



# General Assembly

Distr.: General  
31 March 2021

Original: English

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**United Nations Commission on  
International Trade Law**  
**Fifty-fourth session**  
Vienna, 28 June–17 July 2021

## Coordination activities

### Note by the Secretariat

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## I. Introduction

1. In resolution [34/142](#) of 17 December 1979, the General Assembly requested the Secretary-General to place before the Commission a report on the legal activities of international organizations in the field of international trade law, together with recommendations as to the steps to be taken by the Commission to fulfil its mandate of coordinating the activities of other organizations in the field.

2. In resolution [36/32](#) of 13 November 1981, the General Assembly endorsed various suggestions by the Commission to implement further its coordinating role in the field of international trade law.<sup>1</sup> Those suggestions included presenting, in addition to a general report of activities of international organizations, reports on specific areas of activity focusing on work already under way and areas where unification work was not under way but could appropriately be undertaken.<sup>2</sup>

## II. General considerations and strategy for coordination activities

3. The coordination of the activities of organizations active in the field of international trade law is a core element of the mandate of UNCITRAL,<sup>3</sup> and was given to the Commission by the General Assembly as a means to avoid duplication of efforts and to promote efficiency, consistency and coherence in the unification and harmonization of international trade law. The UNCITRAL secretariat carries out its part of that mandate essentially in three ways, as indicated below.

4. The first way in which the secretariat supports the Commission's coordination mandate is by following the work of, and communicating with, organizations active in the field of international trade law. This includes actively participating in the activities and meetings of the relevant organizations, as required, and inviting them to participate in the Commission's work, including by offering them the opportunity to present reports (both formal and informal) on their activities at the Commission's annual sessions. The secretariat has established ongoing relationships with several international organizations active in the field of international trade and trade law, both intergovernmental and non-governmental.<sup>4</sup>

5. The second way in which the secretariat supports the Commission's coordination mandate is by preparing studies to assist the Commission in monitoring activities and developments in international trade law. In the past, two types of studies were routinely prepared for the Commission: general surveys of the activities of other organizations related to international trade law,<sup>5</sup> as well as in-depth reports on the activities of organizations on specific international trade law topics.<sup>6</sup>

6. Lastly, when appropriate, the secretariat proposes to the Commission to recommend the use or adoption of international trade law related instruments

<sup>1</sup> *Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 17 (A/36/17)*, paras. 93–101.

<sup>2</sup> *Ibid.*, para. 100.

<sup>3</sup> See General Assembly resolution 2205 (XXI), sect. II, para. 8.

<sup>4</sup> The lists of those organizations in [www.unodc.org/missions/en/uncitral/information.html](http://www.unodc.org/missions/en/uncitral/information.html).

<sup>5</sup> Pursuant to General Assembly resolution [34/142](#) (*UNCITRAL Yearbook*, vol. XI: 1980, part one, chap. I, sect. C). See, for example, "Current activities of international organizations related to the harmonization and unification of international trade law: report of the Secretary-General" (United Nations document [A/CN.9/380](#)) (*UNCITRAL Yearbook*, vol. XXIV: 1993, part two, chap. V).

<sup>6</sup> *Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 17* (United Nations document, [A/36/17](#)), para. 100 (*UNCITRAL Yearbook*, vol. XII: 1981, part one, sect. A). See, for example, "Coordination of work: international transport documents: report of the Secretary-General" (United Nations document, [A/CN.9/225](#) and Corr.1 (French only)) (*UNCITRAL Yearbook*, vol. XIII: 1982, part two, chap. VI, sect. B).

developed by other organizations.<sup>7</sup> The most recent example was the endorsement of the Incoterms® 2020 of the International Chamber of Commerce (ICC) at the fifty-third session of the Commission.<sup>8</sup> A number of those organizations have also recommended and endorsed the adoption of UNCITRAL texts.

7. For the current session, the main subject of the report that the secretariat prepares annually in response to resolution 34/142 is limited to the first type of coordination activity described in paragraph 4 above. Thus, this report provides information on the activities of other international organizations active in the field of international trade law in which the UNCITRAL secretariat has participated. As in previous years, most of those activities have included provision of comments on documents drafted by those organizations and participation in various meetings (e.g. working groups, expert groups and plenary meetings), the preparation of joint papers and conferences. The purpose of that participation has been to ensure coordination of the related legislative and rule-making activities of the different organizations, to share information and expertise and avoid duplication of work and of the texts resulting from that work.

