



## UNITED STATES MISSION TO THE UNITED NATIONS

799 UNITED NATIONS PLAZA  
NEW YORK, N.Y. 10017-3505

**U.S. Remarks at a Meeting of the Sixth Committee on Agenda Item 77:  
Report of the United Nations Commission on International Trade Law  
on the work of its 56<sup>th</sup> session  
Elizabeth Grosso  
Acting Deputy Legal Adviser  
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Thank you, Chair.

The United States welcomes the Report of the 56<sup>th</sup> session of the United Nations Commission on International Trade Law and commends the efforts of UNCITRAL's Member States, observers, and Secretariat in continuing to promote the development and harmonization of international commercial law.

The recently concluded 56<sup>th</sup> Session of the Commission was very successful and productive. In addition to returning to in person meetings, we also welcome UNCITRAL's efforts to retain hybrid meeting formats that will facilitate the widest possible engagement with UNCITRAL's work and support its continuation.

Turning to the substance of UNCITRAL's work, the United States is pleased that the Commission adopted several instruments submitted by Working Group III concerning procedural reforms for investor-State dispute settlement. In particular, the adoption of the Code of Conduct for Arbitrators in International Investment Dispute Resolution marks a real achievement. The text and its accompanying commentary reflect a carefully balanced compromise among delegations with divergent views, but who worked in the spirit of compromise to conclude this important first reform. The resulting Code sets out clearly the expectation that arbitrators will act impartially and independently when called to decide international investment disputes, and that they will be diligent, competent, and efficient in doing so.

The Code also regulates two key areas of concern that have been expressed regarding arbitrator ethics – it sets out limits on arbitrators serving in multiple roles and requires broad disclosure of circumstances that could give rise to a conflict of interest. Both provisions will help promote standardization of practices among arbitrators and disputing parties and in doing so, address concerns about the legitimacy of the ISDS process and resulting awards.

The Code will also have an impact on the pool of arbitrators, which we expect will be positive in terms of encouraging arbitrators to think carefully when accepting appointments. While this careful consideration is clearly welcome, we will be interested in seeing how the Code impacts the diversity of the arbitrator pool, in terms of profession, gender, geographical

representation, and legal background.

We also welcome the Commission's adoption of documents relating to the use of mediation. In our view, the Model Provisions on Mediation in International Investment Dispute Resolution strike the right balance for encouraging the use of mediation. Similarly, the Guidelines on Mediation in International Investment Dispute Resolution are likely to be an important tool for disputing parties and their counsel by flagging key issues as they consider whether to pursue mediation. They may also be useful for mediators early in their career by identifying some key organizational issues that may facilitate successful mediation.

UNCITRAL also adopted the Guide on Access to Credit for Micro, Small and Medium Enterprises. This instrument will no doubt assist countries in determining the need for legal reform to facilitate credit for MSMEs, which often face unique challenges when trying to obtain reliable and affordable financing.

We look forward to Working Group I's consideration of the UNIDROIT Model Law on Warehouse Receipts. The work on this Model Law, which was developed by UNIDROIT in close collaboration with the UNCITRAL Secretariat, will no doubt demonstrate the success of joint coordination between UNIDROIT and UNCITRAL. We think having Working Group I review the draft Model Law will allow for a fuller policy debate on some of the issues left unaddressed during the UNIDROIT discussions.

We also look forward to the productive work this coming year in Working Groups with on-going projects. These include the expected completion of the work on adjudication and high-tech disputes and the results of the secretariat's stock-taking exercise on dispute resolution in the digital economy. We also expect substantial progress on the projects related to use of artificial intelligence and automation in contracting, data provision contracts, and negotiable cargo documents.

Finally, we congratulate the UNCITRAL Secretariat on holding a successful colloquium on climate change and international trade law during the Commission session in July. We look forward to UNCITRAL's future work on voluntary carbon credits, in cooperation with UNIDROIT, HCCH, and other organizations.

We look forward to continuing our productive engagement with UNCITRAL this year. We hope that UNCITRAL can maintain and improve upon its ability to develop and promote effective, usable instruments supporting stable and predictable legal outcomes for citizens and businesses of our country, and the world.

Thank you Chair.