



# COVID-19 and international trade law instruments

A legal toolkit by the UNCITRAL secretariat



**COVID-19  
RESPONSE**

# UNCITRAL

- **Mandate**

- “...the promotion of the progressive harmonization and unification of the law of international trade
  - (UNGA Res.2205 (XXI), December 1966

<https://uncitral.un.org/en/about>

- **Members**

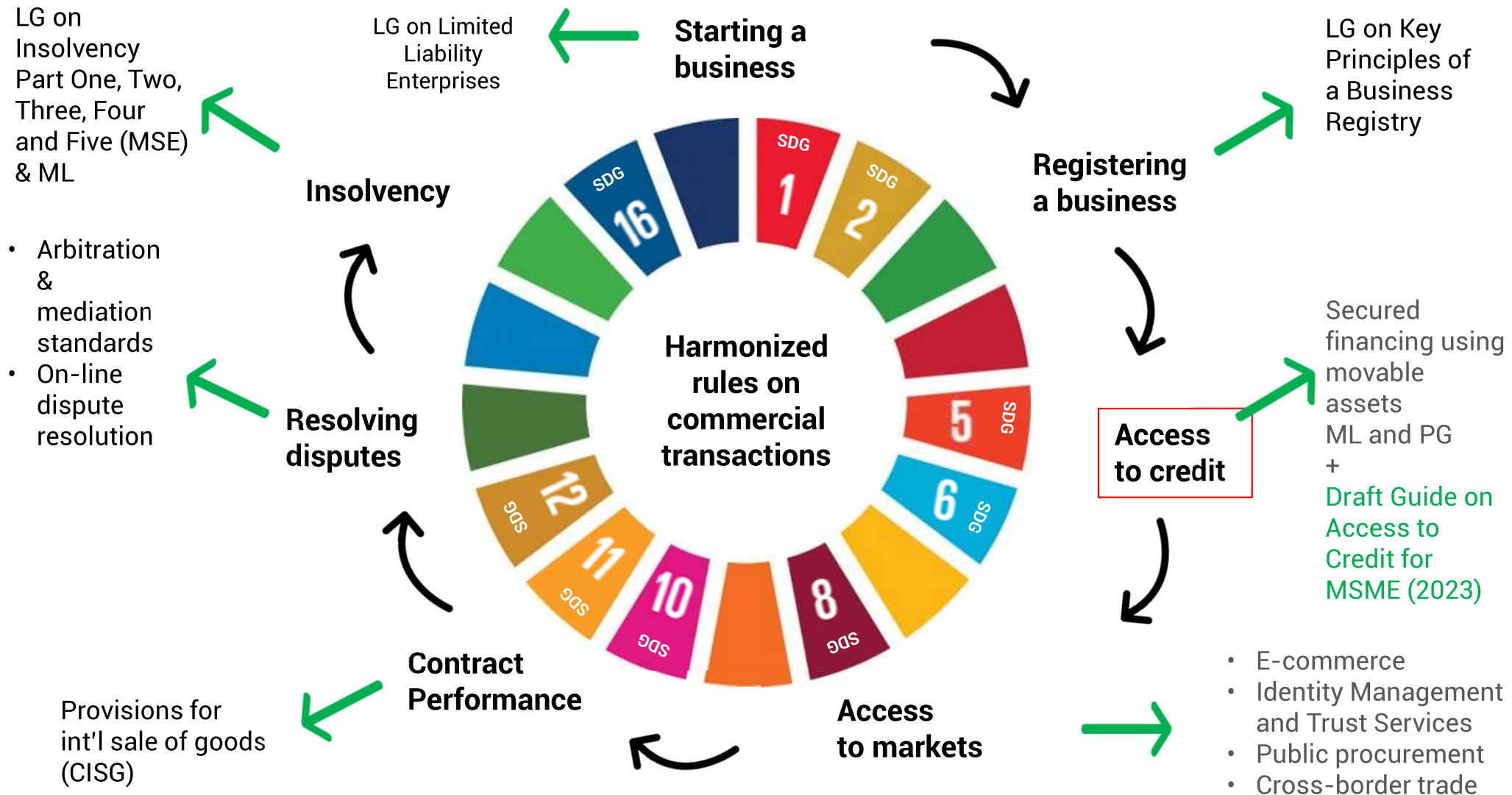
- 70 + UN Members + accredited observers (NGO/IGO)

