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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.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 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 on-going 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 <https://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 example was the endorsement of the Uniform Rules for Forfeiting of the International Chamber of Commerce at the fiftieth session of the Commission.⁸ A number of those organizations have also recommended and endorsed the adoption of UNCITRAL texts. This third type of activity is usually undertaken in response to a request from the relevant organization; it is not particularly resource-intensive and does not require more than a deliberation over the desirability for the Commission to act on a specific proposal by the Secretariat.

7. Over the years, the number of international and regional legal harmonization efforts has significantly increased, mainly due to the intense level of harmonization through some regional organizations – in particular the European Union – and also to higher activity by other regional organizations. Increased cross-border trade and financial services, as well as technological and logistics developments, have also added new fields to the initiatives that the Secretariat would have to follow, thus making the coordination activities referred to in paragraphs 4 and 5 above increasingly difficult and resource-intensive. Thus, the Secretariat ceased many years ago to prepare a general survey of the activities of other organizations related to international trade law⁹. The last in-depth report on the activities of organizations on a specific international trade law topic was prepared in 2005.¹⁰ This situation deprives the Commission of two relevant tools to ascertain the state of harmonization of the law of international trade and identify possible areas for future UNCITRAL activities. The rapid development of new areas of work, for example in digital trade or catering for MSMEs, may warrant to take a fresh look at the coordination reports, not only with a view to helping the Commission in planning its work. The Commission may wish to consider requesting the Secretariat to examine the feasibility of preparing at least a periodic overview of international activities on international trade law.

8. For this session, the main subject of the report that the Secretariat prepares annually in response to resolution 34/142 and in accordance with UNCITRAL's mandate is limited to the first type of coordination activity described in paragraph 4 above. This report thus 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.

9. It should be noted that the effectiveness of the Secretariat's coordination efforts is severely limited by its own human and financial resources, which require a constant scrutiny of the relative importance of the activity from the perspective of the Commission's overall work programme. Budgetary restrictions make it difficult to attend meetings, including coordination meetings. Furthermore, even where the Secretariat is able to follow closely the work of other organizations, the success of its efforts depends essentially on the other organization's interest and willingness to ensure coordinated outcome. While there is a satisfactory level of coordination with most organizations with which the Secretariat cooperate, this is not always the case. The responsibility for ensuring adequate coordination is ultimately a shared task of

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

⁸ *Official Records of the General Assembly, Seventy-second Session, Supplement No. 17 (A/72/17)*, para. 279.

⁹ The last comprehensive report was submitted to the Commission in 1993 (see A/CN.9/380 – Current activities of international organizations related to the harmonization and unification of international trade law).

¹⁰ See A/CN.9/580/Add.1 – Coordination of work: Current activities of international organizations related to Insolvency law.

member States and the Secretariat. The work of the Secretariat would be greatly enhanced by a closer cooperation with its member States that are also active in other international bodies. For its part, the Secretariat intends to intensify the relations with traditional strategic partners and identify new ones, as new topics are included in the Commission's work programme, and institutionalize its relationship with them in accordance with existing practices and rules applicable to the United Nations Secretariat as a whole.

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)

10. The Secretariat will attend the Unidroit Governing Council (Rome, 8–10 May 2019).

Hague Conference on Private International Law (Hcch)

11. The Secretariat attended the Council on General Affairs and Policy (The Hague, the Netherlands, 5–8 March 2019). The two main subjects of interest for the Secretariat were the preparation of a guidance document in the area of international commercial contract law (with a focus on sales) (see para. 14) and the current work of Hcch on the preparation of a draft Convention on the recognition and enforcement of foreign judgments in civil or commercial matters ("the Judgments Project"), which will be submitted for adoption to the 22nd Diplomatic Session of the Hcch on 18 June to 2 July 2019.¹¹ With respect to the latter, the Secretariat is satisfied that, as it stands, the Judgments Project does not conflict or interferes with the UNCITRAL Model Law on Recognition and Enforcement of Insolvency-Related Judgments¹² or with the United Nations Convention on International Settlement Agreements Resulting from Mediation.¹³

Joint activities with Unidroit and Hcch

12. The Secretariat will attend the tripartite coordination meeting of UNCITRAL, Unidroit and Hcch, hosted by Unidroit, at which current work of the three organizations, areas of mutual interest and possible joint activities will be discussed (Rome, 24 April 2019).

13. At its fifty-first session, the Commission heard a report concerning the preparation of a guidance document in the area of international commercial contract law (with a focus on sales) (A/73/17, paras. 176–177). The preparation of that document was approved by the Commission at its forty-ninth session.¹⁴

14. It is planned that the guidance document will be submitted to the Commission at its fifty-third session in July 2020 for approval. The document will therefore be available to mark the fortieth anniversary of the United Nations Convention on Contracts for the International Sale of Goods, 1980. Further details of the project will be provided in an oral report to the Commission.

