



# General Assembly

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**United Nations Commission on  
International Trade Law  
Working Group V (Insolvency Law)  
Fifty-fifth session**

New York, 28–31 May 2019

## **Annotated provisional agenda**

### **I. Provisional agenda**

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Consideration of insolvency topics.
5. Other business.
6. Adoption of the report.

### **II. Composition of the Working Group**

1. The Working Group is composed of the following States: Argentina (2022), Armenia (2019), Australia (2022), Austria (2022), Belarus (2022), Brazil (2022), Bulgaria (2019), Burundi (2022), Cameroon (2019), Canada (2019), Chile (2022), China (2019), Colombia (2022), Côte d'Ivoire (2019), Czechia (2022), Denmark (2019), Ecuador (2019), El Salvador (2019), France (2019), Germany (2019), Greece (2019), Honduras (2019), Hungary (2019), India (2022), Indonesia (2019), Iran (Islamic Republic of) (2022), Israel (2022), Italy (2022), Japan (2019), Kenya (2022), Kuwait (2019), Lebanon (2022), Lesotho (2022), Liberia (2019), Libya (2022), Malaysia (2019), Mauritania (2019), Mauritius (2022), Mexico (2019), Namibia (2019), Nigeria (2022), Pakistan (2022), Panama (2019), Philippines (2022), Poland (2022), Republic of Korea (2019), Romania (2022), Russian Federation (2019), Sierra Leone (2019), Singapore (2019), Spain (2022), Sri Lanka (2022), Switzerland (2019), Thailand (2022), Turkey (2022), Uganda (2022), United Kingdom of Great Britain and Northern Ireland (2019), the United States of America (2022), Venezuela (Bolivarian Republic of) (2022) and Zambia (2019).

2. Member States not members of the Commission, non-Member States having received a standing invitation to participate as observers in the sessions and the work of the General Assembly, and international governmental organizations may attend the session as observers and participate in the deliberations. In addition, invited international non-governmental organizations may attend the session as observers and



represent the views of their organizations on matters where the organization concerned has expertise or international experience so as to facilitate the deliberations at the session.

### III. Annotations to agenda items

#### Item 1. Opening of the session

3. The fifty-fifth session of the Working Group will be held at the United Nations Headquarters in New York, from Tuesday, 28 May to Friday, 31 May 2019 (four working days). Meeting hours will be from 10 a.m. to 1 p.m. and from 3 to 6 p.m., except on the first day of the session, Tuesday, 28 May 2019, when the meeting will commence at 10.30 a.m.

4. Consistent with decisions taken by the Commission at its thirty-fourth session,<sup>1</sup> the Working Group is expected to hold substantive deliberations during the first seven half-day meetings (that is, from Tuesday to Friday morning). The report is to be adopted at the last meeting of the Working Group (on Friday afternoon) (see para. 16 below).

#### Item 2. Election of officers

5. In accordance with its practice at previous sessions, the Working Group may wish to elect a Chairman and a Rapporteur.

#### Item 4. Consideration of insolvency topics

##### 1. Background information

##### (a) Draft guide to enactment of the draft model law on enterprise group insolvency (as contained in an annex to the report of the fifty-fourth session of the Working Group ([A/CN.9/966](#)))

6. The work on the topic of enterprise group insolvency has continued in the Working Group pursuant to the mandate approved by the Commission at its forty-seventh session, in 2014.<sup>2</sup> At its fifty-fourth session (Vienna, 10–14 December 2018), the Working Group approved the text of the draft model law on enterprise group insolvency annexed to the report of that session and a text addressing the obligations of directors of enterprise group companies in the period approaching insolvency contained in document [A/CN.9/WG.V/WP.153](#) as amended at the session. The Working Group requested the Secretariat to transmit both texts to the Commission for finalization and adoption at its fifty-second session, in 2019 ([A/CN.9/966](#), paras. 110 and 113). (Pursuant to the request of the Working Group ([A/CN.9/966](#), para. 110) and in accordance with the usual practice of UNCITRAL, the draft model law was circulated by the Secretariat for comment to States and international organizations invited to sessions of the Working Group. Any comment that the Secretariat may receive on that text will be transmitted to the Commission for consideration together with the draft model law.)

7. At its fifty-fourth session, the Working Group considered document [A/CN.9/WG.V/WP.162](#) containing a draft guide to enactment of the draft model law on enterprise group insolvency (as contained in [A/CN.9/WG.V/WP.161](#)) and requested the Secretariat to revise that draft reflecting the changes agreed to be made at that session to both the draft model law contained in document [A/CN.9/WG.V/WP.161](#) and the draft guide. The Working Group expected that a revised text of the draft guide would be considered at the fifty-fifth session of the Working Group and subsequently transmitted to the Commission for finalization and adoption together with the draft model law

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<sup>1</sup> *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 17 and corrigendum (A/56/17 and Corr.3)*, para. 381.

<sup>2</sup> *Ibid.*, *Sixty-ninth Session, Supplement No. 17 (A/69/17)*, para. 155.

approved by the Working Group at its fifty-fourth session (A/CN.9/966, annex). It was understood that there would be no time to further revise the draft guide, and therefore any agreed amendments to the draft guide would only be listed in the report of that session, for consideration by the Commission in July 2019 (A/CN.9/966, para. 111).