- **Method of work**

- Commission,
- Working Groups
- Secretariat



# UNCITRAL Texts



# 56th session, UNCITRAL 3-21 July 2023



# Work Programme 56<sup>th</sup> session UNCITRAL

Monday	Tuesday	Wednesday	Thursday	Friday
3 July	4 July	5 July	6 July	7 July
<ul style="list-style-type: none"> <li>☐ Opening of the session</li> <li>☐ Election of officers</li> <li>☐ Adoption of the agenda</li> <li>☐ Consideration of texts prepared in the context of investor-State dispute settlement reform (WG III)</li> </ul>	<ul style="list-style-type: none"> <li>☐ Consideration of texts prepared in the context of investor-State dispute settlement reform (WG III) (cont'd)</li> </ul>	<ul style="list-style-type: none"> <li>☐ Consideration of texts prepared in the context of investor-State dispute settlement reform (WG III) (cont'd)</li> </ul>	<ul style="list-style-type: none"> <li>☐ Consideration of texts prepared in the context of investor-State dispute settlement reform (WG III) (cont'd)</li> </ul>	<ul style="list-style-type: none"> <li>☐ Consideration of texts prepared in the context of investor-State dispute settlement reform (WG III) (cont'd)</li> </ul>
10 July	11 July	12 July	13 July	14 July
<ul style="list-style-type: none"> <li>☐ Consideration of draft guide on access to credit for micro, small and medium-sized enterprises (WG I)</li> </ul>	<ul style="list-style-type: none"> <li>☐ Consideration of draft guide on access to credit for micro, small and medium-sized enterprises (WG I) (cont'd)</li> </ul>	<ul style="list-style-type: none"> <li>☐ Colloquium on climate change mitigation, adaptation and resilience (Mandated by the Commission as indicated in A/77/17, para. 216)</li> </ul>		<ul style="list-style-type: none"> <li>☐ Consideration of draft guidance text on early dismissal and preliminary determination (WG II)</li> </ul>
17 July	18 July	19 July	20 July	21 July
<ul style="list-style-type: none"> <li>☐ Progress report of working groups</li> <li>☐ Coordination and cooperation</li> <li>☐ Secretariat reports on non-legislative activities</li> </ul>	<ul style="list-style-type: none"> <li>☐ Work programme of the Commission                             <ul style="list-style-type: none"> <li>○ Warehouse receipts</li> <li>○ Toolkit concerning Covid-19 impact on international trade law</li> <li>○ Climate change mitigation, adaptation and resilience</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>☐ Work programme of the Commission (cont'd)                             <ul style="list-style-type: none"> <li>○ Legal issues relating to the use of distributed ledger technology in trade</li> <li>○ Dispute resolution in the digital economy</li> <li>○ Any additional topics for possible future work</li> <li>○ Methods of work</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>☐ Date and place of future meetings</li> <li>☐ Other business</li> </ul>	<ul style="list-style-type: none"> <li>☐ Adoption of the report</li> </ul>



# Mandate: Exploratory work on the impact of Covid-19 on International Trade Law (1)

- Fifty-third session (2020)
  - Proposal regarding possible future work in connection with measures implemented by States in response to the coronavirus disease (COVID-19) pandemic
    - Desire to explore whether gaps or obstacles could be overcome through harmonization of cross-border rules in certain areas and
    - Proposal that UNCITRAL engage in exploratory work in this regard

- Fifty-fourth session (2021)

- Continuing with the exploratory work
  - Questionnaire on COVID-19 to member and observer States on measures taken and obstacles encountered by businesses,
  - Webinars and collaboration with other international organizations.



