.

Micro, small and medium-sized enterprises also play an important role for the Sustainable Development Goals. The Agenda 2030 encourages the development and growth of MSMEs to promote inclusive and sustainable growth, full and productive employment and decent work for all.

In operative paragraph 13 of its Resolution 71/135 of 13 December 2016, the General Assembly [and I quote:]

"(e)ndorses the conviction of the Commission that the implementation and effective use of modern private law standards in international trade are essential for advancing good governance, sustained economic development and the eradication of poverty and hunger and that the promotion of the rule of law in commercial relations should be an integral part of the broader agenda of the United Nations to promote the rule of law at the national and international levels (...)"

With this ambitious project, UNCITRAL seeks to contribute to a global effort and I look forward to the development of further instruments and texts on contracting across borders, enforcing contracts, securing financing and resolving insolvency for MSMEs of the world.



It is precisely in the field of insolvency law that the Commission will finalize and adopt two further instruments to complete the legal framework for international insolvency law. You will have before you a Model Law on cross-border recognition and enforcement of insolvency-related judgements and its guide to enactment.

The Model Law constitutes a key element of the legal framework for insolvency and is the illustration of a need to establish greater certainty with regard to rights and remedies in insolvency procedures, to ensure comity and judicial cooperation between insolvency courts and insolvency authorities across all regions at times when insolvency procedures against transnational corporations generally affect several jurisdictions across the world.

The Commission will also hear in this session progress reports on the efforts of Working Group III on Investor-State Dispute Settlement Reform where good progress has been made in identifying concerns and problems with the current investor-State dispute settlement system. The efforts of Working Group III were characterized by a high level of coordination among the stakeholders involved, the well-organized support received from the community of academics and practitioners, and the cooperative spirit among delegations.

Working Group IV has embarked on two important projects on digital identity management and on cloud computing. You will hear a report by the Working Group, in particular about the results of the work on cloud computing and progress made in defining the scope of work on identity management and trust services.

I wish to encourage you to take a closer look at this field of international trade law where major challenges lie ahead of us in view of the exponential growth of the digital economy.

Not only are legal norms for the recognition of different approaches to the regulation of digital trade necessary to avoid new barriers to international trade, but it is also essential to bridge the digital gap that is becoming threatening for many economies, particularly the weaker ones. We must learn the lessons of the past and make sure that all trade actors and all States can reap the benefits of these new modes of doing business across the globe.

Working Group VI will update you on its work on a Practice Guide to the UNCITRAL Model Law on Secured Transactions.

In addition, the Secretariat will present its work on revising UNCITRAL texts on privately financed infrastructure projects that are gaining momentum in many regions and where an updating of the existing instruments was found necessary.



In this connection, I look forward to an in-depth debate and count on your support for the Secretariat's role in the adoption, implementation and interpretation of UNCITRAL instruments. A lot of work is needed to ensure the distribution of those instruments in all countries and a concerted effort is necessary. To this effect, the Secretariat has organized a round table discussion to consider the best way forward in this important endeavour.

I will have another opportunity to address you on the 28th of June on the occasion of the 60th anniversary of the New York Convention that we will celebrate together here during the Commission meeting and later at a reception.

In conclusion, I wish you a fruitful meeting and productive deliberations. Thank you for your kind attention.