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Coordination activities

Note by the Secretariat

Contents

	<i>Page</i>
I. Introduction	2
II. General considerations and strategy for coordination activities	2
III. Coordination activities undertaken in the reporting period	3
A. The International Institute for the Unification of Private Law and the Hague Conference on Private International Law	3
B. Other organizations	5



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.¹ 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.²

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,³ 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.⁴

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,⁵ as well as in-depth reports on the activities of organizations on specific international trade law topics.⁶

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

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

² *Ibid.*, para. 100.

³ See General Assembly resolution 2205 (XXI), sect. II, para. 8.

⁴ The lists of those organizations in www.unodc.org/missions/en/uncitral/information.html.

⁵ 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).

⁶ *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.⁷ The most recent examples were the endorsement of the International Chamber of Commerce (ICC) Incoterms 2020 rules and the Unidroit Principles of International Commercial Contracts 2016 at the fifty-third and fifty-fourth sessions of the Commission, respectively.⁸ 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 continued to impact the secretariat's coordination efforts in the reporting period. There was again a lower level of activities planned, as was the case in the period covered by the last report submitted by the secretariat (A/CN.9/1069), most of which were 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 100th session of the Unidroit Governing Council (Rome, 22 to 24 September 2021). 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”).⁹

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.¹⁰ The secretariat has participated in the two meetings of the working group convened by Unidroit since the last session of the Commission (1–3 September 2021 and 28 February–2 March 2022) and will report separately on the progress made (see A/CN.9/1102).

11. The secretariat has also continued its participation as observer in several other working groups convened by Unidroit on several of the other subjects of direct interest for UNCITRAL. Since the last session of the Commission:

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

⁸ *Official Records of the General Assembly, Seventy-fifth Session, Supplement No. 17 (A/75/17)*, part one, para. 39; *Ibid.*, *Seventy-sixth Session, Supplement No. 17 (A/76/17)*, para. 268.

⁹ See Unidroit 2021 C.D. (100) B.1 Rev. Annotated agenda (available at www.unidroit.org/wp-content/uploads/2021/09/C.D.100B.1revagenda.pdf).

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

(a) The secretariat participated in the fourth and fifth session of the working group on digital assets and private law (2–4 November 2021 and 7–9 March 2022), which is progressing in its work to develop principles and legislative guidance. The project is relevant to several areas of work, including (a) the application of existing UNCITRAL texts to digital assets (as reported to the fifty-third session in [A/CN.9/1012/Add.3](#), paras. 32–42), (b) ongoing work of the secretariat to develop a legal taxonomy of work of emerging technologies and their applications (as reported to the current session in [A/CN.9/1116](#), para. 16), and (c) ongoing work within Working Group V on civil asset tracing and recovery in insolvency proceedings and applicable law in insolvency proceedings (see para. 26 below);

(b) The secretariat participated in the third and fourth session of the working group on best practices for effective enforcement (29–30 November 2021 and 26–28 April 2022), which aims to develop a legal tool for legislators, comprising a set of global standards and best practices, designed to address current challenges to domestic law enforcement systems. The project is relevant to several areas of work, including insolvency, secured transactions and legal issues related to the digital economy;¹¹ and

(c) The secretariat participated in three meetings of the working group on the preparation of a Model Law on Factoring (Rome, 26–28 May 2021, 1–3 December 2021 and 16–18 May 2022).

12. The secretariat participated in the early phases of a new Unidroit project which aims to develop guidance on improving the legal structures of agricultural enterprises. The secretariat attended the Consultation Webinar on the Legal Structure of Agriculture and Enterprises Project (15-16 April 2021) organised by Unidroit in collaboration with the Food and Agriculture Organization of the United Nations (FAO) and the International Fund for Agricultural Development (IFAD) and provided a brief introduction to the UNCITRAL's work on simplified incorporation of MSMEs. The secretariat also participated remotely as an observer in the first session of the Legal Structure of Agricultural Enterprises Working Group (Rome, 23–25 February 2022).

13. Lastly, the secretariat attended remotely the fifth Workshop on Best Practices in the Field of Electronic Registries Design and Operation whose purpose is to provide guidance on the design and operation of electronic registries (Cambridge, United Kingdom, 28 September 2021).¹² After the publication of the Guide on Best Practices for Electronic Collateral Registries,¹³ the project has now shifted its focus onto electronic business registries and will work towards developing a best practices guide for the same.

Hague Conference on Private International Law

14. 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, 28 February–4 March 2022). 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 and in the area of applicable law in insolvency proceedings.¹⁴

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

¹² This Project is organised under the auspices of the Cape Town Convention Academic Project, which is a partnership between Unidroit and the University of Cambridge, with the Aviation Working Group as its Founding Sponsor. The Unidroit Foundation is one of the sponsors of the Project.

¹³ See <https://ctcap.org/best-practices-in-the-field-of-electronic-registry-design-and-operation/>.

