

1 February 2021

Distinguished delegates to Working Group III,

The Rapporteur and I would like to give you some information on the initial draft of the work and resourcing plan (the “Plan”) that is being presented to you today. As distinguished delegates will recall, at the end of our last Working Group session, the Working Group agreed on an approach for developing the Plan. The first step was the preparation of an initial draft by myself and the Rapporteur, with the support of the Secretariat and input from any delegation which indicated their interest in assisting us. I am pleased to note that we had representatives from nearly 20 delegations specifically volunteer to assist in this work, representing all of the regional grouping at the United Nations. We would like to thank all delegations that participated in the preparation of this initial draft Plan starting in November 2020, particularly for their thoughtful and constructive comments, which were communicated to us on time despite the tight schedule. Their comments have allowed us, working with the Secretariat, to prepare the initial draft of the work plan, on the basis of which a resourcing plan was also prepared.

The initial draft of the Plan will not be discussed at the upcoming Working Group session, as our agenda is already full and we also need to allow delegations time to study the initial draft in detail. Instead and as was agreed at the Working Group’s last session, we will hold webinars to present and explain the initial draft in more detail. The initial draft will be open for written comments from all delegations until 1 March 2021. The Rapporteur and I, working with the Secretariat, will review all comments received from the delegations, and make any required revisions to the draft. If necessary, we will then hold informal consultations with delegations to discuss any comments, suggestions or revisions that have been made. After we have incorporated any further changes, we will ask the Secretariat to submit the draft Plan as a working paper to be translated in all official UN languages. The intention is for the draft Plan to receive approval by the Working Group at the resumed 40<sup>th</sup> Session of the Working Group to held in Vienna and online on 4 and/or 5 May 2021. The Plan, once approved by the Working Group, will then be submitted to the Commission for its consideration at its upcoming meeting.

We would like to take this opportunity to briefly describe to you the draft Plan including how the draft was prepared. To facilitate the discussion, the Rapporteur and I prepared a first draft in excel format which was circulated to delegates that had expressed an interest in participating in the consultations. As agreed by the Working Group, the first draft ensured balance between structural and non-structural reforms, in terms of days of work and advancing those reforms simultaneously. The responses from the interested delegates that followed assisted us in preparing this draft circulated to you today, which is more focused than our first draft. In this regard, I note that none of the delegations suggested any specific revisions to the schedule provided in our first draft, and the Rapporteur and I understand this to be endowing confidence on us to find a way to balance the difference in views.

Not surprisingly, some of the comments we received from the delegations who volunteered to assist us in preparing the initial draft for the Working Group directly contradicted others. Therefore, we have done our best to address all of the comments, and where conflicting views were offered, to come up with compromises that we believe represent the most acceptable way of reflecting the various interests and positions.

While concerns were expressed by some delegations about setting an end date, if the Working Group and eventually the Commission is to approve and adopt a Plan, there must be one. The end date in the Plan was not selected arbitrarily but on the basis of a careful analysis of the minimum amount of Working Group meetings and intersessional meetings needed to accomplish the work. The draft Plan

suggests 2025 as the date for finalisation of all reform measures, with a full week of Working Group time in 2025 held in reserve, should certain projects not finish as envisaged according to the schedule.

During the preparation of this initial plan, a number of delegations suggested that we consider how reforms could build on each other, as well as be brought to the Commission on a rolling basis. From a workload perspective, we considered that it will be much easier to manage the numerous reform proposals if they are presented for review and approval by the Commission on a rolling basis. While this approach is reflected in the draft Plan, it must be understood that finalization of each reform option by the Commission for presentation to the General Assembly will only occur at the end of the entire project. Nothing will be formally done, until everything is done. Nevertheless, by bringing certain items to the Commission for review and approval in principle on a rolling basis throughout the project, we should be able to make the final Commission session more efficient, and ensure that the whole package can be finalized in a single meeting.

Concerns were also expressed about the financial and human resources that might be required from delegations to participate in the number of meetings proposed, including during the early years of the work plan when there are a significant number of intersessional activities. The draft Plan suggests two additional weeks of Working Group sessions from 2022 to 2024, which means a meeting only roughly once a quarter. We further suggest to explore the possibility of delegations participating virtually in Working Group meetings should they choose to do so and are hopeful that this can help defray some of the costs and time associated with travel.

Based on comments that the number of topics to be considered in each Working Group session should be limited to facilitate delegations' preparations and allow them to participate, the draft Plan foresees a maximum of two topics per Working Group session except for the immediately upcoming session. Based on suggestions that certain smaller procedural reforms options be grouped together, a number of "single-clause" type reforms are combined into the reform option called Procedural Rules.

As had been emphasized in the Working Group session, a number of delegations suggested that we consider the use of additional means to facilitate the efficient use of Working Group time. The draft Plan foresees the Working Group continuing to rely on such intersessional informal meetings. With respect to these meetings, we expect many of them to happen virtually, and to be meetings of only a few hours. Some delegations suggested that intersessional meetings should follow Working Group meetings on the same topic. As a general matter, where intersessional meetings will be devoted to working on a text, the draft Plan follows this approach. However, informal meetings during the intersessional period can play different roles as well, including further exploring a topic to allow the more efficient use of Working Group time. Thus, the draft Plan envisages a number of informal intersessional meetings prior to the relevant Working Group meeting. In this regard, we note that many of the meetings scheduled during 2021 are being financed by an extra-budgetary contribution from an organization, who is providing funding for 2-hour virtual meetings, with translation between English and French, on a number of specific topics (e.g. the establishment of a multilateral advisory centre).

During the consultations, a number of delegations suggested beginning work on the development of a multilateral convention to implement the various reform options at an early stage. Having discussed the topic further with the Secretariat, we saw some value in having initial conversations earlier so that there can be a sense of the end product when the Working Group is drafting other reform options. Accordingly, the draft Plan proposes a number of intersessional meetings in 2021 and 2022, as well as some Working Group time for instructions in 2022. The bulk of the work on a multilateral convention

takes place later in 2023 and 2024, so as to take into account the work that has been achieved on other reform options. We are hopeful that this compromise can satisfy the divergent views we have heard so far.

The Rapporteur and I would once again like to thank delegations that volunteered their time to assist in the preparation of this draft. To be clear, this is just a draft proposal for the Working Group to consider. No delegation should conclude from this draft that anything has already been decided. We remain open to all comments and suggestions and look forward to further engaging with all delegations of the Working Group in further refining the draft Plan.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Shane Spellisey', written over a horizontal line. The signature is fluid and cursive.

**Shane Spellisey**  
Chair  
UNCITRAL Working Group III