



General Assembly

Distr.: Limited
18 November 2020

Original: English

**United Nations Commission on
International Trade Law
Working Group I (MSMEs)
Thirty-fifth session
Vienna, 25–29 January 2021**

Annotated provisional agenda

I. Provisional agenda

1. Opening of the session.
2. Adoption of the agenda.
3. Preparation of legal standards in respect of micro, small and medium-sized enterprises (MSMEs).

II. Composition of the Working Group

1. The Working Group is composed of all States members of the Commission, which are the following: Algeria (2025), Argentina (2022), Australia (2022), Austria (2022), Belarus (2022), Belgium (2025), Brazil (2022), Burundi (2022), Cameroon (2025), Canada (2025), Chile (2022), China (2025), Colombia (2022), Côte d'Ivoire (2025), Croatia (2025), Czechia (2022), Dominican Republic (2025), Ecuador (2025), Finland (2025), France (2025), Germany (2025), Ghana (2025), Honduras (2025), Hungary (2025), India (2022), Indonesia (2025), Iran (Islamic Republic of) (2022), Israel (2022), Italy (2022), Japan (2025), Kenya (2022), Lebanon (2022), Lesotho (2022), Libya (2022), Malaysia (2025), Mali (2025), Mauritius (2022), Mexico (2025), Nigeria (2022), Pakistan (2022), Peru (2025), Philippines (2022), Poland (2022), Republic of Korea (2025), Romania (2022), Russian Federation (2025), Singapore (2025), South Africa (2025), Spain (2022), Sri Lanka (2022), Switzerland (2025), Thailand (2022), Turkey (2022), Uganda (2022), Ukraine (2025), United Kingdom of Great Britain and Northern Ireland (2025), United States of America (2022), Venezuela (Bolivarian Republic of) (2022), Viet Nam (2025) and Zimbabwe (2025).

2. States not members of the Commission 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 thirty-fifth session of Working Group I was originally scheduled to be held at the United Nations Headquarters in New York from 22 to 26 March 2021. Due to the spread of the Coronavirus disease (COVID-19) the session is now scheduled to be held at the Vienna International Centre from 25 to 29 January 2021 with the arrangements put in place to allow both in-person and online participation.

Item 3. Preparation of legal standards in respect of micro, small and medium-sized enterprises (MSMEs)

1. Background information

(a) Mandate of the Working Group¹

4. At its forty-sixth session, in 2013, the Commission took note of the broad consensus among participants at the UNCITRAL colloquium on microfinance held in Vienna in January 2013² to recommend that a Working Group be established to address the legal aspects of creating an enabling environment for micro, small and medium-sized enterprises (MSMEs). It also heard a proposal from the Government of Colombia³ that the Commission could create a mandate for a new Working Group focused on the life cycle of a business, particularly in relation to micro and small enterprises. After discussion, the Commission agreed that work on reducing the legal obstacles faced by MSMEs throughout their life cycle, in particular, in developing economies, should be added to the work programme of the Commission, and that such work should begin with a focus on the legal questions surrounding the simplification of incorporation.⁴ That mandate was reaffirmed by the Commission at its forty-seventh to fifty-third sessions, in 2014 to 2020, respectively.⁵

5. At its twenty-second session (New York, 10 to 14 February 2014), Working Group I (MSMEs) commenced its work according to the mandate received from the Commission. Based upon the issues raised in working paper [A/CN.9/WG.I/WP.82](#), the Working Group engaged in preliminary discussions in respect of a number of broad issues relating to the development of a legal text on simplified incorporation.⁶ Business registration was also said to be of particular relevance in the future deliberations of the Working Group.⁷ From its twenty-third session (Vienna, 17 to 21 November 2014) to its thirtieth session (New York, 12 to 16 March 2018), the Working Group proceeded to consider the legal issues surrounding the simplification of incorporation as well as good practices in business registration⁸ both of which were

¹ A detailed history of the current mandate of Working Group I can be found in [A/CN.9/WG.I/WP.108](#).

² See [A/CN.9/780](#); presentations made at the colloquium are available at https://uncitral.un.org/en/colloquia/microfinance/2013_colloquia. See *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 17 (A/67/17)*, paras. 124–126, for the deliberation of the Commission on holding a colloquium on microfinance and related matters.

³ See [A/CN.9/790](#).

⁴ *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17 (A/68/17)*, para. 321.

