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MSMES' NETWORKS IN THE GLOBAL ECONOMY

Présentation du Pr. Christophe Assens au colloque "Contractual Networks and Other Forms of Inter-Firm Cooperation" à l'ONU (New-York) les 25 et 26 mars 2019 sur le thème "MSMEs' networks in the global economy".

Abtract

Micro, small and medium-size enterprises (MSMEs) represent the majority of businesses in several economies of the world and provide an important contribution to sustainable development, as they generate employment and economic growth, and are instrumental in alleviating poverty. Although MSMEs are incredibly varied in nature and their characteristics can be strongly influenced by local economic conditions and cultural traditions, they often face the same challenges, such as: limited access to human and financial resources, limited access to markets and difficulty in adjusting to changing circumstances. Women-run MSMEs often experience those challenges the most. To assist MSMEs in overcoming their vulnerability and harnessing the opportunities offered by domestic and international markets, it is thus important that a "think small first approach" is adopted and needs and expectations of MSMEs are placed at the forefront when policy and legislation are developed.

Since 2013, UNCITRAL has added to its programme work on reducing the legal obstacles faced by MSMEs throughout their life cycle. UNCITRAL Working Group I has been tasked with certain aspects of that topic and, in accordance with the mandate received, the Working Group has begun its work with a focus on the obstacles faced by MSMEs at their establishment, i.e. simplification of incorporation and of business registration.

Various domestic legislative models applicable to MSMEs were presented at the Working Group sessions with a view to providing examples of business forms alternative to the creation of limited liability companies. Some of those models provided for segregation of business assets without requiring the creation of an entity with legal personality that offered limited liability protection. One of the models presented is structured as a multiparty contract between MSMEs (in the same or different jurisdictions) to facilitate sharing of resources among them; provide a means of accessing businessopportunities not otherwise available to individual MSMEs; facilitate access to finance for the entity itself and permit sharing of property and of labour among the participating MSMEs. The model has a relatively low level of initial capital, low entry and exit costs for participating MSMEs and a light governance infrastructure.

Taking stock of the examples discussed in the Working Group, at UNCITRAL's most recent sessions (in 2017 and 2018), a proposal was made that work on a legal instrument regulating cooperation among multiple MSMEs could be added to UNCITRAL's future

work programme. Such a legal instrument would have the potential to bridge the gap between contract law and company law and could complement the current work of the Working Group on an UNCITRAL Limited Liability Organization (UNLLO).

As agreed at UNCITRAL fifty-first session (2018), the Working Group holds this colloquium at which multiparty contracts as well as other legal tools, used in both civil and common law jurisdictions, that permit different forms of MSMEs' cooperation will be explored. The conclusions of the colloquium will not be determinative but should assist UNCITRAL in evaluating the desirability of taking up work on multiparty contracts that can facilitate MSMEs' growth.

> Consulter l'article sur le site de Christophe Assens.