

## Costa Rica: UNCITRAL's new Public-Private Legislative Guide provides relevant insight on PPP legal frameworks with its "Disputes Prevention and Settlements Methods" being one of the highlights

September 11, 2020

On December 18, 2019, the UN General Assembly adopted Resolution 74/183 on the "United Nations Commission on International Trade Law (UNCITRAL) Model Legislative Provisions on Public-Private Partnerships".

The General Assembly recommended all States to give due consideration to the Model Legislative Provisions and the Legislative Guide when revising or adopting legislation relevant to public-private partnerships.

The Guide offers an array of proposals to improve legal frameworks regarding the methods for disputes prevention and settlement, as a way to avoid taking conflicts to Arbitral or Judiciary courts.

**Dispute Review Boards:** The Guide specifically highlights that - in some legislations - PPP contracts for large infrastructure projects often establish "boards composed of parties-appointed experts (referred to in the Guide as "dispute review boards"), preferably with the assistance of an appointing authority, to help settle disputes that may arise during the construction and operational phases of a project.

Among others, this method provides for the replacement of appointed experts, as the projects progress through different stages, which provides specialized solutions for each phase.

**Dispute Adjudication Boards:** The Guide also includes an adjudication boards mechanism, which is more formal and has a broader scope regarding i) the type of disputes the boards may resolve and ii) the powers that may be exercised (inquisitorial), stronger when compared to the more amicable Dispute Review Boards.

Following UNCITRAL's recommendations, Costa Rica's legislation should be reviewed in many aspects, especially if we take into account that Arbitration is the only method provided by the Framework Law for the Concessions of Public Works and Public Services, so there is an opportunity to align it with UNCITRAL's reviewed methods.

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