

## **Concept Note**

### **UNCITRAL Days in Africa**

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#### **Introduction**

1. At its 54<sup>th</sup> Session in July 2021, the United Nations Commission on International Trade Law (UNCITRAL) expressed its appreciation for the successes of the 2020 annual UNCITRAL Days in both the Asia-Pacific and the Latin American and Caribbean regions, welcomed the forthcoming 2021 series, and took note of the potential benefits for other regions to host UNCITRAL Days events. In this regard, the Chair of the 54<sup>th</sup> Session, H.E. Amb. Philbert Abaka Johnson, called upon States to host an inaugural UNCITRAL Days series in Africa in 2022. In so doing, the Chairman expressed his appreciation for the evident engagement of many States in the region, and their willingness, along with States from other regions, to work with UNCITRAL to support the annual UNCITRAL Days series.<sup>1</sup>

2. At an Africa Forum convened in the margins of UNCITRAL's 54<sup>th</sup> annual session, approximately 50 representatives from African States shared their thoughts on areas of commercial law with particular resonance in the region. These areas include digitization of the economy; the establishment of a harmonized legal framework for a fair and efficient settlement of international investment disputes; and transparency, accountability and good governance in the commercial law framework. These topics have increased in importance with the adoption of the African Continental Free Trade Area (AfCFTA) Agreement, and the ongoing negotiation of the AfCFTA Protocols on Digital Trade and Investment.

3. This concept note responds to the call made by the Chair of UNCITRAL for an inaugural UNCITRAL Days series in Africa. It contains background information on UNCITRAL Days in other regions, highlights issues for consideration in their organisation, and provides an illustration of potential themes of relevance for the African region.

#### **Background information on UNCITRAL Days**

##### **History**

4. The UNCITRAL Regional Centre for Asia and the Pacific (UNCITRAL RCAP) launched the UNCITRAL Asia Pacific Days annual series in December 2014, to celebrate the establishment of UNCITRAL by the United Nations General Assembly, in Resolution 2205 (XXI) of 17 December 1966.

5. Since 2014, the UNCITRAL Days project has become an annual flagship event for UNCITRAL RCAP and the UNCITRAL Secretariat as a whole. In 2020, the UNCITRAL Secretariat held the first edition of the UNCITRAL Latin American and Caribbean Days, following the UNCITRAL Asia Pacific Days approach. Reports of the 2020 UNCITRAL Days activities, almost all of which were held online as a result of the COVID-19 pandemic, are available on the UNCITRAL

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<sup>1</sup> *Official Records of the General Assembly, Seventy-sixth Session, Supplement No. 17 (A/76/17)*, para. 315

website.<sup>2</sup> In 2020, there were 19 activities in the Asia-Pacific region, with 35 partnering universities and institutions in 10 jurisdictions, and 30 activities in Latin America and the Caribbean, with 34 participating universities and institutions in 16 jurisdictions. Together, they reached many thousands of participants.

#### Participation and format

6. As UNCITRAL Days' activities are academic in nature, they are held without admission charges and, within the parameters of partner institutions, are open to a broad range of participants, including law students, researchers and other members of the academic faculty, and other stakeholders, such as public and private experts and practitioners. In previous editions of UNCITRAL Days, external panellists have comprised academics, practitioners, high-level government officials, UNCITRAL delegates and bureau members (such as the Chairperson of UNCITRAL), and members of the judiciary. Many panellists have published materials on UNCITRAL instruments and/or participated in UNCITRAL activities such as Working Groups, colloquia, etc.

7. The UNCITRAL Days' events have no specific format and vary according to the capacity and preferences of the partner institutions. They have ranged from informal meetings and brown bag-lunches to multi-day international academic conferences, including seminars, workshops, round tables, panels and/or lectures and online events.

