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Compilation of comments on the draft convention on the international effects of judicial sales of ships

Addendum 1

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I. Governments (*continued*)**J. Canada (further comments)**

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[19 May 2022]

Article 5(4)

We suggest adding “or any translation thereof” after “certificate of judicial sale” to ensure that the translation of the certificate which may be requested under articles 7(3) and 8(3) would not be subject to any legalisation requirements. This is consistent with the general approach against legalisation requirements. On a practical note, statistics gathered by the authentication bureau of Global Affairs Canada (Canada’s department of Foreign Affairs) confirm that translations of public documents are often subject to legalisation requirements by foreign states. The amended article could read:

“The certificate of judicial sale, and any translation thereof, shall be exempt from legalization or similar formality.”

Article 8(1)

We suggest striking “earlier”. The court or other judicial authority should dismiss an application for the arrest of a ship upon the presentation of a certificate of judicial sale. The qualifier “earlier” is superfluous and its meaning is unclear.

Article 20

Canada does not support the addition of article 20 for the following reasons:

(a) Allowing the application of the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (1961) is not consistent with the general trend in modern conventions to exempt documents from legalization and similar requirements such as the Apostille (e.g. article 41 of the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (2007));

(b) Allowing a State to require the application of the 1961 Convention and to require an Apostille would slow down the process of recognizing the effect of judicial sales (e.g. in the registration and deregistration process set out at article 7);

(c) It would also lead to confusion with respect to certificates of sale from States that are not party to the 1961 Convention since Apostilles would not be available for certificates from those States.

K. France

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[20 May 2022]

The notion of “completion of a judicial sale” is not clear and a definition should be provided in the convention. Therefore, France suggests to add the following definition in article 2 of the convention:

“Completion of a judicial sale” means that the judicial sale of a ship is not subject to a review in the State of judicial sale and that, according to the law of that State, the time limit for seeking ordinary review has expired.”

On the other articles, France supports the written comments submitted by the European Union on 11 May.