



General Assembly

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**United Nations Commission
on International Trade Law**
Working Group V (Insolvency Law)
Thirtieth session
New York, 29 March-2 April 2004

I. Provisional agenda for the thirtieth session of Working Group V

1. Scheduling of meetings.
2. Election of officers.
3. Adoption of the agenda.
4. Preparation of a legislative guide on insolvency law.
5. Other business.
6. Adoption of the report.

Notes on the provisional agenda

Item 1. Scheduling of meetings

1. The thirtieth session of Working Group V (Insolvency Law) will be held at United Nations Headquarters from 29 March to 2 April 2004. There will be five formal working days for consideration of the agenda. Meeting hours will be from 10. a.m. to 1 p.m. and from 3 p.m. to 6 p.m.
2. Working Group V (Insolvency Law) is composed of all States members of the Commission: Austria, Benin, Brazil, Burkina Faso, Cameroon, Canada, China, Colombia, Fiji, France, Germany, Honduras, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Kenya, Lithuania, Mexico, Morocco, Paraguay, Romania, Russian Federation, Rwanda, Sierra Leone, Singapore, Spain, Sudan, Sweden, Thailand, the former Yugoslav Republic of Macedonia, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay (alternating annually with Argentina).



Item 2. Election of officers

3. The Working Group, in accordance with its practice at previous sessions, may wish to elect a Chairman and a Rapporteur.

Item 4. Preparation of a legislative guide on insolvency law

4. At its thirty-third session in 2000, the Commission endorsed the recommendations that had been made by Working Group V (Insolvency Law) at its twenty-second session (6-17 December 1999) and gave the Group the mandate to prepare a comprehensive statement of key objectives and core features for a strong insolvency, debtor-creditor regime, including consideration of out-of-court restructuring, and a legislative guide containing flexible approaches to the implementation of such objectives and features, including a discussion of the alternative approaches possible and the perceived benefits and detriments of such approaches.¹

5. The first draft of the legislative guide on insolvency law was considered by the twenty-fourth session of Working Group V (Insolvency Law) (New York, 23 July to 3 August 2001) and the deliberations of the Working Group on development of the legislative guide have continued through its twenty-fifth (2001) to twenty-ninth sessions (2003).

6. At its thirty-sixth session (Vienna, 2003), the Commission endorsed the recommendation that had been made to it by the twenty-eighth session of Working Group V (February 2003) that the Commission: (1) approve the scope of the work undertaken by the Working Group as being responsive to the mandate given to the Working Group; (2) give preliminary approval to the key objectives, general features and structure of insolvency regimes as set forth in the introductory chapters of Part One of the guide; (3) direct the Secretariat to make the current draft of the legislative guide available to all United Nations Member States, observer States, relevant intergovernmental and non-governmental international organizations, as well as the private sector and regional organizations for comment; (4) continue to work collaboratively with the World Bank and other organizations working in the field of insolvency law reform to ensure complementarity and avoid duplication and take into consideration the work of Working Group VI on secured transactions; and (5) direct Working Group V to complete its work on the legislative guide and present it to the thirty-seventh session of the Commission in 2004 for approval and adoption.

7. It is expected that Working Group V will complete its deliberations on the draft guide at its thirtieth session. The Working Group will have before it, and may wish to use as a basis for its deliberations: Draft legislative guide on insolvency law (A/CN.9/WG.V/WP.70 Parts I and II) and a Note by the Secretariat: Applicable law governing in insolvency proceedings (A/CN.9/WG.V/WP.72). It is anticipated that the Working Group will also have before it additional supplementary working papers dealing with proposals for revision of the draft guide arising from submission of the draft guide to governments for comment.

8. The following background documents, which are also available from the UNCITRAL web site (<http://www.uncitral.org>),² will be made available at the session:

(a) Possible future work on insolvency law: Note by the Secretariat (A/CN.9/WG.V/WP.50); Draft legislative guide on insolvency law: Reports of the Secretary-General (A/CN.9/WG.V/WP.54 and A/CN.9/WG.V/WP.54/Add.1-2); Alternative approaches to out-of-court insolvency processes: Report of the Secretary-General (A/CN.9/WG.V/WP.55); Draft legislative guide on insolvency law: Reports of the Secretary-General (A/CN.9/WG.V/WP.57 and A/CN.9/WG.V/WP.58); Alternative informal insolvency processes (A/CN.9/WG.V/WP.59); Draft legislative guide on insolvency law: Notes by the Secretariat (A/CN.9/WG.V/WP.61, A/CN.9/WG.V/WP.61/Add.1-2 and A/CN.9/WG.V/WP.63/Add.1-17);

(b) Report on the UNCITRAL/INSOL/IBA Global Insolvency Colloquium (2000), A/CN.9/495;

(c) Report of UNCITRAL on the work of its thirty-fourth session (2001), A/56/17, thirty-fifth session (2002), A/57/17 and thirty-sixth session (2003), A/58/17;

(d) Report of Working Group V (Insolvency Law) on the work of its twenty-second session (December, 1999), A/CN.9/469; twenty-fourth session (July/August 2001), A/CN.9/504; twenty-fifth session (December 2001), A/CN.9/507; twenty-sixth session (May 2002), A/CN.9/511; twenty-seventh session (December 2002), A/CN.9/529; twenty-eighth session (February 2003), A/CN.9/530; and twenty-ninth session (September 2003), A/CN.9/542.