¹⁴ See HCCH, CGAP, meeting of 28 February–4 March 2022, Draft Agenda (available at <https://assets.hcch.net/docs/12fd43cc-b9fe-4725-bb30-b82110b461ec.pdf>).

Joint activities with both Unidroit and HCCH

15. The Secretariat will participate at the tripartite coordination meeting of UNCITRAL, Unidroit and HCCH, which will be hosted by Unidroit on 13 June 2022, at which the three organizations will discuss their current work, areas of mutual interest and possible joint activities.

B. Other organizations

16. 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

17. 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 continues to participate in a partnership of international organizations for effective international rulemaking led by the Organisation for Economic Co-operation and Development (OECD, the IO Partnership). Under this collaboration, the secretariat:

- Participated in a Technical Meeting of the IO Partnership on current work and future ambitions (Paris, 29 April 2021);
- Hosted the 8th Annual meeting of the IO Partnership, at which a Compendium of International Organisations' Practices for Effective International Rulemaking was launched (Vienna, 13–14 September 2021);¹⁵
- Provided examples of tools developed by UNCITRAL for cooperation and coordination in international rule-making (desk-based, July–September 2021); and
- As a focal point for Working Group I of the IO Partnership, hosted technical meetings and facilitated exchanges to develop an action plan for developing tools on agility under the partnership (Vienna, December 2021–March 2022).

(b) 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;¹⁶ and

(c) The secretariat also contributed to the 2021 report of the Secretary-General on strengthening and coordinating United Nations rule of law activities.¹⁷

2. Subject-specific activities

(a) Micro-, Small and Medium-sized Enterprises (MSMEs)

18. The secretariat briefed the World Trade Organization (WTO) Informal Working Group on MSMEs (online, 24 September 2021) on the *UNCITRAL Legislative Guide on Limited Liability Enterprises*. The secretariat continues its informal exchange of information with secretariat of the WTO Informal Working Group.

¹⁵ The Compendium is available at www.oecd.org/governance/better-international-rulemaking/compendium/.

¹⁶ <https://developmentfinance.un.org/fsdr2022>.

¹⁷ See document A/76/235 and paras. 49 and 50 therein as related to UNCITRAL legislative activities.

(b) Dispute settlement

19. In organizing the Colloquium on possible future work on dispute settlement (A/CN.9/1091), the secretariat coordinated with the Permanent Court of Arbitration (PCA), the International Council of Commercial Arbitration, the International Chamber of Commerce (ICC), P.R.I.M.E Finance as well as arbitral institutions to provide relevant information with regard to developments in dispute resolution in the digital economy.

20. 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, 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. 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 but particularly with ICSID regarding the Code of Conduct for Adjudicators.

(c) Electronic commerce

21. The secretariat continued its cooperation with other organisations undertaking work on single windows and paperless trade facilitation to coordinate the legal aspects of that work.¹⁸ Cooperation has been carried out on a regular basis with the Economic and Social Commission for Asia and the Pacific (ESCAP), with respect to implementation of the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific.

22. The secretariat also continued its cooperation 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, following the joint webinar on the current challenges and benefits of the regulation of e-commerce and digital economy in West Africa (Yaoundé (online), 11 May 2021), the secretariat made a statement at the opening of the 51st meeting of the Council of Ministers of OHADA (Bamako, 16 December 2021).

(d) Public Procurement and Public-Private Partnerships

23. The secretariat was requested by the Economic and Monetary Community of Central Africa (CEMAC) to join the project on the elaboration of a strategy and of an institutional and regulatory framework on public-private partnerships, that was launched on 28 October 2021. The secretariat will provide inputs on the draft documents that will be prepared by the CEMAC working group to ensure consistency with and the inclusion of systematic cross references (where relevant) to UNCITRAL instruments on Public-Private Partnerships. A further expansion of the project to public procurement area is contemplated by CEMAC.

(e) Insolvency

24. The 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”). The revised ICR Principles were issued in April 2021, following which the secretariat continued discussing with the World Bank Group on how to achieve a closer alignment of the revised ICR Principles and a UNCITRAL text on insolvency law for micro and small enterprises in relation to different mechanisms for approval

¹⁸ *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 17 (A/66/17)*, para. 240.

of a reorganization plan in the simplified insolvency context. At the fifty-ninth session of the Working Group (Vienna (online), 13–17 December 2021), the Working Group completed its work on the *UNCITRAL Legislative Guide on Insolvency Law for Micro- and Small Enterprises*, at which agreement was reached on that point as reflected in the report of that session (A/CN.9/1088, paras, 14–18).

25. The UNCITRAL secretariat is being invited to meetings of the World Bank Group ICR Task Force that assists the World Bank Group to regularly test and evaluate the effectiveness and relevance of the ICR Principles, ensuring the standard is disseminated and global consensus maintained in close partnership with UNCITRAL. During the reporting period, the meeting took place on 12 and 13 May 2022 at which issues related to corporate workouts were discussed. In turn, the World Bank Group is invited to sessions of UNCITRAL and its working groups, including Working Group V. Representatives of the World Bank Group actively participated at the fifty-fourth session of UNCITRAL, in 2021, and the fifty-ninth session of the Working Group.