¹¹ See <https://www.hcch.net/en/projects/legislative-projects/judgments/22nd-diplomatic-session>.

¹² See https://uncitral.un.org/sites/uncitral.un.org/files/ml_recognition-gte.pdf.

¹³ See https://uncitral.un.org/sites/uncitral.un.org/files/singapore_convention_eng.pdf.

¹⁴ Official Records of the General Assembly, Seventy-first Session, Supplement No. 17 (A/71/17), para. 281.

B. Other organizations

15. In addition to its participation in initiatives of Unidroit and HccH, the Secretariat undertakes coordination activities with various other international organizations.

1. General

16. The Secretariat participated in the following meetings:

(a) Several meetings with Executive Secretariat and relevant units of the Inter-American Development Bank (IADB) on institutional cooperation (Washington, D.C., 11 February 2019) and with the Secretariat of the Organization of American States (OAS) on 14 February 2019 with a view to strengthening the coordination with these organizations active in the LAC region. The meetings were also attended by representatives of the National Law Centre, United States. The Secretariat further revived high level contacts with the Secretariats of SIECA and SELA with a view to coordinating or identifying relevant legislative projects;

(b) The sixth annual coordination meeting of international organizations (titled “High-level panel discussion on the landscape and functioning of international rulemaking today”), convened by the Organization for Economic Cooperation and Development (OECD) (New York, United States, 10 April 2019).

Rule of Law

17. 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 through provision of material for inclusion in the Annex to the 2019 IATF report.¹⁵

18. The Secretariat also contributed to the 2018 report of the Secretary-General on strengthening and coordinating United Nations rule of law activities.¹⁶

2. Subject-specific activities

(a) Micro, small and medium-sized enterprises (MSMEs)

19. The Secretariat continued to encourage participation and dialogue in respect of UNCITRAL’s work on micro, small and medium-sized enterprises (MSMEs, Working Group I). In this regard, the Secretariat participated in the Annual conference of the Corporate Registers’ Forum (CRF), presenting the UNCITRAL Legislative Guide on Key Principles of a Business Registry adopted by the Commission in 2018 (Skopje, 8–9 March 2019). The Secretariat also participated in the Workshop on MSMEs organized by the Secretariat of SELA on 15 March 2019 in Santo Domingo. Cooperation with UNCTAD’s Empretec program (to be held in Geneva on 17–19 June 2019) is also planned.

(b) Dispute settlement

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 the United Nations Conference on Trade and Development (UNCTAD), the World Trade Organization (WTO), the Organization for Economic Co-operation and Development (OECD), the International Centre for Settlement of Investment Disputes (ICSID) of the World Bank Group and the Permanent Court of Arbitration (PCA). In

¹⁵ <https://developmentfinance.un.org/fsdr2019>.

¹⁶ See document A/73/253 and paras. 45 and 46 therein as related to UNCITRAL.

addition, the Commission agreed that the ongoing work of relevant international organizations in investment treaty reform should be taken into account.

21. 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 Office of the United Nations High Commissioner for Human Rights (OHCHR), the International Chamber of Commerce, *Organisation internationale de la Francophonie (OIF)*, the Asian-African Legal Consultative Organization (AALCO), the European Economic and Social Committee (EESC), Business Europe, the Energy Charter Treaty Secretariat.

22. In preparation for the session of Working Group II on expedited arbitration, the Secretariat engaged in consultation with organizations active in the field of international arbitration, including arbitral institutions, that had explored ways to tailor the procedure to reduce time and costs associated with arbitration. Considering that the Secretariat was requested to collect information on the different roles undertaken by arbitral institutions in administering expedited arbitration (including as designating and appointing authority under the UNCITRAL Arbitration Rules), it is likely that coordination with those institutions as well as relevant organizations will increase.

(c) Electronic commerce

23. The Secretariat cooperated with the World Economic Forum and other concerned organizations in facilitating preparatory discussions among members of the World Trade Organization related to plurilateral negotiations on trade-related aspects of electronic commerce. The Secretariat illustrated the possible and actual use of UNCITRAL texts on electronic transactions and electronic signatures for the implementation of free trade agreements.

(d) Privately financed infrastructure projects and Public-Private Partnerships

24. In the context of the revision of the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects,¹⁷ the Secretariat engaged in consultations with the World Bank and regional development banks, UNECE and the OECD, among others.

