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UNCITRAL Legislative Guide on insolvency law: draft part three on the treatment of enterprise groups in insolvency

Compilation of comments by Governments*

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* It should be noted that these comments have been prepared on the basis of documents A/CN.9/WG.V/WP.90 and addenda. The numbering of the recommendations in A/CN.9/WG.V/WP.90 differs slightly from the numbering of recommendations in the subsequent document A/CN.9/WG.V/WP.92 as follows: recommendations 226-239 in the earlier document are numbered 225-238 in the revised version.



II. Comments received from Governments

A. Russian Federation

1. Documents A/CN.9/WG.V/WP.90 and Add.1

1. The Russian Federation supports the draft text of part three of the UNCITRAL Legislative Guide on Insolvency Law as a whole. However, it considers it necessary to examine the possibility of including, in that draft, recommendations relating to the following issues:

(a) Criteria for the inclusion of natural persons and organizations as members of enterprise groups;

(b) The formulation of a unified approach to the definition of the “centre of main interests” of an enterprise group;

(c) Grounds for holding solvent members of an enterprise group liable for the obligations of insolvent members of the same group;

(d) Specific aspects of the substantive consolidation of the estate of enterprise group members that are debtors;

(e) A unified proceeding for the reorganization (financial recovery) of two or more members of an enterprise group.

2. The Russian Federation is also of the view that, in addition to the above, the proposal made by the Union Internationale des Avocats during the thirty-seventh session of Working Group V (Insolvency Law) for the development of an international convention governing issues relating to cross-border insolvency could be developed.