26. Cooperation and coordination with Unidroit, noted in paragraphs 9–13 above, encompassed aspects of relevance to the current work program of Working Group V (in particular, the Unidroit project on effective enforcement is relevant to the topic of civil asset tracing and recovery in insolvency proceedings while the Unidroit project on digital assets is relevant to both civil asset tracing and recovery in insolvency proceedings and applicable law in insolvency proceedings).

27. In addition, the UNCITRAL secretariat has been closely monitoring developments in the European Union in the area of insolvency law relevant to the current work program of Working Group V, in particular with respect to studies and reports on abusive forum shopping in cross-border insolvency envisaged under article 90 (review clause) of the Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast) and on asset tracing and recovery within the initiative on enhancing the convergence of insolvency laws in the frame of the Capital Markets Union Action Plan.

(f) Legal issues related to the digital economy

28. At its fifty-third 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.¹⁹ As reported in A/CN.9/1117 (paras. 20–21), the secretariat is coordinating its preparatory work on data transactions with other international initiatives related to data flows. Work on other topics, including automated contracting and the use of distributed ledger systems, as reported in A/CN.9/1116 (para.16), is also being done in coordination with other relevant international organizations, including Unidroit and the HCCH.²⁰

29. In addition, 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. It has also accepted an invitation to observe a new project of the European Law Institute (ELI) on guiding principles and model rules on algorithmic contracts, noting the synergies with work at UNCITRAL on automated contracting. Finally, it has liaised with the Office of the Secretary-General's Envoy on Technology to ensure coordination, and identify and pursue synergies, with ongoing work in other parts of the United Nations system.

¹⁹ *Official Records of the General Assembly, Seventy-third Session, Supplement No. 17 (A/73/17)*, para. 253(b).

²⁰ *Ibid.*, *Seventy-fifth Session, Supplement No. 17 (A/75/17)*, part two, para. 76.

(g) Preparatory work on negotiable multimodal transport documents

30. Following the Commission's request,²¹ the secretariat continued its preparatory work on a new international instrument on negotiable multimodal transport documents (NMTDs) in consultation with experts and in close coordination with other relevant organizations. In cooperation with the Ministry of Commerce of China, the secretariat organized two online expert group meetings during the reporting period: one focusing on the negotiability aspects (10–11 November 2021); and the other focusing on the dematerialization of negotiable transport documents (30–31 March 2022). The meetings were attended by experts from interested States (public and private sectors and academia) and organizations, including UNCTAD, UNECE, UNESCAP, International Civil Aviation Organization (ICAO), the Intergovernmental Organisation for International Carriage by Rail (OTIF), the Organization for Cooperation between Railways (OSJD), ICC, the International Rail Transport Committee (CIT), the Comité Maritime International (CMI), the International Federation of Freight Forwarders Associations (FIATA), IATA, World Road Transport Organization (IRU) as well as providers of electronic transport documents solutions (Bolero, essDocs, CargoX).

31. The UNCITRAL secretariat participated at the Virtual Expert Group Meeting on Legal Frameworks for Multimodal Transport Operations in Asia and the Pacific (2–3 March 2022) and meetings of ICAO's Air Cargo Collaboration Group. It presented the UNCITRAL project at UNESCAP's online side event to the Fourth Ministerial Conference on Transport on Legal Frameworks in the Time of Changes for Multimodal Transport (14 December 2021) and the UNESCAP-ICAO-ICC-ADB Webinar on Challenges and Trends in Digitalizing Multimodal Supply Chains (23 March 2022) and attended the ICAO Webinar on "Air Cargo Digitalization in COVID-19 Times: Perspectives on Security" (25 August 2021).

(h) Secured transaction and access to credit

32. To further facilitate coordination in the area of secured transactions, the Joint Network for Coordinating and Supporting Secured Transactions Reforms was established to coordinate the activities of participating organizations in providing technical assistance and capacity building to States and organizations in secured transactions and related reforms.²² A launch ceremony took place on 3 December 2021 during the International Conference on Ease of Doing Business organized by the Korean Ministry of Justice. The Network seeks to facilitate the modernization and enhancement of secured transactions frameworks, particularly through the adoption and implementation of international standards in this area. The Executive Committee of the Network consists of UNCITRAL, the World Bank, Unidroit, OAS and Kozolchyk National Law Centre. The Network would also aim to coordinate efforts for international standard setting in light of the work of Working Group I (MSMEs) on the same topic.

²¹ *Ibid.*, *Seventy-sixth Session, Supplement No. 17 (A/76/17)*, para. 223.

²² The Fourth Conference on International Coordination of Secured Transactions Law Reforms jointly organised by UNCITRAL, the World Bank, Unidroit, Kozolchyk National Law Centre and International Insolvency Institute (online 10 June 2021) laid the groundwork for the formal launch of the Network (see [A/CN.9/1069](#), para. 35).