#### Institutional support from UNCITRAL Secretariat

8. The UNCITRAL Secretariat supports the development of a programme and format through dialogue with the partnering organisation. Once there is agreement on these matters, the Secretariat provides additional institutional support for UNCITRAL Days' events, such as its logo for inclusion into the publicity materials issued by the partnering institutions, and publicity via UNCITRAL's webpages and social media platforms. The partnering organization is responsible for hosting and organizing the event, including reaching out to speakers and participants.

9. UNCITRAL Secretariat staff participation in the activities themselves is most commonly delivered using video or other remote participation (e.g. as a moderator, panellist or speaker) and/or pre-recorded video messages, reflecting budgetary and manpower constraints in the Secretariat.

10. The UNCITRAL Secretariat is unable to offer financial support to partnering organisations.

#### Themes

11. The UNCITRAL Days activities comprise academic gatherings organized with universities and institutions of higher learning in the region, which discuss and consider issues arising in UNCITRAL's areas of work, i.e. the progressive harmonization and modernization of international commercial law through the issue, use and implementation of legal texts.<sup>3</sup> The events seek to raise awareness of UNCITRAL instruments and the importance of legal harmonization amongst the next generations of legal thinkers and potential policymakers.

12. Each edition of the UNCITRAL Days' activities has an overarching theme, which reflects regional topic(s) of interest, and which is agreed between the academic institutions as partners in the region and the UNCITRAL Secretariat. The events seek to reach a diverse audience across the region.

#### Benefits of UNCITRAL Days

13. The benefits of these events to national academic institutions are multiple. For example, universities and higher learning institutions reinforce their strengths in teaching and learning in the field of international commercial

<sup>2</sup> Available at [https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/apdayreport\\_2020.pdf](https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/apdayreport_2020.pdf) and [https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/lacdayreport\\_2020.pdf](https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/lacdayreport_2020.pdf).

<sup>3</sup> For further information about UNCITRAL, its mandate and work, see <https://uncitral.un.org/>.

law and, by being part of the United Nations' latest discussions, enhance their relevance to internationally minded students and others in their academic faculty. They can also become a hub for world-class experts on UNCITRAL topics and international commercial law more generally.

14. The benefits to participating jurisdictions are similarly significant. The UNCITRAL process is grounded in the exchange of experience and views in a multilingual and inclusive context, which itself relies on in-depth understanding of relevant issues in the national context. By allowing jurisdictions to strengthen their ability to participate effectively in that process, the activities also demonstrate their commitments to inclusive commercial law reform and, as appropriate, their capacity to shape the debate in UNCITRAL itself. The UNCITRAL Days also strengthen UNCITRAL's local relationships, allowing for future technical assistance and capacity-building activities in the region concerned.

## **Issues for consideration for an inaugural UNCITRAL Days in Africa**

### **Participation and Format**

15. Given the evolving Covid-19 situation, it is assumed that the first edition of the UNCITRAL Days in Africa would take a hybrid format, to allow universities and representatives from other countries in the region to participate where in person participation is not possible. To enhance regional inclusiveness and promote multilingualism in this United Nations context, the UNCITRAL Secretariat encourages events to be held in the language(s)<sup>4</sup> that would be most appropriate for the targeted audience. However, it should be kept in mind that holding meetings in more than one language would require interpretation services and would necessarily increase the costs incurred by the event organisers. The UNCITRAL Secretariat can provide official documents in all 6 UN languages but will participate in events held in the UN Secretariat's working languages, English and French, or where translation and interpretation from and into one of those languages are available.

### **Institutional support from the UNCITRAL Secretariat**

16. The UNCITRAL Secretariat will support activities in Africa under the UNCITRAL Days series through setting up programmes, sharing the events in UNCITRAL social media platforms, permitting the use of the UNCITRAL logo in accordance with UN requirements, participating in panels and delivering contributions in English and/or French.

17. Although unable to offer financial support to partnering organisations or universities, as noted above, the UNCITRAL Secretariat can assist potential partners in reaching out to possible donors, providing them with information on the UNCITRAL Days series, highlighting its benefits for the country or the region. The UNCITRAL Secretariat is also reaching out to other stakeholders from the region to seek support for the UNCITRAL Days in Africa project.