⁵ *Ibid.*, *Sixty-ninth Session, Supplement No. 17 (A/69/17)*, para. 134; *ibid.*, *Seventieth Session, Supplement No. 17 (A/70/17)*, paras. 225 and 340; *ibid.*, *Seventy-first Session, Supplement No. 17 (A/71/17)*, para. 347; *ibid.*, *Seventy-second Session, Supplement No. 17 (A/72/17)*, para. 235; *ibid.*, *Seventy-third Session, Supplement No. 17 (A/73/17)*, para. 238(a); *ibid.*, *Seventy-fourth Session, Supplement No. 17 (A/74/17)*, para. 192(a); *ibid.*, *Seventy-fifth Session, Supplement No. 17 (A/75/17)*, part two, para. 51(a).

⁶ See [A/CN.9/800](#), paras. 34–38 and 42–46.

⁷ *Ibid.*, paras. 47–50.

⁸ The Working Group engaged in deliberations on good practices in business registration at its twenty-fifth and twenty-sixth sessions (see [A/CN.9/860](#) and [A/CN.9/866](#)), and twenty-eighth to thirtieth sessions (see [A/CN.9/900](#), [A/CN.9/928](#) and [A/CN.9/933](#)). At its twenty-fifth session, it was decided that such work should proceed along the lines of a concise legislative guide on key principles in business registration, without prejudice to considering other possible legislative

said to reduce the legal obstacles encountered by MSMEs throughout their life cycle and in particular at business start-up. At its fifty-first session, in 2018, the Commission adopted the draft legislative guide on key principles of a business registry (contained in [A/CN.9/940](#)) with a few revisions.⁹

(b) The draft legislative guide on an UNCITRAL Limited Liability Organization (UNLLO)

6. At its twenty-third session (Vienna, 17 to 21 November 2014), the Working Group set the context for its discussion of the legal questions surrounding the simplification of incorporation.¹⁰ It also explored the legal questions surrounding the simplification of incorporation by considering the issues outlined in the framework set out in working paper [A/CN.9/WG.I/WP.86](#).¹¹

7. At its twenty-fourth session (New York, 13 to 17 April 2015), after resuming consideration of the issues outlined in working paper [A/CN.9/WG.I/WP.86](#), the Working Group decided that it should continue its work by considering the first six articles of the draft model law and commentary thereon contained in working paper [A/CN.9/WG.I/WP.89](#), without prejudice to the final form of the legislative text, which had not yet been decided. Further to a proposal from several delegations, the Working Group agreed to discuss the issues included in working paper [A/CN.9/WG.I/WP.89](#) bearing in mind the general principles outlined in the proposal, including the “think small first” approach, and to prioritize those aspects of the draft text in working paper [A/CN.9/WG.I/WP.89](#) that were the most relevant for simplified business entities. The Working Group also agreed that it would discuss the alternative models introduced in working paper [A/CN.9/WG.I/WP.87](#) at a later stage.

8. At its twenty-fifth session (Vienna, 19 to 23 October 2015), the Working Group resumed its deliberations on working paper [A/CN.9/WG.I/WP.89](#) and considered Chapter VI on organization of the simplified business entity, Chapter VIII on dissolution and winding up, Chapter VII on restructuring, and draft article 35 on financial statements (contained in Chapter IX on miscellaneous matters).¹²

9. At its twenty-sixth session (New York, 4 to 8 April 2016), the Working Group first reviewed Chapter III on shares and capital, followed by Chapter V on shareholders’ meetings of working paper [A/CN.9/WG.I/WP.89](#).¹³ Following its discussion of the issues contained in those chapters, the Working Group decided that the legislative text on a simplified business entity should be in the form of a legislative guide, and requested the Secretariat to prepare for discussion at a future session a draft legislative guide (consisting of recommendations and commentary) that reflected its policy discussions to date.¹⁴ In addition, the Working Group considered the general architecture of its work on MSMEs, and agreed that such work should be accompanied by an introductory document on “Reducing the legal obstacles faced by micro, small and medium-sized enterprises” ([A/CN.9/WG.I/WP.92](#)), which would provide an overarching framework for current and future work on MSMEs.¹⁵

10. At its twenty-seventh session (Vienna, 3 to 7 October 2016), the Working Group considered the issues outlined in working papers [A/CN.9/WG.I/WP.99](#) and [Add.1](#) on

texts at a later stage (see [A/CN.9/860](#), para. 72). For a detailed account of the deliberations on the draft legislative guide, see [A/CN.9/WG.I/WP.108](#).

⁹ *Official Records of the General Assembly, Seventy-third Session, Supplement No. 17 (A/73/17)*, para. 111.

¹⁰ The Working Group heard a presentation by the Secretariat of the Financial Action Task Force (FATF) and presentations by States (see [A/CN.9/WG.I/WP.87](#)).

¹¹ *Ibid.*, paras. 62–79.

¹² See [A/CN.9/860](#), paras. 76 to 96.

¹³ See [A/CN.9/866](#), paras. 22 to 47.

¹⁴ *Ibid.*, paras. 48 to 50.