25. In addition, the Secretariat hosted and participated in a meeting of the UNECE PPP Group-European Bank for Reconstruction and Development (EBRD) Joint initiative on the drafting of a Model Law on Public-Private Partnerships (PPPs) (Vienna, 11 February 2019).¹⁸ The Secretariat considers that the initiative of UNECE-EBRD to develop a model law for PPPs that takes into account recurring criticisms about the shortcomings of existing PPP legislation in various countries, and considers lessons learned in international practice, could be an opportunity for the United Nations system to offer a useful new set of complementary international models, particularly if the UNECE/EBRD draft would focus on important aspects that the UNCITRAL Model legislative provisions do not deal with in detail, since they exceed the Commission's international trade law mandate (primarily the institutional and planning aspects, but also government support and monitoring).

26. However, the Secretariat wishes to draw the attention of the Commission to the considerable risk of unnecessary duplication or even inconsistency between the UNCITRAL Legislative Guide, the UNCITRAL Model Legislative Provisions and the foreseen UNECE-EBRD Model Law on PPPs, if no satisfactory coordination of their respective scopes is achieved. The Secretariat has invited UNECE/EBRD to consider that for those areas covered by the UNCITRAL Legislative Guide and Model Provisions, the proposed draft Model Law could reproduce or refer to the UNCITRAL Model Legislative Provisions. In turn, the UNCITRAL Model Legislative Provisions could do the same for the matters covered by the future UNECE-EBRD Model Law. If such a coordination between the two projects were to be achieved, the Secretariat

¹⁷ Ibid., *Seventy-first Session, Supplement No. 17 (A/71/17)*, paras. 359–362.

¹⁸ For an overview of the work of UNECE on PPPs, see <http://www.unece.org/ceci/ppp.html>.

believes that UNCITRAL and UNECE would constructively offer to member States a useful new set of complementary international models on PPPS and maintain a single-United Nations approach to PPPs legal framework.

(e) Security interests

27. In the preparation of a draft Practice Guide to the Model Law on Secured Transactions, the Secretariat was in contact with the Basel Committee on Banking Supervision to seek coordination with respect to chapter III dealing with regulatory aspects, particularly financial regulations, in the implementation of the Model Law.

(f) Insolvency

28. The Secretariat coordinates the current work of UNCITRAL Working Group V (Insolvency Law) on the insolvency of micro, small and medium enterprises (MSMEs) with the work of the World Bank Group on amendment to the World Bank Principles for Effective Insolvency and Creditor/Debtor (ICR) Regimes. The proposed amendment will relate specifically to the insolvency of MSMEs building on the work done in the past two World Bank Group ICR Task Force meetings and enshrined in the Task Force Reports addressing aspects of MSME insolvency.¹⁹

29. Achieving the close alignment of future UNCITRAL and World Bank texts on insolvency of MSMEs is important if they are expected to become part of the ICR Standard, which is comprised of the above-referred World Bank Principles and the UNCITRAL Legislative Guide on Insolvency Law.²⁰ The coordination is achieved through usual means: consultations on draft texts and participation at each other's meetings. The Secretariat considered the above-referred Task Force reports in preparing draft papers on a simplified insolvency regime considered or to be considered by the Working Group at its fifty-fourth and fifty-fifth sessions (Vienna, 10–14 December 2018 and New York, 28–31 May 2019, respectively) ([A/CN.9/WG.V/WP.163](#) and [A/CN.9/WG.V/WP.166](#)). Representatives of the World Bank Group regularly participate in sessions of the Working Group and the Secretariat represents UNCITRAL at meetings of the Task Force and its subsidiary bodies. By way of the most recent example, the Secretariat expects to participate at the meeting of the Expert Consultative Group of the Task Force, on 3 June 2019, in Washington D.C., which takes place immediately after the fifty-fifth session of Working Group V, which would allow experts to build deliberations on the most recent conclusions of the Working Group on the topic.

(g) International sale of goods

30. The Secretariat provided comments on the Guide on the Law Applicable to International Commercial Contracts in the Americas that was subsequently approved by the Inter-American Juridical Committee of the Organization of American States. According to its drafters, “one of the main purposes of the Guide is to assist legislators called to examine the internal legal system governing the law applicable to international commercial contracts, tribunals that settle disputes relating to such contracts, as well as contracting parties themselves”.

¹⁹ See the reports on the “Treatment of MSME Insolvency” and “Saving Entrepreneurs, Saving Enterprises: Proposals on the Treatment of MSME Insolvency”.

²⁰ *Official Records of the General Assembly, Sixtieth Session, Supplement No. 17 (A/60/17)*, para. 211. See also *ibid.*, *Sixty-sixth Session, Supplement No. 17 (A/66/17)*, para. 222.