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UNITED NATIONS COMMISSION
ON INTERNATIONAL TRADE LAW
Working Group on Insolvency Law
Twenty-first session
New York, 20 - 31 January 1997

PROVISIONAL AGENDA

1. Election of officers
2. Adoption of the agenda
3. Cross-border insolvency: consideration of newly revised articles of the draft UNCITRAL Model Legislative Provisions on Cross-Border Insolvency
4. Other business
5. Adoption of the report

Notes on the provisional agenda

1. At the present session, the Working Group on Insolvency Law continues its work, undertaken pursuant to a decision taken by the Commission at its twenty-eighth session (Vienna, 2-26 May 1995), on the

development of a legal instrument relating to cross-border insolvency.¹ This is the fourth session that the Working Group is devoting to the preparation of that instrument, currently entitled the draft UNCITRAL Model Legislative Provisions on Cross-Border Insolvency.

2. The Commission's decision to undertake work on cross-border insolvency was taken in response to suggestions made to it by practitioners, including at the UNCITRAL Congress under the theme "Uniform commercial law in the twenty-first century", held in 1992.² The Commission decided at its twenty-sixth session to pursue those suggestions further.³ Subsequently, in order to assess the desirability and feasibility of work in this area, and to define appropriately the scope of the work, UNCITRAL and the International Association of Insolvency Practitioners (INSOL) held a Colloquium on Cross-Border Insolvency (Vienna, 17-19 April 1994) involving practitioners from various disciplines, judges, government officials and representatives of other interested sectors including lenders.⁴ The Colloquium gave rise to the suggestion work by the Commission should, at least at the current stage, have the limited but useful goal of facilitating judicial cooperation in insolvency matters, providing court access to foreign insolvency administrators and establishing rules for recognition of foreign insolvency proceedings.

3. Subsequently, an international meeting of judges was held specifically to elicit their views as to work the Commission in this area (UNCITRAL-INSOL Judicial Colloquium on Cross-Border Insolvency (Toronto, 22 - 23 March 1995)).⁵ The view of the participating judges and government officials concerned with insolvency was that it would be worthwhile for the Commission to provide a legislative framework, for example by way of model legislative provisions, for judicial cooperation, court access for foreign insolvency administrators and recognition of foreign insolvency proceedings.

4. At its eighteenth session (Vienna, 30 October - 10 November 1995), the Working Group considered possible issues to be covered by the instrument;⁶ at its nineteenth and twentieth sessions (New York, 1-12 April 1996, and Vienna, 7-18 October 1996), the Working Group considered draft

¹ Official Records of the General Assembly, Fiftieth Session, Supplement No. 17 (A/50/17), paras. 382-393.

² Uniform Commercial Law in the Twenty-first Century, Proceedings of the Congress of the United Nations Commission on International Trade Law, New York, 18-22 May 1992 (A/CN.9/SER.D/1, United Nations publication, Sales No. E.94.V.14), 274.

³ Official Records of the General Assembly, Forty-eighth Session, Supplement No.17 (A/48/17), paras. 302-306. The background note on which the Commission based its discussion is contained in document A/CN.9/378/Add.4.

⁴ The report on the Colloquium is found in document A/CN.9/398.

⁵ The report on the Judicial Colloquium is found in document A/CN.9/413.

⁶ The report of the session is found in document A/CN.9/419.

articles, until then tentatively in the form of draft model legislative provisions.⁷ At the twentieth session, Working Group decided to continue the work under the assumption that the end-product would be in the form of model legislative provisions, which, however, did not exclude the possibility of undertaking work towards model treaty provisions or a convention in the area of cross-border insolvency if the Commission later stage so decides.⁸

5. The Working Group is composed of all States members of the Commission. These are: Algeria, Argentina, Australia, Austria, Botswana, Brazil, Bulgaria, Cameroon, Chile, China, Ecuador, Egypt, Finland, France, Germany, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Kenya, Mexico, Nigeria, Poland, Russian Federation, Saudi Arabia, Singapore, Slovakia, Spain, Sudan, Thailand, Uganda, United Kingdom, Great Britain and Northern Ireland, United Republic of Tanzania, United States of America and Uruguay.

Item 1. Election of officers

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

Item 3. Cross-border insolvency: consideration of draft legislative provisions

7. The Working Group will have before it, and may wish to use as a basis for its deliberations, the following document:

(a) Newly revised articles of the draft UNCITRAL Model Legislative Provisions on Cross-Border Insolvency (A/CN.9/WG.V/WP.48).

8. The following documents will be made available at the session:

(a) Report of the Working Group on Insolvency Law on the work of its twentieth session (A/CN.9/433);

(b) Revised articles of the draft UNCITRAL Model Legislative Provisions on Cross-Border Insolvency (A/CN.9/WG.V/WP.46);

(c) Report of the Working Group on Insolvency Law on the work of its nineteenth session (A/CN.9/422);

⁷ The report of the nineteenth session is found in document A/CN.9/422; the report of the twentieth session is found in document A/CN.9/433.

⁸ A/CN.9/433, paras. 16-20.

- (d) Draft legislative provisions on judicial cooperation and access and recognition in cases of cross-border insolvency (A/CN.9/WG.V/WP.44);
- (e) Report of the Working Group on Insolvency Law on the work of its eighteenth session (A/CN.9/419);
- (f) Report on possible issues relating to judicial cooperation and access and recognition in cases of cross-border insolvency (A/CN.9/WG.V/WP.42);
- (g) Report on the UNCITRAL-INSOL Judicial Colloquium on Cross-Border Insolvency (Toronto, 22-23 March 1995) (A/CN.9/413);
- (h) Report on the UNCITRAL-INSOL Colloquium on Cross-Border Insolvency (Vienna, 17-19 April 1994) (A/CN.9/398); and
- (i) Note by the Secretariat on cross-border aspects of insolvency (A/CN.9/378/Add.4).

Item 5. Adoption of the report

9. The Working Group may wish to adopt, at the close of its session, a report that would include draft articles of the UNCITRAL Model Legislative Provisions on Cross-Border Insolvency, for submission to the thirtieth session of the Commission (to be held from 12 to 30 May 1997 at Vienna).

Meetings

10. The session of the Working Group will take place from 20 to 31 January 1997 at United Nations Headquarters, New York. There will be 8 working days available for consideration of the draft articles. One meeting will be scheduled for Thursday, 30 January, in order to allow for the preparation of the draft report for the session, which will be adopted on Friday, 31 January. Meeting hours will be from 10:00 to 13:00 and from 15:00 to 18:00, except on Monday, 20 January 1997, when the session will commence at 10:30.

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