¹⁵ The document was further revised in [A/CN.9/WG.I/WP.107](#) and [A/CN.9/WG.I/WP.110](#) and transmitted to the Commission for consideration and possible adoption at its fifty-first session (2018) as contained in [A/CN.9/941](#). The Commission, however, did not deliberate over the document at that session.

an UNCITRAL limited liability organization (UNLLO), beginning with section A on general provisions (draft recommendations 1 to 6), section B on the formation of an UNLLO (draft recommendations 7 to 10), and section C on the organization of an UNLLO (draft recommendations 11 to 13). The Working Group also heard a short presentation of working paper [A/CN.9/WG.I/WP.94](#) on the French legislative approach known as an “Entrepreneur with Limited Liability” (or EIRL), which represented a possible alternative legislative model applicable to micro and small businesses.

11. At its twenty-eighth session (New York, 1 to 9 May 2017), the Working Group considered the following recommendations (and related commentary) of the draft legislative guide on an UNLLO (as it appeared in [A/CN.9/WG.I/WP.99](#) and [Add.1](#)): section D on managers (draft recommendations 14 to 16), section E on contributions (draft recommendations 17 and 18), and section F on distributions (draft recommendations 19 to 21). The Working Group also heard two proposals made by States: the first was a proposal for future work on contractual networks ([A/CN.9/WG.I/WP.102](#)), that was later presented to the Commission at its fiftieth session ([A/CN.9/925](#)); and the second being a proposal that the Working Group should attach model provisions on the dissolution and liquidation of MSMEs ([A/CN.9/WG.I/WP.104](#)) as an annex to the legislative guide on an UNLLO. In respect of the latter proposal, the Working Group agreed that any consideration by it of that proposal should first be subject to domestic consultations and that it could be considered at a future session of the Working Group in conjunction with its deliberations regarding recommendation 24 (and commentary) of the draft legislative guide on an UNLLO concerning issues related to dissolution and winding-up of an UNLLO.

12. After devoting its twenty-ninth (Vienna, 16 to 20 October 2017), and thirtieth (New York, 12 to 16 March 2018) sessions to consider the draft legislative guide on key principles of a business registry, the Working Group resumed its discussion on the draft legislative guide on an UNLLO at its thirty-first session (Vienna, 8 to 12 October 2018) at which it considered a revised draft of the guide (contained in [A/CN.9/WG.I/WP.112](#)) including changes arising from its deliberations at its twenty-seventh and twenty-eighth sessions. The following selected recommendations (and relevant commentary) were discussed: recommendations 7 to 12 (Sections B on formation and C on organization), save for recommendation 10; recommendation 15 (Section D on management) and recommendations 16 and 17 (Section E on ownership of the UNLLO and contributions by members).

13. At its thirty-second session (New York, 25 to 29 March 2019),¹⁶ the Working Group continued its discussion on the draft legislative guide on an UNLLO considering the issues included in working paper [A/CN.9/WG.I/WP.114](#). The Working Group first discussed several definitions included in the Terminology section, then proceeded to consider other aspects of the draft guide and to provide additional clarity on certain recommendations discussed at its previous session. The following recommendations and relevant commentary were discussed: recommendation 9 (Section B on formation), recommendation 10 (Section C on organization), recommendations 11 to 16 (Section D on management of the UNLLO); and recommendation 17 (Section E on members’ share of and contributions to the UNLLO).

14. At its thirty-third session (Vienna, 7 to 11 October 2019), the Working Group completed the first review of Part II of the draft legislative guide on an UNLLO (“Establishment and operation of the UNLLO”) by discussing the following recommendations and related commentary: recommendation 1 (Section A on general provisions), recommendation 10 (Section C on organization of the UNLLO), recommendation 11 (Section D on membership in an UNLLO), recommendation 18

¹⁶ The first two days (25 and 26 March) of the thirty-second session were devoted to a colloquium on contractual networks and other forms of inter-firm cooperation (see [A/CN.9/991](#)). The Working Group convened from 27 to 29 March.

(Section F on member's share of and contributions to the UNLLO), recommendations 19 to 21 (Section G on distributions), recommendation 22 (Section H on transfer of rights), recommendation 23 (Section I on restructuring or conversion), recommendation 24 (Section J on dissolution and winding-up), recommendation 25 (Section K on dissociation or withdrawal), recommendations 26 and 27 (Section L on record-keeping, inspection and disclosure) and recommendation 28 (Section M on dispute resolution).