# Mandate: Exploratory work on the impact of Covid-19 on International Trade Law (2)

207. Regarding the exploratory work, it was said that the impact of the pandemic on international trade law was still significant and that UNCITRAL instruments could support States in developing effective policy and legislative responses and contractual parties in developing contractual responses in the event of unforeseen global crises, to minimize disruption to trade, business and investment, as well as in the recovery efforts thereafter. Support was therefore expressed for the secretariat to continue examining which UNCITRAL texts could be useful to assist MSMEs in a crisis and how UNCITRAL instruments could be utilized to facilitate digital commerce and paperless trade, and thereby reduce trade disruptions and bottlenecks in the event of a future global crisis. It was said that the exploratory work should ultimately result in an emergency kit that could be useful at the outset of any crisis and that would provide information to States, as well as businesses, especially MSMEs, on the effective use of UNCITRAL instruments in case of a crisis. While some support was expressed for that approach, it was also mentioned that the project should not be given priority over other projects.

208. After discussion, the Commission requested the secretariat to continue its exploratory work on the impact of COVID-19 on international trade by holding expert group meetings and other events with interested stakeholders to further advance such work.

Report of the 55<sup>th</sup> UNCITRAL Session (2022)

# **Deliverables: Exploratory work on the impact of Covid-19 on International Trade Law (2)**

<https://uncitral.un.org/en/covid-impact-website>

## **Deliverables**

- In 2020
  - Virtual Panel Series: UNCITRAL Texts and COVID-19 Response and Recovery
- In 2021
  - Questionnaire on COVID-19 to member and observer States on measures taken and obstacles encountered by businesses and webinars
- In 2022
  - UNCITRAL Webpage on International Trade Law: COVID-19 and Beyond
  - COVID-19 and international trade law instruments: a legal toolkit by the UNCITRAL Secretariat



# COVID-19 and international trade law instruments: a legal toolkit by the UNICITRAL secretariat

## **Part 1: Discuss**

consequences of the Covid-19 Pandemic and  
Responses by States during the Covid-19  
Pandemic



## **Part 2: Analyst**

UNCITRAL instruments and how it can help in  
times of global emergencies



## **Part 3:**

**Recommendation for States and Contract  
Parties**



# COVID-19 and international trade law instruments

## A legal toolkit by the UNCITRAL secretariat

Afternoon session



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# Part 1

## Consequences of the COVID-19 Pandemic and Responses by States during the COVID-19 Pandemic



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# A legal toolkit by the UNCITRAL secretariat: Introduction

## The Impact on States and contract parties



- On the move
  - Social distancing
  - Remote operation
- On the supply chain
  - Disruptions of business
  - Breach of contracts
- On cross-border trade
  - Border closure



# COVID-19 and international trade law instruments: a legal toolkit by the UNICITRAL secretariat

## **Part 1: Discuss**

consequences of the Covid-19 Pandemic and  
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## **Part 2: Analyst**

UNCITRAL instruments and how it can help in  
times of global emergencies



## **Part 3:**

**Recommendation for States and Contract  
Parties**

# Consequences and responses by States (1)



- Digitalization of trade
  - Remote/virtual/online participation in meetings
    - Austria; Indonesia; Italy, Malta, Russia, Singapore, Sweden, Switzerland
  - Functional equivalence of electronic documents to physical documents
    - Argentina, Japan
  - Enabling electronic signatures and electronic authentication
    - Austria, United States,
- Public Procurement
  - Amendment of procedures
    - Czech Republic, Italy
- Assistance to MSMEs
  - Tax breaks and exemptions
    - Argentina, Indonesia, Kyrgyzstan, Russia
  - Direct financial assistance/subsidies
    - Armenia, Slovakia, Sweden
  - Loans
    - Angola, Armenia, Italy, Jordan, Russia, Thailand, United States
  - Deferral of the repayment of loans provided
    - Jordan, Slovakia

