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**United Nations Commission
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Vienna, 29 June-16 July 2015**Promotion of ways and means of ensuring a uniform
interpretation and application of UNCITRAL legal texts****Note by the Secretariat****Contents**

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I. Case Law on UNCITRAL Texts (CLOUT)

Background

1. CLOUT continues to be an important tool to promote the uniform interpretation and application of UNCITRAL texts, as it facilitates access to decisions and awards from many different jurisdictions. Furthermore, it contributes to the promotion of UNCITRAL legal texts since it demonstrates that the texts are being used and applied in many different countries and that judges and arbitrators at different latitudes are contributing to their interpretation. CLOUT also provides the basis for the analysis of interpretation trends that is a key part of the case law Digests. Background information on CLOUT and the Digests, is provided in the Provisional Agenda of the forty-eighth session of the Commission (A/CN.9/824, paras. 36-40).

2. At present, case law on the following texts is reported in the system:

- United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958 (New York Convention);¹
- Convention on the Limitation Period in the International Sale of Goods, 1974 and Convention on the Limitation Period in the International Sale of Goods as amended by the Protocol amending the Convention on the Limitation Period in the International Sale Of Goods, 1980 (Limitation Convention);
- United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules);
- United Nations Convention on Contracts for the International Sale of Goods, 1980 (CISG);
- UNCITRAL Model Law on International Credit Transfers, 1992 (MLICT);
- United Nations Convention on Independent Guarantees and Stand-by Letters of Credit, 1995 (UNLOC);
- UNCITRAL Model Law on International Commercial Arbitration, 1985, as amended in 2006 (MAL);
- UNCITRAL Model Law on Electronic Commerce, 1996 (MLEC);
- UNCITRAL Model Law on Cross-Border Insolvency, 1997 (MLCBI);
- UNCITRAL Model Law on Electronic Signatures, 2001 (MLES); and
- United Nations Convention on the Use of Electronic Communications in International Contracts, 2005 (ECC)

3. Case law to be reported in CLOUT is provided by the network of national correspondents that, either as individuals or a specific organ or body, monitor and

¹ The Commission may recall that at its forty-first session, in 2008, it agreed that, resources permitting, the Secretariat could collect and disseminate information on the judicial interpretation of the New York Convention. For this reason, the CLOUT system includes only recent case law concerning the Convention. See *Official Records of the General Assembly, Sixty-third session, Supplement No. 17 (A/63/17)*, para. 360.

collect court decisions and arbitral awards and prepare abstracts of those considered relevant in one of the six official languages of the United Nations. The Secretariat collects the full texts of the decisions and awards in their original language, but does not at present publish them. The abstracts are edited and translated by the Secretariat into the official United Nations languages and published in all such languages as part of the regular documentation of UNCITRAL (under the identifying symbol: A/CN.9/SER.C/ABSTRACTS/...).

4. While the national correspondents are the principal support of the system, in agreement with the correspondents, contributions from scholars who are not appointed as national correspondents are also accepted, subject to control and prior notification to the relevant national correspondent, if appointed. This practice is consistent with the Commission's recommendation of utilizing all available sources of information to supplement the information provided by the national correspondents.² National correspondents meet every two years, when the Commission is in session in Vienna, to take stock of the latest developments and challenges of CLOUT maintenance and improvement.

Maintenance of the system

5. As at the date of this note, 155 issues of CLOUT had been prepared for publication, dealing with 1,454 cases. Of these, 785 cases related to the CISG, 419 cases related to the MAL (a number of cases dealt with both MAL and the New York Convention), 89 cases related to the MLCBI, 117 cases primarily related to the New York Convention, 23 cases related to the MLEC, 14 cases related to the Limitation Convention (4 of which related to the amended version of the Convention), 3 cases related to the Hamburg Rules and 1 case each related to UNLOC, the EEC, the MLES and the MLICT. With reference to the five regional groups represented within the Commission, the majority of the abstracts published are still attributable to Western European and other States (65 per cent, approximately). The other regional groups are represented as follows: Asian States (16 per cent, approximately), Eastern European States (12 per cent, approximately), Latin American and Caribbean States (3 per cent, approximately) and African States (4 per cent, approximately). A few abstracts pertain to the awards of the International Chamber of Commerce (ICC). When compared with the figures provided in last year's note to the Commission, a small increase in the figures concerning Eastern European States and African States can be noted.

