



REPUBLIC OF ZAMBIA



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STATEMENT BY

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BEFORE THE SIXTH COMMITTEE

DURING THE

74TH SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY

UNDER AGENDA ITEM 77:
“REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL
TRADE LAW (UNCITRAL) ON THE WORK OF ITS 52ND SESSION”

New York
October 21, 2019

Chairperson,

Zambia wishes to acknowledge the important role of the United Nations Commission on International Trade Law (UNCITRAL) texts for States looking to modernise their international trade law regimes and therefore supports UNCITRAL's efforts in the codification of International Trade Law. The codification is important in this era where technological development and diversification of business activities have increased the volume and characteristics of global trade.

My delegation wishes to highlight some recent developments in Zambia, particularly following the recently amended *Constitution of the Republic of Zambia (Amendment) Act No. 2 of 2016*, which provides for alternative forms of dispute resolution under Article 118 (2) (d). It obliges our courts, in their exercise of judicial authority, to be guided by principles that seek to promote alternative forms of dispute resolution, including traditional dispute resolution mechanisms.

Chairperson,

The Zambian Government recognises that a conducive legal order is an essential requirement for the speedy and fair resolution of commercial disputes and for enhanced foreign direct investment into its economy. It has demonstrated this recognition by being a forerunning participant in Africa in international conventions that advance alternative dispute resolution mechanisms. It is worth noting, that Zambia enacted the *Arbitration Act, No. 19 of 2000*, which incorporated the UNCITRAL Model Law.

Section 2 (3) of the Arbitration Act provides that:

"In interpreting this Act, an arbitral tribunal or a court may refer to the documents relating to the Model Law on International Commercial Arbitration adopted by the UNCITRAL on 21st June 1985, set out in the First Schedule...."

Subject to the other provisions of this Act, a court may also refer to the documents of the Commission's Working Group(s), namely the *travaux preparatoires*; and in interpreting the provisions of the First Schedule, regard shall be had to its international origin and to the desirability of achieving international conformity in its interpretation and application.

Following recent developments, and the experience gained therefrom, there has been on-going discussion to review the Act and so bring it in line with international developments and, possibly, to introduce a national Mediation Act. There is at

present no stand-alone legislation on Mediation, though the High Court Rules on court-annexed mediation were formally introduced through an amendment in 1997. In 2012, a further amendment was made, which required parties to be referred to court-annexed mediation during the scheduling conference. Recently, the *Subordinate Court (Amendment) Rules of 2018 (Statutory Instrument No. 73 of 2018)*, was passed to introduce court-annexed mediation in the Subordinate Court. Further, *Statutory Instrument Number 72 of 2018* was passed to amend some provisions of the High Court Rules on mediation. It is important to note, that none of the recent amendments regarding mediation have attempted to incorporate aspects of international commercial mediation.

Chairperson,

The Zambian Government takes notice of the draft United Nations Convention on International Settlement Agreements Resulting from Mediation, also known as the *Singapore Convention (2019) on Mediation*, as well as the *UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation (2018)*. While Zambia has strong domestic processes for court-annexed mediation, these instruments have the potential to enhance the cross-border enforceability of mediated settlements, which is consistent with our efforts to build international business confidence in Zambia.

The progressive harmonisation and unification of the law of international trade relating to mediation can only enhance the development of trade among nations and advance the respective economies of the participating states. Zambia would like to be part of the international community's effort to adopt progressive dispute resolution initiatives that are in harmony with the national policy and which enhance trade and development.

Zambia also commits itself to an objective and well-intentioned consideration of the *Legislative Guide on Key Principles of a Business Registry* and the *UNCITRAL Model Law on Cross-Border Insolvency* and the *complementary Model Law on the Recognition and Enforcement of Insolvency Related Judgments* and the Guide to its enactment. We recognise that streamlined and simplified registration procedures reduce the registration burden and often the cost of doing business, and are an incentive for investment, trade and growth. Similarly, Zambia supports calls for a trans-boundary law on Insolvency and will commit to initiate discussions with stakeholders with a view to implement the UNCITRAL initiatives in our local laws.

Chairperson,

The Zambian Government has worked closely with cooperating partners to train Arbitrators and Court-Annexed Mediators as a means of enhancing access to justice and decongesting the heavy caseloads in its justice system. Accordingly, the Government is collaborating with institutions such as the Judiciary, Chartered Institute of Arbitrators Zambia Chapter, and the Zambia Chamber of Commerce and Industry, among others; and would appreciate further support from the United Nations Organisation and other cooperating partners in our effort to build a cadre of well-trained personnel who will handle both local and international disputes with greater skill and efficiency.

The country currently requires further technical support in the field of trade law and development in capacity-building for government officials, legal practitioners, adjudicators and arbitrators with respect to the above cited UNICITRAL conventions, model law and legislative guides. The said capacity building would serve to increase the competence and knowledge base of many practitioners and, ultimately, serve to improve international investment and trade law. It would also enhance the reliability and predictability of mediation as a means of resolving international contractual disputes.

I thank you.