

UNCITRAL-World Bank Group Judicial Capacity-Building Initiative on International Best Practices in Insolvency Law

1 – 2 November 2023

Opening remarks (José Angelo Estrella-Faria)

Honourable judges,

Dear Mr. Harish Natarajan and dear colleagues from the World Bank,

Dear colleagues,

Ladies and Gentlemen,

I am delighted to welcome you all to the second session of the joint UNCITRAL-World Bank Group Judicial Capacity-Building Initiative on International Best Practices in the Area of Insolvency Law.

Initially conceived in 2019, and delayed due to the pandemic, the Initiative was officially launched in October 2021 through its first session which focused on avoidance proceedings, as some of you may remember.

The 2021 session featured a comparative overview of approaches to avoidance proceedings, a case study and an exchange of views with respect to the solutions recommended in the UNCITRAL Legislative Guide on Insolvency Law and the World Bank Principles for Effective Insolvency and Creditor/Debtor Regimes.

The first session welcomed more than 400 participants from 50 jurisdictions.

We are together today virtually, and I am particularly happy to see this initiative being implemented with our long-time and reliable partners from the World Bank, which is actually the originator of this idea. The World Bank hosts this year the second session.

UNCITRAL work in insolvency law has a long history and is well known in both domestic and cross-border contexts. There has been a number of activities at the international level addressing cross-border cooperation, but there are not many fora for judges from different legal traditions to share their experience in dealing with domestic cases.

This capacity-building initiative was designed to fill that gap by providing a platform for judges, in particular from developing countries to exchange views and knowledge, to network and learn about international best practices recommended in the Guide and the World Bank Group Principles.

Indeed, although the Guide is primarily addressed to lawmakers, it also extensively discusses implications of legislative choices for the judiciary.

It is therefore a great satisfaction to see that a large number of participants registered for this second session of the Initiative - judges and not judges - and to note the great diversity in legal systems and geographical regions represented today.

This is a genuine proof of interest in the Initiative as a whole and the topic chosen for the second session, which focuses on commencement standards.

Commencement standards vary from one country to another, but judges in various jurisdictions may face similar issues in the interpretation and application of those standards. Very often, judges would have to decide which commencement tests to apply, how to interpret those and which safeguards to consider against abuses and improper use of insolvency proceedings, balancing those safeguards against the efficiency required in the commencement of insolvency proceedings.

This will be the core of the discussion today; and I could not end my welcoming remarks without expressing my special thanks to the three judges who found time in their busy schedule to bring the judicial perspective to discussion, thanks to their considerable experience in overseeing insolvency proceedings.

I would like also to thank all others who made this session possible.

At the end of the event today an evaluation questionnaire will be circulated to participants via e-mail and the chat function for ease of reference.

Receiving your feedback is very important. In devising the program for today's session, the organizers studied the comments provided by judges on the first session and made adjustments to reflect the lessons we learned.

I hope that we will welcome more judges in future sessions on other interesting issues often encountered by judges from developing countries to exchange their views and experiences with handling domestic insolvency cases.

I wish you all a very productive session and thank you for your attention!