8. It should be noted that the measures taken around the world to contain the coronavirus disease (COVID-19) pandemic have had a significant impact on the secretariat's coordination efforts in the reporting period. Several activities originally planned to take place since the last report submitted by the secretariat (A/CN.9/1018) have been cancelled, but many could be carried out remotely via videoconference.

### III. Coordination activities undertaken in the reporting period

#### A. The International Institute for the Unification of Private Law and the Hague Conference on Private International Law

##### *International Institute for the Unification of Private Law (Unidroit)*

9. The secretariat attended the 99th session of the Unidroit Governing Council (Rome, 23 to 25 September 2020) and made a presentation at the conference on the Tripartite Legal Guide on International Sales that took place on 22 September 2020 in connection with that session. The main subjects of direct interest for UNCITRAL during the deliberations of the Unidroit Governing Council included the ongoing work on warehouse receipts, the development of a model law on factoring, and the proposals for future work by Unidroit in the areas of best practices for effective enforcement, bank insolvency and digital assets (then still called “Artificial Intelligence, Smart Contracts and DLT”).<sup>9</sup>

10. The secretariat and Unidroit have continued to cooperate in the development of a draft model law on the private law aspects of warehouse receipts, as requested by the Commission at its fifty-third session.<sup>10</sup> The secretariat has participated in the two meetings of the working group convened by Unidroit since the last session of the Commission (2–4 December 2020 and 10–12 March 2021) and will report separately on the progress made (see A/CN.9/1066). Both secretariats have also continued their cooperation in the development of a taxonomy of legal issues related to the digital economy (see paras. 29–30), particularly in the context of the newly established Unidroit working group on digital assets.<sup>11</sup> The secretariat will report on the progress

<sup>7</sup> The full list of texts of other organizations that were endorsed by UNCITRAL is available at <https://uncitral.un.org/en/texts/endorsed>.

<sup>8</sup> *Official Records of the General Assembly, Seventy-fifth Session, Supplement No. 17 (A/75/17)*, paras. 17 and 35–39.

<sup>9</sup> See Unidroit 2020 C.D. (99) B.1 Rev. Annotated agenda (available at [www.unidroit.org/meetings/governing-council/2895-99th-session-b-rome-23-25-september-2020](http://www.unidroit.org/meetings/governing-council/2895-99th-session-b-rome-23-25-september-2020)).

<sup>10</sup> *Official Records of the General Assembly, Seventy-fifth Session, Supplement No. 17 (A/75/17)*, paras. 16(d), 55–61 and 91(b).

<sup>11</sup> *Official Records of the General Assembly, Seventy-fifth Session, Supplement No. 17 (A/75/17)*, paras. 16(f), 67–76 and 91(d)(i).

made since the last session of the Commission separately (see A/CN.9/1064 and addenda). Lastly, the secretariat has also participated remotely in two meetings of the Unidroit working group on the preparation of a Model Law on Factoring (Rome, 1–3 July and 14–16 December 2020).

#### *Hague Conference on Private International Law*

11. The secretariat participated remotely in the meeting of the Council on General Affairs and Policy (CGAP) of the Hague Conference on Private International Law (HCCH) (The Hague, 1–15 March 2021). The two main subjects of direct interest for the secretariat were the cooperation between the HCCH Permanent Bureau and the secretariat in the development of a taxonomy of legal issues related to the digital economy (see paras. 29–30) and possible future work by the Commission in the area of applicable law in insolvency proceedings (see para. 27).<sup>12</sup>

12. In addition to that, the secretariat participated in the HCCH Experts' Group on the Tourists and Visitors (ODR) Project held by videoconference on 5–9 October 2020. The experts have recommended the development of "Practical Guide to Access to Justice for International Tourists and Visitors" to assist tourists and visitors in pursuing claims. The proposed Guide would consist of two parts: the first part would explain, in layperson's terms, how existing HCCH Conventions and Principles may be relevant to the resolution of claims by international tourists and visitors (general references to other relevant instruments may be included); whereas the second part would list and describe, without any value judgment, ODR platforms that may be used by international tourists and visitors, by providing factual information, on the basis of specific features identified by the expert group, that could assist tourists and visitors in assessing which platform may suit their needs.<sup>13</sup> CGAP endorsed those proposals at its last meeting.<sup>14</sup>

#### *Joint activities with both Unidroit and HCCH*

13. The Secretariat will participate remotely at the tripartite coordination meeting of UNCITRAL, Unidroit and HCCH, hosted by HCCH, at which current work of the three organizations, areas of mutual interest and possible joint activities will be discussed at a meeting being organized by videoconference on 28 April 2021.

