

International Agencies Affecting the Business Law

Shuvan Acharya, LL.M

Lectuer, Nepal Commerce Campus, T.U.

Abstract

International Business Law (IBL) is the law that has been deliberately working to bring the peace and justice all around the world. IBL is the grass or the parent platform that provides guideline and expertise to develop the national business law. As every country have their own set of laws with own set of rules and regulations. IBL helps to bring together with the rules and regulations that has been built up by the incorporation and taking in the consideration of the entire world in one. It helps to bring in the individuality and makes the system easier to understand and incorporate the system in one another. IBL having the influence in the national laws plays a significant role and it is necessary for it to take all of the considerations in account while IBL encompasses all the necessary voices for the international organizations; it is equally necessary for them to take account of each laws and formation of the new laws.

Keywords; *International business, Business law,*

Introduction

One of the most influencing international organizations that are directly affecting Business Law is the first member of United Nations (UN) that is International labor Organization (ILO). ILO has been continuously working for the justice of the workers in promoting right to decent work. Similarly, the UNCITRAL known as United Nation Commission for International Trade Law is the UN's core legal agencies which deal with the international trade laws. The agency is specialized to handle the jurisdiction of the international trade disputes. UNCITRAL is directly related arbitration rule that affects the IBL directly. UNCITRAL governs all the aspects of arbitral process, the model of arbitral clause, appointing, selection and replacement of arbitrators, it oversees all arbitral proceedings that are emergency in nature, it also monitors all arbitral awards to re-enforce quality and enforceability.

International Business Law (IBL) is the universal law that borrows the objectives, issues and agendas that many of the organizations are trying to address such as: International Labor Organization (ILO), World Intellectual Property Organization (WIPO), World Trade Organization (WTO), United Nation Development program (UNDP), etc. All the organizations will help and assist in amending the IBL and if necessary it also helps in the time and again reformation of the laws. As we all know the sources of international law can be the objectives of the international agencies. UN commonly known as United Nations is the largest multilateral international organizations with more than 190+ member countries benefits for the sustainable developments. There are many organizations or specialized agencies of the UN. They are: UNCITRAL, WIPO, WTO, ILO, UNCTAD etc.

Above are some of the UN's agencies that work to fulfill the missions of the UN. The agencies that directly affect Business law are explained below:

United Nations Commission for International Trade and Law (UNCITRAL)

The UNCITRAL aims to harmonize the international and national trade law by establishing a strong mechanism. When there is dispute in the international trade there is a strong mechanism, so it has published certain code of conduct. The UNCITRAL, is responsible for coordinating the development several legal codes, embodied in international conventions, which are of great importance to international business. These include codes related to the sale of goods, arbitration of disputes, the movement of money and goods across national borders, and rules for using electronic communications in international business. UNCITRAL also is responsible and codes related to the carriage of goods by sea, the arbitration of disputes, and electronic funds transfer by bank (Richard et al., page 69, 2009). Nepal has adopted UNCITRAL Model Law on International Commercial Arbitration, 1985, in slightly modified from through the enactment of Arbitration Act, 1999 which came into force on 15 April, 1999. UNCITRAL Arbitration Rules, 1976 have also been accepted and followed in many of the statutory ad hoc arbitrations in Nepal. However, no comparison between different statutory rules (under separate Acts) other than the Arbitration Act, 1999 and the International Commercial Arbitration rules will be made here since these different statutory rules do not incorporate modern principles of arbitration law and therefore meaningful comparison cannot be made (Karki, 2005). Comparability of Nepalese Arbitral Laws with International Chamber of Commerce (ICC) Rules of Arbitration, 1998 may be justified on the grounds that ICC Rules have gained notable practical universality after UNCITRAL rules, and that Nepal has already ICC Rules in few major international commercial arbitration disputes involving mega hydro-power projects of Nepal. (Ibid) Nepal being a party to the 1965 Washington Convention on the Settlement of Investment Disputes between States and Nationals of other States needs to be looked into from the perspective of its impact on the development of arbitration law and practices in Nepal. (Ibid) Similarly Foreign Investment & Technology Transfer Act, 2019 has also adopted the UUNCITRAL in case of settling the disputes between foreign investors and other parties in Nepal (Section 40 (5) of Foreign Investment & Technology transfer Act, 2019). The Arbitration Act, 1999 is said to have been drafted in compliance with the UNCITRAL Model Law and UNCITRAL Arbitration rules but it neither incorporates all the arbitration clauses. Nepal should update its laws on commercial arbitration through the eyes of the present global trading environment (Parajuli, 2018). UNCITRAL trade law looks for the arbitration of international trade negotiation and settlement. It helps to mediate the process. UNCITRAL also publishes the code of conduct and method for the trade disputes. The rights, duties and principles are clearly defined to help for trade law. It directly affects the International Business Law.