# Consequences and responses by States (2)



- Modified insolvency regimes to reduce or suspend the negative effects of Covid-19
  - Simplified insolvency regimes
    - Singapore
  - Amendment of insolvency laws and procedures
    - Armenia, Austria, Czech Republic, India, Israel, Italy, Kyrgyzstan, Malta, Russia, Singapore, Switzerland, United States
- Legislation impacting contractual relations
  - Relief from legal and enforcement action for individuals and businesses that are unable to perform contractual obligations
    - Italy, Singapore, Türkiye
  - Limitation of interest
    - Austria, Czech Republic
  - Suspension of limitation of periods/extension of procedural periods and deadlines
    - Italy, Lebanon



# Part 2

**UNCITRAL instruments and how it can help  
in times of global emergencies**



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# COVID-19 and international trade law instruments: a legal toolkit by the UNICITRAL secretariat

<https://uncitral.un.org/en/texts>



## Texts and Status

UNCITRAL is formulating modern, fair, and harmonized rules on commercial transactions. These include conventions, model laws and rules which are acceptable worldwide, legal and legislative guides and recommendations of great practical value, updated information on case law and enactments of uniform commercial law, technical assistance in law reform projects, regional and national seminars on uniform commercial law.

- [Status table of all UNCITRAL texts](#)
- [Frequently asked questions - Texts](#)

### International Commercial Arbitration

### International Commercial Mediation

### International Sale of Goods (CISG) and Related Transactions

### Procurement and Public-Private Partnerships

### Micro, Small and Medium-sized Enterprises

### Electronic Commerce

### Insolvency

### Security Interests

### Online Dispute Resolution

### International Payments

### International Transport of Goods

**A thematic approach**

# Understand, Apply and Be Prepared



How can UNCITRAL instruments help in times of global emergencies?

## -Degree of adoption/enactment-

Adoption  
without  
modifications or  
reservation

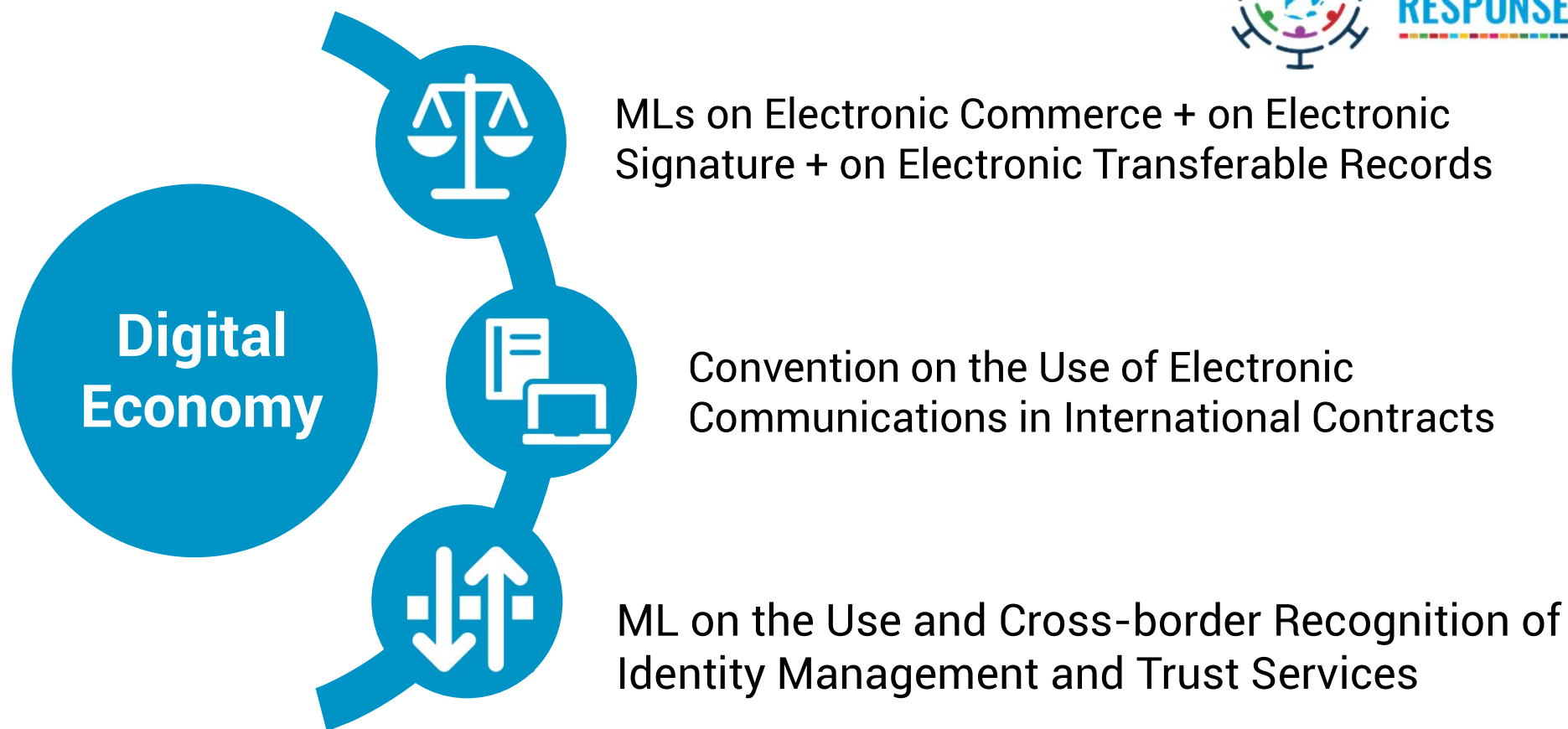
Adoption with  
modification or  
reservation