**(b) Insolvency of micro, small and medium-sized enterprises (MSMEs)**

8. At its forty-sixth session, in 2013, the Commission requested the Working Group to conduct, at its spring 2014 session, a preliminary examination of issues relevant to the insolvency of MSMEs, and in particular to consider whether the UNCITRAL Legislative Guide on Insolvency Law provided sufficient and adequate solutions for MSMEs. If it did not, the Working Group was requested to consider what further work and potential work product might be required to streamline and simplify insolvency procedures for MSMEs. Its conclusions on those MSME issues were to be included in its progress report to the Commission in 2014 in sufficient detail to enable the Commission to consider what, if any, future work might be required.<sup>3</sup>

9. At its forty-fifth session (New York, 21–25 April 2014), the Working Group considered the topic as requested and agreed that the issues facing MSMEs were not entirely novel and that solutions for them should be developed in light of the key insolvency principles and the guidance already provided by the Legislative Guide. The Working Group further agreed that it would not be necessary to wait for the results of the work being done by UNCITRAL Working Group I (MSMEs) in order to commence the study of insolvency regimes for MSMEs. As to the form that work might take, the Working Group agreed that, while such work might form an additional part to the Legislative Guide, no firm conclusion on that point could be taken in advance of undertaking a thorough analysis of the issues at stake (A/CN.9/803, para. 14).

10. At its forty-ninth session, in 2016, the Commission agreed that the Working Group should develop appropriate mechanisms and solutions, focusing on both natural and legal persons engaged in commercial activity, to resolve the insolvency of MSMEs. While the key insolvency principles and the guidance provided by the UNCITRAL Legislative Guide on Insolvency Law should be the starting point for discussions, the Working Group should aim to tailor the mechanisms already provided in the Legislative Guide to specifically address MSMEs and develop new and simplified mechanisms as required, taking into account the need for those mechanisms to be equitable, fast, flexible and cost efficient. The form the work might take should be decided at a later time based on the nature of the various solutions that were being developed.<sup>4</sup>

11. At its fifty-first session (New York, 10–19 May 2017), the Working Group held a preliminary discussion on how the work on this topic might be developed (A/CN.9/903, paras. 13–14). At its fifty-third session (New York, 7–11 May 2018), the Working Group had before it document A/CN.9/WG.V/WP.159, upon which it made various observations (A/CN.9/937, chapter VI). Based on that paper and those observations, a draft text on a simplified insolvency regime (A/CN.9/WG.V/WP.163) was presented to the Working Group at its fifty-fourth session (Vienna, 10–14 December 2018). At that session, the Working Group suggested revisions to that text (A/CN.9/966, chapter VI).

**2. Documentation for the fifty-fifth session**

12. The Working Group will have before it notes by the Secretariat: (a) containing a draft guide to enactment of the draft model law on enterprise group insolvency (as contained in an annex to the report of the fifty-fourth session of the Working Group (A/CN.9/966)) (A/CN.9/WG.V/WP.165); and (b) on a simplified insolvency regime (A/CN.9/WG.V/WP.166).

<sup>3</sup> Ibid., *Sixty-eighth Session, Supplement No. 17* (A/68/17), para. 326.

<sup>4</sup> Ibid., *Seventy-first Session, Supplement No. 17* (A/71/17), para. 246.

13. States and interested organizations may wish to note the following background documents:

(a) The UNCITRAL Legislative Guide on Insolvency Law (2004), including parts three (2010) and four (2013);

(b) The UNCITRAL Model Law on Cross-Border Insolvency (1997) with its Guide to Enactment and Interpretation (2013); and the UNCITRAL Model Law on Recognition and Enforcement of Insolvency-Related Judgments with its Guide to Enactment (2018);

(c) Reports of the Working Group on the work of its forty-fifth (New, York, 21–25 April 2014) to fifty-fourth sessions (Vienna, 10–14 December 2018) ([A/CN.9/803](#), [A/CN.9/829](#), [A/CN.9/835](#), [A/CN.9/864](#), [A/CN.9/870](#), [A/CN.9/898](#), [A/CN.9/903](#), [A/CN.9/931](#), [A/CN.9/937](#) and [A/CN.9/966](#));

(d) A note by the Secretariat containing a draft guide to enactment of the draft model law on enterprise group insolvency (as contained in [A/CN.9/WG.V/WP.161](#)) ([A/CN.9/WG.V/WP.162](#)); and

(e) Notes by the Secretariat on insolvency of micro, small and medium-sized enterprises ([A/CN.9/WG.V/WP.121](#), [A/CN.9/WG.V/WP.147](#), [A/CN.9/WG.V/WP.159](#) and [A/CN.9/WG.V/WP.163](#)).

14. UNCITRAL documents and publications are posted on the UNCITRAL website ([uncitral.un.org](#)) upon their issuance in all the official languages of the United Nations. Delegates may wish to check the availability of the working papers by accessing the Working Group’s page in the “Working Documents” section of the UNCITRAL website.

#### **Item 5. Other business**

15. The Working Group may wish to consider other issues within its mandate. It may wish to note that its fifty-sixth session is tentatively scheduled to be held in Vienna from 2 to 6 December 2019, subject to confirmation by the Commission at its fifty-second session, in 2019.<sup>5</sup>

#### **Item 6. Adoption of the report**

16. The Working Group may wish to adopt, at the close of its session, a report for submission to the fifty-second session of the Commission to be held in Vienna, in July 2019. The report will include the main conclusions reached by the Working Group. Consistent with decisions taken by the Commission at its thirty-fourth session,<sup>6</sup> the substance of the Working Group’s deliberations at its meeting on Friday morning will be summarily read out for the record and subsequently incorporated into the report.

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<sup>5</sup> *Ibid.*, *Seventy-third Session, Supplement No. 17 (A/73/17)*, para. 285 (e).

<sup>6</sup> *Ibid.*, *Fifty-sixth Session, Supplement No. 17 and corrigendum (A/56/17 and Corr.3)*, para. 381.