World Intellectual Property Organization (WIPO)

WIPO is a specialized organization of the UN that looks for the protection and harmonization of the intellectual properties such as trademarks, patent design, copyright etc. The growth of international organizations, particularly with in the frame of the UN has provided one forum for the discussion of such claims. In particular, the WIPO (situated in Geneva) administers and fosters the Paris Convention on Industrial Property, the Patent Co-operation Treaty, the Berne and Rome Convention on Copyright and Neighboring Rights and the Madrid Agreement on Trademark registration, as well as various others, which are in existence or in the making. (Cornish W.R., 1999) The Madrid System facilitates the international registration and protection of trademarks rights by providing for the registration of a trademark in all signatory countries by filing in one. A similar system exists for registering industrial designs (referring to the “look and feel” of products ranging from automobiles to watches- think Apple IPOD). There is also a registration for appellations, geographical names used in reference to products originating there (such as “Idaho potatoes” or “Scotch whiskey”). WIPO administers a dispute resolution service open to private individuals and corporations (including a service for arbitrating domain name disputes). Many WIPO services to the public are fee-based and paid for by the people and companies who use them (Richard et al., 2009).

The agreement between the UN and the WIPO recognizes that WIPO is subject to the competence of

the UN and its organs, responsible for the taking appropriate action in accordance with its basic instrument treaties and agreements administered by it inter alia for promoting creative activity and for facilitating the transfer of technology related to industrial property to the developing countries in order to accelerate economic, social and cultural development (Nyaupane, 2005).

World Trade Organization (WTO)

The General Agreement on Tariffs and Trade (GATT- not a UN organ), through the completion of its Uruguay Round in April 1994, has created a WTO (also situated in Geneva) which, among other things, will administer a highly significant instrument, the Agreement on Trade-related aspects of Intellectual Property Rights, including Trade in Counterfeit Goods (TRIPS). All states which subscribe the WTO become bound to a mutual recognition of intellectual property rights at a high level of protection, in various respects going beyond the range of international obligation achieved in the Conventions (Ibid). Nepal Government had been exercised on different issues at the past time before entering into membership of WTO. Nepal's approach on environmental issue may be deduced from the formal document submitted by Nepal to WTO and statement made by Nepal before WTO. In recent Seattle Ministerial Conference Hon. Minister Ram Krishna Tamrakar said that, "With regard to trade and labor standards, we endorse the commitments made by Commerce Ministers at the Singapore Ministerial Declaration. And for other issues, such as foreign direct investment, electronic commerce, competition policy, government procurement and environmental issues, we need in-depth study on their implications; we uphold that the issues of environment should not be affecting the trade of Least Developed Countries (LDC) (Bhandari, 2000).

International Labor Organization (ILO)

The objectives of ILO are to bring together government, industry, and labor groups, with a focus on developing countries, to help promote the rights of workers, create decent and beneficial employment opportunities, eliminate child labor, and help foster ideas and the means for the economic and social protection of the poor, the elderly, the unemployable, women, and children. The government body of the ILO is made up of individual representatives of government, industry and labor (Richard et al., page 69, 2009).