Not formally  
announced but  
legislation is  
similar or identical  
to UNCITRAL  
instruments

no adoption

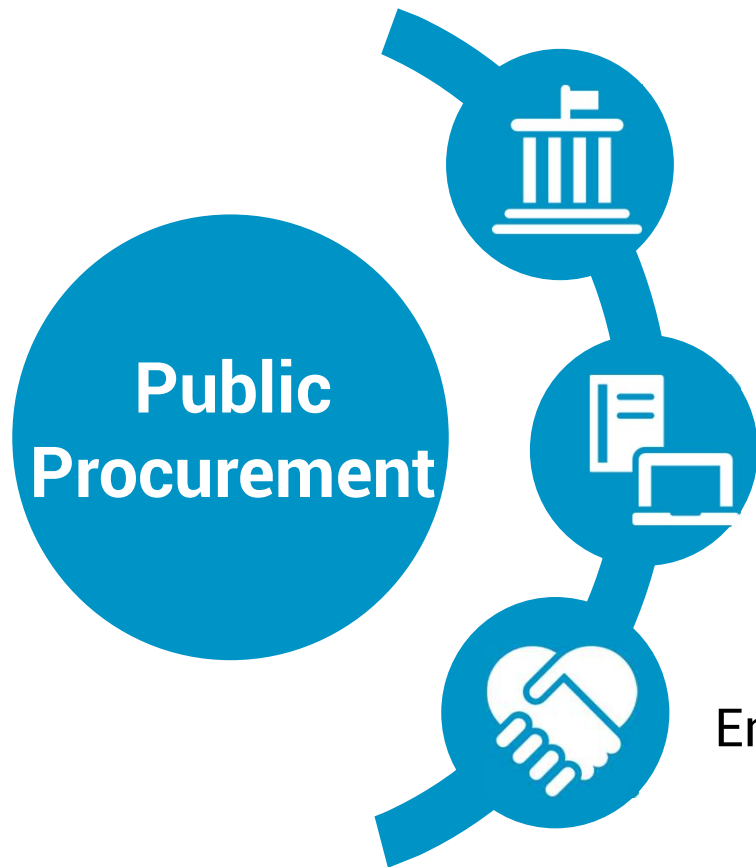
# Understand, Apply and Be Prepared

***Strengthening an enabling legal environment for a digital economy and a conducive framework for digital transactions***