### **Theme(s)**

18. The UNCITRAL Days series events focus on an area of commercial law advised to UNCITRAL as being of critical importance in the region. Possible themes for an inaugural UNCITRAL Days in Africa are those aspects of commercial law discussed in the AfCFTA agreement addressed in UNCITRAL and which could be covered by the following proposed overarching theme: "Modernizing and harmonizing international commercial law framework in the AfCFTA context". This approach offers the flexibility to reflect diversity within the region while allowing a possible focus on two protocols to AfCFTA and related UNCITRAL subjects:

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<sup>4</sup> Relevant official UN languages include Arabic, English, French and Spanish

- a. Digitization of the economy;<sup>5</sup> and
- b. The establishment of a harmonized legal framework for a fair and efficient settlement of international investment disputes.<sup>6</sup>

19. The activities could include an introduction to UNCITRAL and its work where UNCITRAL is not well-known in the relevant institutions of higher learning. Other topics of relevance identified during the 2021 African Forum include the role of transparency, accountability and good governance in the commercial law framework and the support for enterprises from establishment to exiting the market through insolvency proceedings.

#### Benefits and additional information

20. A potential benefit of UNCITRAL Days in Africa for the region would be to enhance participation of African countries in UNCITRAL's work, ensuring that this work takes account of regional interests, and possibilities for provision of technical assistance and capacity-building tools to enhance the effective understanding and use of UNCITRAL texts throughout the region.

#### Launch event

21. The launch of the inaugural UNCITRAL Days in Africa took place on 27 May 2022 in Accra, Ghana thanks to the support of the Ministry of Foreign Affairs of Ghana and of the European Union. It introduced the concept of UNCITRAL Days, provided information to assist institutions of higher learning that might host additional activities, and explored thematic areas for discussion

22. At this high-level launch, five African universities and one association officially confirmed their intention to organize an UNCITRAL Days event<sup>7</sup>. Since then, the UNCITRAL Secretariat is pleased to continue receiving requests from higher education institutions across the African continent to participate in the UNCITRAL Days<sup>8</sup>. We welcome any new expressions of interest.

23. For additional information, please contact Ms. Miriana Belhadj, Legal Officer, member of the UNCITRAL Secretariat, at [miriana.belhadj@un.org](mailto:miriana.belhadj@un.org)

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<sup>5</sup> UNCITRAL's texts on e-commerce are described and available at <https://uncitral.un.org/en/texts/ecommerce>. Information on its ongoing work on the digital economy is available at [https://uncitral.un.org/en/working\\_groups/4/electronic\\_commerce](https://uncitral.un.org/en/working_groups/4/electronic_commerce).

<sup>6</sup> UNCITRAL texts on international commercial arbitration, including on transparency in treaty-based investor-State arbitration, are available at <https://uncitral.un.org/en/texts/arbitration>. These texts, known as the UNCITRAL "Transparency Standards" comprise UNCITRAL Rules on Transparency in Treaty-based investor State Arbitration and the United Nations Convention on Transparency in Treaty-based investor State Arbitration, and their use in practice is supported by a repository for the publication of information and documents in treaty-based investor-State arbitration, the Transparency Registry (<https://www.uncitral.org/transparency-registry/registry/index.jsp>). Information about its ongoing work on reform of investor-State dispute settlement (ISDS) is available at [https://uncitral.un.org/working\\_groups/3/investor-state](https://uncitral.un.org/working_groups/3/investor-state).

<sup>7</sup> Mandela Institute, Wits School of Law, Johannesburg, South Africa; University Gaston Berger, Saint-Louis, Sénégal; The African Academy for International Law Practice, Paris, France; University of Ghana School of Law, Accra, Ghana; Njala University, the School of Social Sciences & Law, Bo Campus, Sierra Leone; Ain Shams University, Cairo, Egypt

<sup>8</sup> These include institutions in Nigeria, Kenya, Ivory Coast and Morocco.