Another objective is to promote and ensure the protection of the rights of the worker and enhancing the decent work among them. ILO being the largest organization has significant influence on incorporating rights and duties of labor in the IBL. As Business Law is directly linked with the working wages, labor laws, child labor laws, minority protection laws and so on. ILO has recently been reinforcing to incorporate the labor laws which speak for the rights such as:

- a. Decent wages to the worker
- b. Incorporation of various minorities in the laws
- c. Promoting equal wages in regards to the work performance
- d. Laws against child labor and so on.

Therefore ILO which is one of the selected UN agencies has had on direct influence or the formulation of IBL. Such co-ordination is necessary as it directly indirectly supports the world issues and promotes equal, required peace and prosperity.

UN Conference on Trade and Development (UNCTAD)

UNCTAD is a permanent intergovernmental body established by the United Nations General Assembly in 1964. The headquarters are located in Geneva, Switzerland, and another office in New York and Addis Ababa (www.unctad.org, accessed on February 15, 2020). UNCTAD is an agency responsible for providing research, policy analysis, coordination, and technical assistance for aiding developing and least-

developed countries in their socio-economic development. Their annual trade and investment reports are widely used for information on the business and economic climate in these areas of the world (Richard et al., page 69, 2009). Working at the national, regional, and global level, UNCTAD efforts help countries to:

- Comprehend options to address macro-level development challenges
- Achieve beneficial integration into the international trading system
- Diversify economies to make them less dependent on commodities
- Limit their exposure to financial volatility and debt
- Attract investment and make it more development friendly
- Increase access to digital technologies
- Promote entrepreneurship and innovation
- Help local firms move up value chains
- Speed up the flow of goods across borders
- Protect consumers from abuse
- Curb regulations that stifle competition
- Adapt to climate change and use natural resources more effectively

Conclusion

IBL is the universal law that borrows the objectives, issues and agendas that many of the organizations are trying to address such as: International Labor Organization (ILO), World Intellectual Property Organization (WIPO), World Trade Organization (WTO), United Nation Development program (UNDP). All the organizations will help and assist in amending the IBL and if necessary it also helps in the time and again reformation of the laws. WTO is the largest association of countries all over the world for the free trade. WTO has different code of conducts regarding the tariffs, quotas and international trade. The aim is to promote international trade by eliminating trade business. When, any countries try to interrupt in the international trade, it helps to provide measures against those countries. So, WTO plays important role to influence International business.

UN has many agencies that work for the development of different people, countries, across the globe. It also helps and affects the IBL. UNCITRAL is directly related arbitration rule that affects the IBL directly. UNCITRAL governs all the aspects of arbitral process, the model of arbitral clause, appointing, selection and replacement of arbitrators, it oversees all arbitral proceedings that are emergency in nature, it also monitors all arbitral awards to re-enforce quality and enforceability. Every country has that own rules and regulations of arbitration that governs its arbitration proceedings. UNCITRAL is the international connotation to arbitration laws.

The arbitration rules in different states of different nations are different. In such scenario, UNCITRAL helps to bring uniformity in the arbitral laws of different countries or states by being an international connotation. The arbitral process of different states will be carried out in singular manner. By bringing uniformity in arbitral Proceedings across different countries or states around the world, UNCITRAL directly affects the IBL. Arbitration is the major part of IBL and UNCITRAL Model law directly affects it. Thus UNCITRAL is playing a major role in bringing uniformity in international practices. In this way law is same for everyone and everything across the globe which overlooks business also to same exert.

UNCTAD support developing countries to access the benefits of a globalized economy more fairly and effectively. And UNCTAD help equip them to deal with the potential drawbacks of greater economic integration. To do this, UNCTAD provide analysis, facilitate consensus-building, and offer technical assistance. This helps them to use trade, investment, finance, and technology as vehicles for inclusive and sustainable development. As we all know the sources of international law can be the objectives of the international agencies. Globalization, including a phenomenal expansion of trade, has helped lift millions out of poverty. But not nearly enough people have benefited. And tremendous challenges remain.

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