# Understand, Apply and Be Prepared

*Swift reaction by public authorities in public procurement matters*



ML on Public Procurement (MLPP)

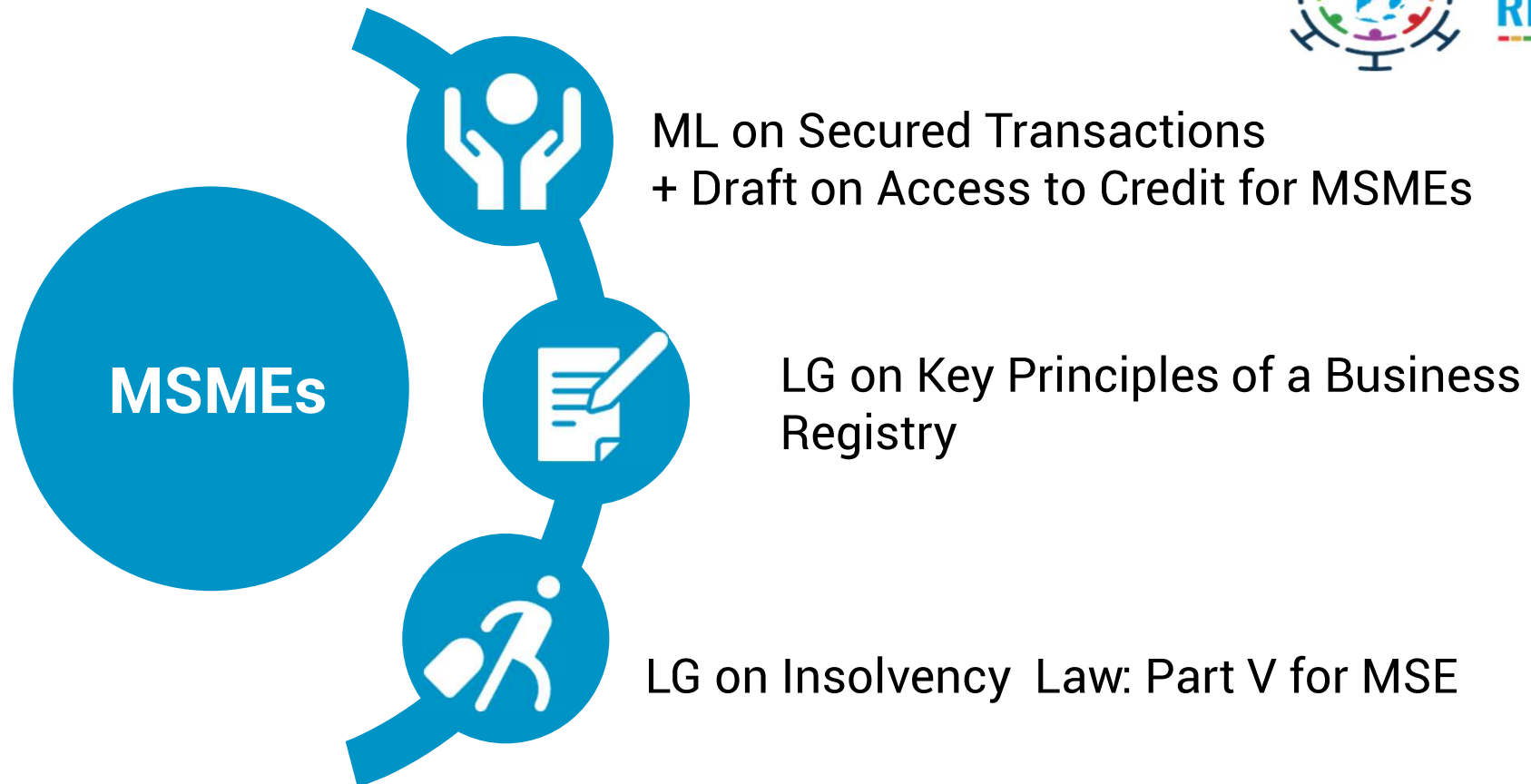
E-Public Procurement

Emergency procurement



# Understand, Apply and Be Prepared

***Supporting MSMEs and providing the legal framework for their survival and success during and after a global emergency***

