



# MALAYSIA

*Permanent Mission to the United Nations, New York*

**STATEMENT BY  
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PERMANENT MISSION OF MALAYSIA TO THE UNITED NATIONS**

**ON AGENDA ITEM 77:  
REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE  
LAW ON THE WORK OF ITS FIFTY-SIXTH SESSION**

**AT THE SIXTH COMMITTEE OF  
THE 78<sup>TH</sup> SESSION OF THE GENERAL ASSEMBLY**

**NEW YORK, 16 OCTOBER 2023**

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Mr. Chairman,

Malaysia takes note that the Commission during the fifty-sixth session of the United Nations Commission on International Trade Law (UNCITRAL) held on 3 -21 July 2023 had considered and adopted several significant legal instruments. In particular, these instruments are:

- i. Guide on Access to Credit for Micro, Small And Medium Enterprises under Working Group I;
- ii. Guidance Text on Early Dismissal and Preliminary Determination under Working Group II; and
- iii. The first set of reforms under the Working Group III which is the Model Provisions on Mediation for International Investment Disputes, the Guidelines on Mediation for International Investment Disputes, the Code of Conduct for Arbitrators in International Investment Dispute Resolution and the Code of Conduct for Judges in International Investment Dispute Resolution.

2. In this regard, Malaysia would like to take this opportunity to congratulate the Working Groups for their remarkable achievements in concluding the works mandated by the Commission. This delegation would also like to extend our appreciation to the UNCITRAL Secretariat for their utmost dedication and hard work in coordinating, preparing documentations for deliberation and arranging numerous UNCITRAL meetings throughout the years. The conclusion of these legal instruments would not have been possible without the cooperation from all parties involved.

3. In line with the objective of UNCITRAL, Malaysia believes that these adopted instruments would serve as guidance for member states. The instruments could also constructively facilitate international trade and investment procedures.

4. Malaysia acknowledges the equally important efforts under UNCITRAL Working Groups II and III in order to improve the process and procedures for alternative dispute resolution mechanism and the possibility of establishing a Standing Multilateral Mechanism for International Investment Disputes. There are many issues being discussed relating to the procedural aspects of the alternative dispute resolution (ADR) such as scope of the standing tribunal to be established, the jurisdiction of the standing tribunal and the selection of members of the tribunal. Malaysia also sees the importance of addressing certain issues arising parallel to the ADR itself such as the professionalism of the adjudicators as well as the issue of Third-Party Funding.

5. As we all are aware, Third-Party Funding is an important avenue used by many investors, particularly those without sufficient financial resources to cover the costs of arbitration in order to bring claims against host States. However, Malaysia would like to see increased transparency in how the funding is managed. It has been observed that entities involved generally prefer not to disclose information on their role to the other parties to the dispute or to the arbitrators. It is on this basis that Malaysia views that it is imperative for Third-Party Funding to be regulated as it plays a constructive role in investor-state dispute settlement proceedings. While Malaysia promotes fairness and justice, our delegation alludes that clear rules and procedures should be established to regulate such funding to minimise if not eliminate the risk of abuse.

6. To this end, Malaysia remains steadfast in supporting the work of UNCITRAL and will continue to actively participate and contribute to the work of UNCITRAL so as to enhance and strengthen this institution. Malaysia applauds UNCITRAL for its enviable record of hard and high-quality work and further supports the continuous efforts of UNCITRAL in harmonising trade laws.

Thank you Mr. Chairman.