## **B. Other organizations**

14. In addition to its participation in initiatives of Unidroit and HCCH, the secretariat undertakes coordination activities with various other international organizations. Some of those activities are of a general nature, whereas others focus on specific topics.

### **1. General**

15. The secretariat participated in various meetings and joint activities with other intergovernmental organizations with a view to coordinating and cooperating in developing international legal standards:

(a) The secretariat attended the annual meeting of the Inter-Agency Cluster on Trade and Productive Capacity (remote, 16 October 2020), which brings together fifteen United Nations agencies under the coordination of the United Nations Conference on Trade and Development (UNCTAD), at which issues of common

<sup>12</sup> See HCCH, CGAP, meeting of 1–5 March 2021, Draft Agenda (available at <https://assets.hcch.net/docs/8cec1533-7cb9-4c29-add7-0898cf47b494.pdf>).

<sup>13</sup> See HCCH, CGAP, meeting of 3–6 March 2020, Prel. Doc. 1-Revised – Report on the Tourism and Visitors (ODR) Project (available at <https://assets.hcch.net/docs/588a7d85-37e8-4fe5-bfa8-8e914b6f9ecc.pdf>).

<sup>14</sup> See HCCH, CGAP, meeting of 1–5 March 2021, Conclusions and decisions (<https://assets.hcch.net/docs/94e2d886-1cbf-4250-b436-5c1899cb942b.pdf>).

interest (e.g. possible joint actions in response to the COVID-19 pandemic) were discussed;

(b) The secretariat continues to participate in a Partnership of international organizations for effective international rulemaking led by the Organisation for Economic Co-operation and Development (OECD)<sup>15</sup> which has prepared a “Compendium of International Organisations’ Practices for Effective International Rulemaking”. The secretariat serves as a focal point for the section of the compendium on “Building Understanding of the Variety of International Instruments”, and will co-host the annual meeting of the Partnership, with OECD, in September 2021.

### *Rule of Law*

16. The secretariat remained engaged in the Inter-Agency Task Force (IATF) on Financing for Development (FfD), convened by the Secretary-General to: (a) review progress in implementing the Addis Ababa Action Agenda (AAAA); and (b) advise the intergovernmental follow-up process thereon. In this context, the secretariat contributed to tracking the progress of the implementation of the AAAA sustainable development goals as they are relevant to the work of UNCITRAL.<sup>16</sup>

17. The secretariat also contributed to the 2020 report of the Secretary-General on strengthening and coordinating United Nations rule of law activities.<sup>17</sup>

## **2. Subject-specific activities**

### **(a) Dispute settlement**

18. In supporting the current work of Working Group II (Dispute Settlement) on expedited arbitration, the secretariat coordinated with the Permanent Court of Arbitration (PCA), the International Council of Commercial Arbitration (ICCA) as well as arbitral institutions to provide relevant information.

19. At its fiftieth session, in 2017, the Commission emphasized the need for Working Group III on Investor-State Dispute Settlement Reform to engage with diverse stakeholders, including intergovernmental organs and organizations such as UNCTAD, the World Trade Organization (WTO), OECD, the International Centre for Settlement of Investment Disputes (ICSID) of the World Bank Group and PCA. In addition, the Commission agreed that the ongoing work of relevant international organizations in investment treaty reform should be taken into account.

20. In order to ensure broad participation in the Working Group and to reflect diverse views, the secretariat engaged with above-mentioned organizations on an ongoing basis and also with, but not limited to, the African Union, the International Chamber of Commerce, International Organization of la Francophonie (OIF), the Asian-African Legal Consultative Organization (AALCO), the European Economic and Social Committee (EESC), Business Europe, the Energy Charter Treaty Secretariat and the International Development Law Organization (IDLO).

### **(b) Electronic commerce**

21. The secretariat cooperated with the Organization for Security and Cooperation in Europe (OSCE), which has a mandate with regard to connectivity and trade facilitation, on legal standards to enable trade facilitation. The OSCE Office of the Coordinator of Economic and Environmental Activities (OCEEA) carries out a regional project to support the National Trade Facilitation Committees of several OSCE member States in their efforts to comply with the WTO Trade Facilitation Agreement (WTO TFA) and other international standards. The secretariat illustrated

<sup>15</sup> [www.oecd.org/gov/regulatory-policy/a-partnership-for-effective-international-rule-making.htm](http://www.oecd.org/gov/regulatory-policy/a-partnership-for-effective-international-rule-making.htm).