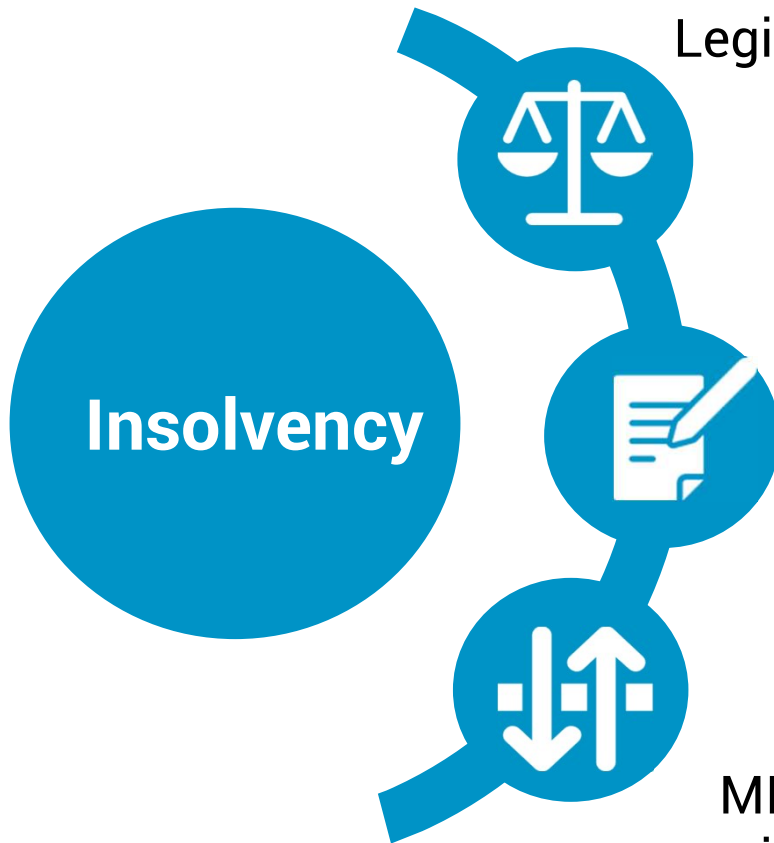


# Understand, Apply and Be Prepared

## *Insolvency*



Legislative Guide on Insolvency Law



ML on Recognition and Enforcement of  
Insolvency-Related Judgments with Guide to  
Enactment

ML on Cross-Border Insolvency  
with Guide to Enactment and Interpretation

# Understand, Apply and Be Prepared

*Establishing a robust regime when there is supply chain disruption and contractual breaches*



UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards

ML on International Commercial Arbitration

UNCITRAL Arbitration Rules (1976, 2010, 2014, 2021)  
**notably: Expedited Arbitration Rules**

# Understand, Apply and Be Prepared

***Establishing a robust regime when there is supply chain disruption and contractual breaches***



UN Convention on International Settlement  
Agreements Resulting from Mediation

ML on International Commercial Mediation  
and International Settlement Agreements  
Resulting from Mediation  
with Guide to Enactment and Use.