15. At its thirty-fourth session (Vienna, 28 September to 2 October 2020), which was originally scheduled to take place in New York from 23 to 27 March 2020 and postponed due to the spread of the Coronavirus disease 2019 (COVID-19), the Working Group continued its work and completed another review of recommendations 2 to 31 of Part II ("Establishment and operation of the UNLLO") of the draft legislative guide on an UNLLO on the basis of document [A/CN.9/WG.I/WP.118](#), which incorporated the deliberations and decisions of the Working Group at its thirty-third session. The Working Group also reviewed the draft Model Organization Rules catering for multi-members UNLLO managed by all members (Appendix II of [A/CN.9/WG.I/WP.118](#)).

(c) MSMEs' access to credit

16. At its fifty-second session, in 2019, the Commission agreed to strengthen and complete the work on reducing the legal obstacles faced by MSMEs throughout their life cycles by requesting the Secretariat to start preparing draft materials on MSMEs' access to credit, drawing, as appropriate, on the relevant recommendations and guidance contained in the UNCITRAL Model Law on Secured Transactions, with a view to their consideration by Working Group I.¹⁷ In keeping with that request, the Secretariat has prepared an annotated outline of possible topics on MSMEs' access to credit and another document which illustrates how some of the topics contained in the annotated outline could be addressed (see para. 17 below). Time permitting, the Working Group may wish to have an initial discussion of the annotated outline.

2. Documentation

17. The Working Group will have before it, and may wish to use as a basis for its consideration, the following documents: (a) a note by the Secretariat containing a draft legislative guide on an UNCITRAL limited liability organization (UNLLO) ([A/CN.9/WG.I/WP.122](#)); (b) two notes by the Secretariat on access to credit for micro, small and medium-sized enterprises ([A/CN.9/WG.I/WP.119](#) and [Add.1](#)); and (c) such other documents as may be officially submitted by States after the date of this provisional agenda.

18. In planning the attendance of their representatives, States and interested organizations may also wish to consider the following background documents:

(a) Reports of Working Group I (MSMEs) on the work of its twenty-second to twenty-eighth sessions and of its thirty-first to thirty-fourth sessions ([A/CN.9/800](#), [A/CN.9/825](#), [A/CN.9/831](#), [A/CN.9/860](#), [A/CN.9/866](#), [A/CN.9/895](#), [A/CN.9/900](#), [A/CN.9/963](#), [A/CN.9/968](#), [A/CN.9/1002](#) and [A/CN.9/1042](#), in preparation);

(b) Notes of the Secretariat on Features of simplified business incorporation regimes in selected States ([A/CN.9/WG.I/WP.82](#)); Legal questions surrounding the simplification of incorporation ([A/CN.9/WG.I/WP.86](#)); Draft model law on a single-member business entity ([A/CN.9/WG.I/WP.86/Add.1](#)); Draft model law on a simplified business entity ([A/CN.9/WG.I/WP.89](#)); Draft legislative guide on an UNCITRAL limited liability organization ([A/CN.9/WG.I/WP.99](#) and [Add.1](#); [A/CN.9/WG.I/WP.112](#), [A/CN.9/WG.I/WP.114](#), [A/CN.9/WG.I/WP.116](#) and [A/CN.9/WG.I/WP.118](#));

¹⁷ *Official Records of the General Assembly, Seventy-fourth Session, Supplement No. 17 (A/74/17)*, para 192 (a).

(c) Observations by Colombia on the Colombian simplified corporation (A/CN.9/WG.I/WP.83); by Italy and France on Possible alternative legislative models for micro and small businesses (A/CN.9/WG.I/WP.87); by Germany (A/CN.9/WG.I/WP.90) providing additional information for the deliberations of the Working Group and by France (A/CN.9/WG.I/WP.94) on the individual entrepreneur with limited liability scheme; by Italy on possible modifications of the draft legislative guide on an UNCITRAL Limited Liability Organization (A/CN.9/WG.I/WP.120); a “Compilation of comments on the draft legislative guide on an UNCITRAL limited liability organization as contained in working paper A/CN.9/WG.I/WP.118” (A/CN.9/1009 and Add.1); and

(d) Reports of the Commission (on the work of Working Group I) as follows: *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17* (A/68/17), paragraphs 316–322; *Sixty-ninth Session* (A/69/17), paragraphs 131–134; *Seventieth Session* (A/70/17), paragraphs 220–225 and 339–340; *Seventy-first Session* (A/71/17), paragraphs 219–224; *Seventy-second Session* (A/72/17), paragraphs 230–235; *Seventy-third Session* (A/73/17), paragraphs 69–112; *Seventy-fourth Session* (A/74/17), paragraphs 152–155; and *Seventy-fifth Session* (A/75/17), part two, paragraphs 19–23.

19. UNCITRAL documents are posted on the UNCITRAL website (<https://uncitral.un.org>) upon their issuance in all the official languages of the United Nations. Delegates may wish to check the availability of the documents by accessing the Working Group’s page in the “Working Documents” section of the UNCITRAL website.