<sup>16</sup> [https://developmentfinance.un.org/sites/developmentfinance.un.org/files/FSDR\\_2021.pdf](https://developmentfinance.un.org/sites/developmentfinance.un.org/files/FSDR_2021.pdf).

<sup>17</sup> See document A/75/284 and paras. 44 and 45 therein as related to UNCITRAL legislative activities.

the possible and actual use of UNCITRAL texts on electronic transactions and electronic signatures for the implementation of free trade agreements, as well as the relationship to the current work on identity management systems (IdM).

22. The secretariat cooperated with the Organization for Harmonization of Business Law in Africa (OHADA) on e-commerce, in the context of the exploratory work undertaken by OHADA for the possible adoption of a Uniform Act on electronic transactions. In that context, the secretariat organized together with the Permanent Secretariat of OHADA and with the assistance of OIF a webinar on the current challenges and benefits of the regulation of e-commerce and digital economy in West Africa (Yaoundé (online), 11 May 2021). In addition to that, the secretariat made a statement at the opening of the 50th meeting of the Council of Ministers of OHADA (Bamako, 24 March 2021).

**(c) Public Procurement and Public-Private Partnerships**

23. At the request of the Corruption and Economic Crime Branch of the United Nations Office on Drugs and Crime (UNODC), the secretariat reviewed the draft Guide to Addressing Corruption and Fraud in International Infrastructure Projects to ensure consistency with and systematic cross references to UNCITRAL instruments on Public Procurement and Public-Private Partnerships, and has provided a contribution to the preparatory process for the Special session of the General Assembly against corruption (to be held on (2–4 June 2021),<sup>18</sup> highlighting the work of UNCITRAL on measures to prevent and combat corruption and on international cooperation in this area.

**(d) Insolvency**

24. The current work of UNCITRAL Working Group V (Insolvency Law) on the insolvency of micro and small enterprises (MSEs) continued to be coordinated with the work of the World Bank Group on MSE insolvency-related amendments to the World Bank Principles for Effective Insolvency and Creditor/Debtor (ICR) Regimes (“the ICR Principles”) and with the International Monetary Fund (IMF). That coordination is expected throughout the MSE insolvency project in UNCITRAL. At its fifty-second session, in 2018, the Commission encouraged such coordination (see [A/74/17](#), paras. 178, 183, 224 and 231).

25. As was reported to the Commission at its fifty-third session (see [A/CN.9/1018](#), para. 29), the UNCITRAL secretariat had been invited to attend the meeting of the World Bank Group ICR Task Force scheduled to take place on 8 May 2020 but postponed due to the COVID-19 related measures. Instead, a meeting of the World Bank Group’s Expert Consultative Group for the Amendment to the ICR Principles took place online, on 22 June 2020, at which the UNCITRAL secretariat provided comments on the World Bank’s draft in the light of the outcomes of the fifty-sixth session of the Working Group (Vienna, 2–5 December 2019).

26. In turn, a representative of the World Bank Group actively participated at the fifty-seventh session of the Working Group (Vienna (online), 7–10 December 2020) and during the intersessional consultations held by the Working Group in May and September 2020. The Commission may expect to receive at a future session a request from the World Bank for a formal endorsement by UNCITRAL of the MSE insolvency-related amendments to the ICR Principles once they are finalized.

27. The UNCITRAL Colloquium on Applicable Law in Insolvency Proceedings<sup>19</sup> was held, in cooperation with HCCH, in Vienna on 11 December 2020, at the conclusion of the fifty-seventh session of the Working Group (for the report of the Colloquium, see document [A/CN.9/1060](#), which is before the Commission at its fifty-fourth session). Representatives of HCCH and the European Commission actively contributed to the Colloquium. Close collaboration between the UNCITRAL

<sup>18</sup> [A/RES/74/276](#) of 1 June 2020.

<sup>19</sup> <https://uncitral.un.org/applicablelawcolloquium>.



secretariat and the secretariats of those organizations is expected should the topic be taken up by the Commission (for cooperation with HCCH, see also paras. 11–12 above).

28. Support regarding matters of insolvency was provided to the secretariats of the OSCE and the European Bank for Reconstruction and Development (EBRD) in their preparation of updates of their respective texts, the “Best Practice Guide for a Positive Business and Investment Climate” (2006) in the OSCE region and the “EBRD Core Principles of an Effective Insolvency System” (2020). In addition, the secretariat collaborated with the EBRD secretariat in the organization of events and activities held in relation to the establishment of effective insolvency regimes in EBRD economies.