UNCITRAL Mediation Rules

UNCITRAL Notes on Mediation





# Understand, Apply and Be Prepared

*CISG and the prevention of disputes arising from supply chain impacts*



UN Convention on Contracts for the International Sale of Goods (CISG)

**Notably: force majeure clause**

UN Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (the "Rotterdam Rules")



# Part 3

## Recommendations for States and contract parties



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## A. Reducing trade disruptions



Digitalisation of trade  
operations and processes

UN ML on E-commerce

UN ML on E-signature

ECC

UN MLTR

UNMILT

## A. Reducing trade disruptions

Supply chain disruption

GISG

the Rotterdam Rules



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A robust credit and insolvency  
systems in place

Insolvency

ML secured transactions

Legislative Guide on Insolvency for MSEs

# B. Resolution of trade disputes due to trade disruptions

Convention on the Recognition and  
Enforcement of Foreign Arbitral Awards  
(New York, 1958)

Common legislative standards for the recognition of arbitration agreements and court recognition and enforcement of foreign and non-domestic arbitral awards.

## Trade Disruptions

United Nations Convention on  
International Settlement  
Agreements Resulting  
from Mediation

Common legislative standards for international settlement agreements resulting from mediation

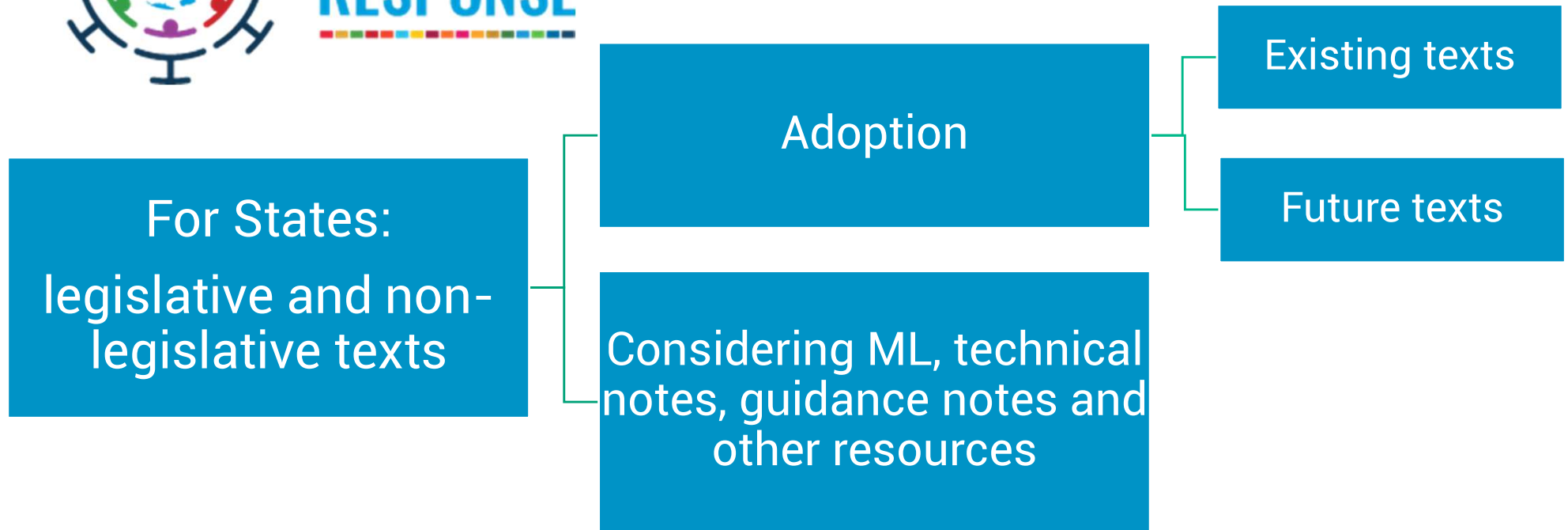
UNCITRAL  
Technical Notes on  
Online Dispute Resolution

Facilitate ODR proceedings in developing and using ODR systems.





## C. The future of trade and UNCITRAL instruments and how it may help States and contract parties in future global emergencies



## C. The future of trade and UNCITRAL instruments and how it may help States and contract parties in future global emergencies



For contract parties:  
contractual texts

Rules

Technical Notes

# Thank you



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**UNCITRAL** United Nations Commission on International Trade Law