6. Since the last note to the Commission (A/CN.9/810), 94 new abstracts were received from national correspondents and voluntary contributors. The breakdown of the abstracts is as follows: 41 concern the New York Convention, 40 the CISG, 8 cases the Model Law on Electronic Commerce, 4 cases the MAL, and 1 the Limitation Convention (unamended text). The court decisions and the arbitral awards to which the abstracts refer were rendered in the following 24 countries: Albania, Austria, Benin, Bosnia and Herzegovina, Burkina Faso, Cameroon, China, Czech Republic, Côte d'Ivoire, Denmark, Egypt, Georgia, India, Italy, Japan, Liechtenstein, Lithuania, Mexico, New Zealand, Republic of Korea, Serbia,

² *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 17 (A/64/17)*, para. 371.

Singapore, South Africa, and Spain. The majority of the abstracts are from Western European and other States (40 per cent) followed by Asian States (29 per cent), Eastern European States (19 per cent), African States (11 per cent) and Latin American and Caribbean States (1 per cent). In the same period, 101 abstracts were published: 44 cases New York Convention, 33 cases CISG, 23 cases MAL and 1 case on the Limitation Convention (unamended).

The network of national correspondents

7. One new national correspondent was appointed in the period under review. The composition of the network is thus of: 65 correspondents representing 32 countries.³ The Commission may wish to inform States that appointments can still be made: they will be effective as at 25th June 2012 and will expire five years thereafter.

8. Since the last note to the Commission (A/CN.9/810), national correspondents provided approximately 47 per cent of the abstracts published. The remaining abstracts were received from voluntary contributors or prepared by the Secretariat.

II. The Digests

9. The French translation of the third edition of the CISG Digest (published in English in 2012) was finalized and now the Digest is available in the six official United Nations languages on the UNCITRAL website. A CD-ROM including the Digest in the six languages was also printed and is being used in technical assistance and coordination activities. Work for a new round of updates of the Digest has recently commenced.

10. Work to update the current version of the MAL Digest is ongoing and finalization of the MLCBI Digest is progressing.

11. In the period under review, the UNCITRAL Secretariat continued to promote both the MAL and the CISG Digests.

III. Enhancing CLOUT

12. The new CLOUT database was launched in the first quarter of 2015: its improved features resulted in a more user-friendly interface, which allows for faster as well as more detailed search of material. Some of the key features include: (i) search term suggestions; (ii) search results containing collapsible details; (iii) enabling/disabling additional filters using the Criteria List. One particularly relevant innovation is the possibility to upload and make accessible to the users the full text decisions to which the abstracts refer. As with the previous database, the

³ The following countries have appointed national correspondents: Australia, Austria, Bulgaria, Canada, China, Colombia, Cuba, Czech Republic, Denmark, El Salvador, Finland, France, Germany, Greece, Guatemala, Ireland, Israel, Italy, Japan, Luxembourg, Moldova, Montenegro, New Zealand, Poland, Republic of Korea, Russian Federation, Singapore, Spain, Sweden, Tunisia, United States of America, Uruguay.

new one is accessible in the six United Nations official languages. Since it was launched, over six thousand users have accessed the new database.

13. Other than the resources used to develop the new database (see previous reports A/CN.9/777 and A/CN.9/810), no other resources, human and/or financial, had been made available to the Secretariat in order to ensure regular CLOUT maintenance. Therefore, as in previous sessions of the Commission the Secretariat reaffirms the need for assistance in kind (e.g. non-reimbursable loans of personnel) or through budget contributions from States and other donors. The Commission might wish to reiterate its appeal to Member States to provide active support to the Secretariat's search for appropriate funding sources at the national level so as to ensure enhanced performance of the system.

IV. Promotion of uniform interpretation of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958 (New York Convention)

14. Since the last note to the Commission, the website www.newyorkconvention1958.org⁴ continued to increase the volume of case law published on the application of the Convention and to add information about the jurisdictions having adopted that legislative text. The database currently includes 1,137 summaries of cases, 1,051 original-language decisions and 119 English-language translations from 33 countries. Short briefing notes on 44 countries are also available. Articles of the New York Convention, not yet included in the Guide to the Convention whose preparation the Secretariat is coordinating, were published on the website as well as the travaux préparatoires of the Convention. A Bibliography on the Convention, which aims to provide the most comprehensive database of publications relating to the application and interpretation of the Convention so that these are universally and easily accessible, was updated in November 2014. The Bibliography contains 655 books and articles from over 50 countries in 11 different languages, 123 of which are directly accessible via hyperlinks.

15. A close coordination between the website and the CLOUT system continued to be maintained. The most relevant cases were published in both systems, which allowed for such cases to be available in the six official languages of the United Nations.

⁴ The website was launched in July 2012 to support the preparation of the Guide on the New York Convention with which the Secretariat was entrusted by the Commission in 2008. The website intends to make the information gathered in the preparation of such a Guide publicly available, including details on the judicial interpretation of the Convention by States Parties. See A/CN.9/777, paras. 15-16 and *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17* (A/68/17), paras. 134-140.