**(e) Legal issues related to the digital economy**

29. At its fifty-first session, the Commission reaffirmed its central and coordinating role within the United Nations system in addressing legal issues related to the digital economy and digital trade and asked the secretariat to “compile information on legal issues related to the digital economy, including by organizing within existing resources and in cooperation with other organizations, symposiums, colloquiums and other expert meetings, and to report that information for its consideration at a future session”.<sup>20</sup> At its fifty-second session, the Commission was informed that exploratory work had identified the need for a taxonomy of emerging technologies to facilitate a common understanding of legal issues.<sup>21</sup> At its fifty-third session, presented with draft sections of the taxonomy on artificial intelligence, data transactions and digital assets, the Commission asked the secretariat to cooperate and coordinate with relevant international organizations, specifically Unidroit and the HCCH, in further developing the legal taxonomy.<sup>22</sup>

30. Since then, the secretariat has participated remotely as an observer in two meetings of the Unidroit working group on digital assets. As noted at the fifty-third session, part of that project consists of the drafting of a “conceptual taxonomy”, and the secretariat is cooperating closely with the Unidroit secretariat to coordinate that output with a revised section of the taxonomy on digital assets.<sup>23</sup> The Unidroit secretariat and HCCH Permanent Bureau have also participated in an expert group meeting organized by the secretariat (8–9 March 2021) to advance the development of the legal taxonomy, particularly a new section on online platforms. A more detailed progress report on exploratory and preparatory work carried out by the secretariat on legal issues related to the digital economy is set out in A/CN.9/1064 and its addenda.

31. In addition to those meetings, the secretariat has held consultations with UNCTAD, the European Commission and OIF to discuss points of common interest, coordination of activities and possible cooperation in relation to legal issues related to the digital economy.

**(f) Preparatory work on negotiable multimodal transport documents**

32. Following the Commission’s request to its secretariat to start preparatory work towards the development of a new international instrument on multimodal transport documents that could also be used for contracts not involving carriage by sea (A/75/17, part two, para. 82), the secretariat continued expert consultations with representatives of interested States and organizations. In cooperation with the Ministry of Commerce of China, it organized an expert group meeting on “A New International Instrument on Negotiable Multimodal Transport Documents”, which was held online on 2 and 3 February 2021, with participation of experts from China, Germany, Republic of Korea and the Russian Federation as well as EU, UNCTAD,

<sup>20</sup> *Official Records of the General Assembly, Seventy-third Session, Supplement No. 17 (A/73/17)*, para. 253(b).

<sup>21</sup> *Ibid.*, *Seventy-fourth Session, Supplement No. 17 (A/74/17)*, para. 209.

<sup>22</sup> *Ibid.*, *Seventy-fifth Session, Supplement No. 17 (A/75/17)*, part two, para. 76.

<sup>23</sup> *Ibid.*, *Seventy-fifth Session, Supplement No. 17 (A/75/17)*, part one, para. 47(a).

UNECE, UNESCAP, the Intergovernmental Organisation for International Carriage by Rail (OTIF), the Organization for Cooperation between Railways (OSJD), the ICC Banking Commission, the International Rail Transport Committee (CIT), the Comité Maritime International (CMI), the International Federation of Freight Forwarders Associations (FIATA) and academia (A/CN.9/1061).

33. In addition, a webinar was held by the UNCITRAL secretariat on 13 and 14 April 2021 on “International experiences with the dematerialization of negotiable transport documents”, with participation of experts from ICC, the banking and transport sectors (IATA, CIT, IRU, CMI, Commerzbank, Bank of China), providers of electronic transport documents solutions (Bolero, essDocs, CargoX) and members of academia.

34. Furthermore, the UNCITRAL secretariat participated at the twenty-third session of the UNECE Group of Experts towards Unified Railway Law (URL) (Geneva, 13–15 January 2021) at which the future of the URL project was considered. Finally, the UNCITRAL secretariat presented the UNCITRAL project at UNESCAP’s Virtual Expert Group Meeting on Legal Frameworks for Multimodal Transport Operations in Asia and the Pacific (30–31 March 2021).

**(g) Secured transaction and access to credit**

35. To further facilitate coordination in the area of secured transactions, UNCITRAL will be hosting the fourth conference on international coordination of secured transactions law reforms jointly with the World Bank, Unidroit, Kozolchyk National Law Centre and International Insolvency Institute in June 2021. The conference is scheduled to discuss concrete means to realize the coordination efforts in the field of secured transaction reforms and to survey work by different organizations with regard to access to credit, particularly for micro, small and medium-sized enterprises. The latter would aim to coordinate efforts for international standard setting in light of the work of Working Group I (MSMEs) on the same topic.

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