



# General Assembly

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## United Nations Commission on International Trade Law

Working Group I (Privately Financed Infrastructure Projects)  
Fifth session  
Vienna, 9-13 September 2002

### Provisional agenda, annotations thereto and scheduling of meetings of the fifth session

#### I. Provisional agenda

1. Opening of the session
2. Election of officers
3. Adoption of the agenda
4. Possible addendum to the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects
5. Other business
6. Adoption of the report

#### II. Annotations

##### Item 1. Opening of the session

1. The fifth session of the Working Group (previously named Working Group on Time Limits and Limitations (Prescription) in the international sale of goods) is scheduled to be held at the Vienna International Centre from 9 to 13 September 2002, subject to confirmation by the Commission at its thirty-fifth session (to be held in New York from 17 to 28 June 2002). The session will be opened on Monday, 9 September 2002, at 10:00 a.m. The Working Group is composed of all States members of the Commission, which, as of the date of the fifth session, are the following: Argentina (alternating annually with Uruguay), 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 and United States of America.

**Item 2. Election of officers**

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

**Item 4. Possible addendum to the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects**

3. At its thirty-third session (New York, 12 June-7 July 2000), the Commission adopted the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects, consisting of the legislative recommendations (A/CN.9/471/Add.9), with the amendments adopted by the Commission at that session and the notes to the legislative recommendations (A/CN.9/471/Add.1-8), which the Secretariat was authorized to finalize in the light of the deliberations of the Commission.<sup>1</sup> The Legislative Guide has since been published in all official languages.

4. At the same session, the Commission also considered a proposal for future work in that area. It was suggested that, although the Legislative Guide would be a useful reference for domestic legislators in establishing a legal framework favourable to private investment in public infrastructure, it would be nevertheless desirable for the Commission to formulate more concrete guidance in the form of model legislative provisions or even in the form of a model law dealing with specific issues.<sup>2</sup>

5. After consideration of that proposal, the Commission decided that the question of the desirability and feasibility of preparing a model law or model legislative provisions on selected issues covered by the Legislative Guide should be considered by the Commission at its thirty-fourth session. In order to assist the Commission in making an informed decision on the matter, the Secretariat was requested to organize a colloquium, in cooperation with other interested international organizations or international financial institutions, to disseminate knowledge about the Legislative Guide.<sup>3</sup>

6. A Colloquium under the title “Privately Financed Infrastructure: Legal Framework and Technical Assistance” was organized with the co-sponsorship and organizational assistance of the Public-Private Infrastructure Advisory Facility, a multi-donor technical assistance facility aimed at helping developing countries improve the quality of their infrastructure through private sector involvement. It was held from 2 to 4 July 2001 in Vienna, during the second week of the thirty-fourth session of the Commission.

7. At its thirty-fourth session, in 2001, the Commission took note with appreciation of the results of the Colloquium as summarized in a note by the Secretariat (A/CN.9/488). The Commission expressed its gratitude to the Public-Private Infrastructure Advisory Facility for its financial and organizational support and to the various international organizations represented, both intergovernmental and non-governmental, as well as to the speakers who participated in the Colloquium.

8. The various views that were expressed as to the desirability and feasibility of further work of the Commission in the field of privately financed infrastructure projects are reflected in the report of the Commission on the work of its thirty-fourth session.<sup>4</sup> The Commission agreed that a working group should be entrusted with the task of drafting core model legislative provisions in the field of privately financed infrastructure projects. The Commission was of the view that, if further work was to be accomplished within a reasonable time, it was essential to carve out a specific area from among the many issues dealt with in the Legislative Guide. Accordingly, it was agreed that, at its first session, such a working group should identify the specific issues on which model legislative provisions, possibly to become an addendum to the Legislative Guide, could be formulated.<sup>5</sup>

9. The Working Group held its fourth session in Vienna from 24 to 28 September 2001. The Working Group had before it the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects. The Working Group decided to use the legislative recommendations contained in the Legislative Guide as a basis for its deliberations. The Working Group also had before it the report on the Colloquium referred to in paragraph 6 (A/CN.9/488).

10. In accordance with a suggestion made at the Colloquium (A/CN.9/488, para. 19), the Working Group was invited to devote its attention to a specific phase of infrastructure projects, namely the selection of the concessionaire, with a view to formulating specific drafting proposals for legislative provisions. Nevertheless, the Working Group was of the view that model legislative provisions on various other topics might be desirable (see A/CN.9/505, paras. 18-174). The Working Group requested the Secretariat to prepare draft model legislative provisions in the field of privately financed infrastructure projects, based on those deliberations and decisions, to be submitted to the Working Group at its fifth session for review and further discussion.

11. The Working Group will have before it a note by the Secretariat setting out issues related to formulation of model legislative provisions on privately financed infrastructure projects (A/CN.9/WG.I/WP.29) and another note containing a set of draft model legislative provisions, which was prepared by the Secretariat in consultation with outside experts (A/CN.9/WG.I/WP.29/Add.1). The Working Group may wish to use those notes as a basis for its deliberations. The Working Group may wish, in particular, to review the draft model legislative provisions with a view to adopting them as an addendum to the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects.

12. If the Working Group is able to complete its consideration of the draft model legislative provisions at its fifth session, the Secretariat would circulate the draft text to member and observer States for comments and submit it to the Commission for finalization and adoption at its thirty-sixth session, in 2003.

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

13. The Working Group may wish to adopt, at the close of its session (on Friday afternoon, 13 September 2002), a report for submission to the Commission at its thirty-sixth session (to be held in Vienna during the second quarter of 2003).

### Meetings

14. The session of the Working Group will take place from 9 to 13 September 2002 at the Vienna International Centre. There will be five working days available for consideration of the agenda items at the session. Meeting hours will be from 9:30 to 12:30 and from 14:00 to 17:00, except on Monday, 9 September 2002, when the session will commence at 10:00 a.m.

### Notes

<sup>1</sup> *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 17 (A/55/17)*, paras. 195-368.

<sup>2</sup> *Ibid.*, para. 375.

<sup>3</sup> *Ibid.*, para. 379.

<sup>4</sup> *Ibid.*, *Fifty-sixth Session, Supplement No. 17 (A/56/17)*, paras. 366-369.

<sup>5</sup> *Ibid.*, para. 369.