Item 5. Other business

9. The draft legislative guide is expected to be considered for finalization and adoption by the Commission at its thirty-seventh session in New York to be held between 14 June and 2 July 2004.

Item 6. Adoption of the report

10. The Working Group may wish to adopt, at the close of its session, a report for submission to the thirty-seventh session of the Commission (New York, 2004). The Working Group may wish to note that, consistent with decisions taken by the Commission at its thirty-fourth session (see A/56/17, para. 381), the Working Group is expected to hold substantive deliberations during the first nine half-day meetings (that is, from Monday to Friday morning), with a draft report on the entire period being prepared by the Secretariat for adoption at the tenth and last meeting of the Working Group (on Friday afternoon).

II. Provisional agenda for second joint session of Working Groups V (Insolvency Law) and VI (Security Interests)

1. Election of officers.
2. Adoption of the agenda.

3. Consideration of the treatment of security rights in insolvency proceedings.
4. Other business.
5. Adoption of the report.

Notes on the provisional agenda

11. At its thirty-fifth session (2002), the Commission noted with particular satisfaction the efforts undertaken by Working Group VI (Security Interests) and Working Group V (Insolvency Law) towards coordinating their work on a subject of common interest such as the treatment of security interests in the case of insolvency proceedings. Strong support was expressed for such coordination, which was generally thought to be of crucial importance for providing States with comprehensive and consistent guidance with respect to the treatment of security interests in insolvency proceedings. The Commission endorsed a suggestion made to revise chapter X of the draft legislative guide on secured transactions in the light of the core principles agreed by Working Groups V and VI (see A/CN.9/511, paras. 126-127 and A/CN.9/512, para. 88). The Commission also endorsed a suggestion for closer coordination of the work of the two Working Groups, including a suggestion to hold a one-day joint meeting of the two Working Groups at their upcoming sessions.³

12. At their first joint session (Vienna, 16-17 December 2002), Working Group V and Working Group VI considered the treatment of security rights in insolvency proceedings on the basis of chapter IX, Insolvency, of the draft legislative guide on secured transactions (A/CN.9/WG.VI/WP.6/Add.5). At that session, the Secretariat was requested to prepare a revised version of chapter IX, Insolvency (see A/CN.9/535, para. 8).

13. At its thirty-sixth session (2003), the Commission expressed its appreciation to Working Group V and Working Group VI for the progress made during their first joint session on matters of common interest and noted with satisfaction the plans for further joint meetings of experts.⁴

Item 1. Election of officers

14. The Working Groups may wish to elect a Chairman and a Rapporteur for the joint session.

Item 3. Consideration of the treatment of security rights in insolvency proceedings

15. The Working Groups will have before them and may use as a basis for their consideration the revised chapter on insolvency of the draft guide on secured transactions (A/CN.9/WG.VI/WP.11/Add.2), the draft legislative guide on insolvency law (A/CN.9/WG.V/WP.70, Parts I and II) together with a Note by the Secretariat summarizing the treatment of secured creditors in the draft legislative guide on insolvency law (A/CN.9/WG.V/WP.71).

Item 5. Adoption of the report

22. The Working Groups may wish to adopt, at the close of their joint session, a report for submission to the thirty-seventh session of the Commission, in 2004.

Scheduling of meetings

23. The joint session of Working Groups V and VI will be held at United Nations Headquarters on 26 March 2004. Meeting hours will be from 10 a.m. to 1 p.m. and from 3 p.m. to 6 p.m. The Working Groups are expected to hold substantive deliberations on Friday morning and afternoon, with a draft report being prepared by the Secretariat for adoption by the Working Groups on Monday, 29 March 2004, in the afternoon.

Notes

¹ *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 17 (A/55/17)*, paras. 400-409.

² The working papers may be found on the UNCITRAL web site www.uncitral.org under “Working Groups” and then “Working Group V (Insolvency Law)”; the reports may be found under documents relating to the relevant session of the Commission.

³ *Ibid.*, *Fifty-seventh Session, Supplement No. 17 (A/57/17)*, para. 203.

⁴ *Ibid.*, *Fifty-eighth Session, Supplement No. 17 (A/58/17)*, para. 217.
