



General Assembly

Distr.: Limited
30 January 2019

Original: English

**United Nations Commission
on International Trade Law
Working Group VI (Judicial Sale of Ships)
Thirty-fifth session
New York, 13–17 May 2019**

Annotated provisional agenda

I. Provisional agenda

1. Opening of the session and scheduling of meetings.
2. Election of officers.
3. Adoption of the agenda.
4. Note by the Secretariat on the Judicial Sale of Ships.
5. Adoption of the report.

II. Composition of the Working Group

1. The Working Group is composed of all States members of the Commission, which are the following: Argentina (2022), Armenia (2019), Australia (2022), Austria (2022), Belarus (2022), Brazil (2022), Bulgaria (2019), Burundi (2022), Cameroon (2019), Canada (2019), Chile (2022), China (2019), Colombia (2022), Côte d'Ivoire (2019), Czech Republic (2022), Denmark (2019), Ecuador (2019), El Salvador (2019), France (2019), Germany (2019), Greece (2019), Honduras (2019), Hungary (2019), India (2022), Indonesia (2019), Iran (Islamic Republic of) (2022), Israel (2022), Italy (2022), Japan (2019), Kenya (2022), Kuwait (2019), Lebanon (2022), Lesotho (2022), Liberia (2019), Libya (2022), Malaysia (2019), Mauritania (2019), Mauritius (2022), Mexico (2019), Namibia (2019), Nigeria (2022), Pakistan (2022), Panama (2019), Philippines (2022), Poland (2022), Republic of Korea (2019), Romania (2022), Russian Federation (2019), Sierra Leone (2019), Singapore (2019), Spain (2022), Sri Lanka (2022), Switzerland (2019), Thailand (2022), Turkey (2022), Uganda (2022), United Kingdom of Great Britain and Northern Ireland (2019), United States of America (2022), Venezuela (Bolivarian Republic of) (2022) and Zambia (2019).

2. States not members of the Commission and international governmental organizations may attend the session as observers and participate in the deliberations. In addition, invited international non-governmental organizations may attend the session as observers and represent the views of their organizations on matters where the organization concerned has expertise or international experience so as to facilitate the deliberations at the session.



III. Annotations to agenda items

Item 1. Opening of the session and scheduling of meetings

3. The thirty-fifth session of the Working Group will be held at the United Nations Headquarters, New York, from 13 to 17 May 2019. Meeting hours will be from 10 a.m. to 1 p.m. and from 3 to 6 p.m., except on Monday, 13 May 2019, when the session will be opened at 10.30 a.m.

Item 2. Election of officers

4. In accordance with its practice at previous sessions, the Working Group may wish to elect a Chairman and a Rapporteur.

Item 4. Note by the Secretariat on the Judicial Sale of Ships

(a) Background information

5. At its fiftieth session (Vienna, 3–21 July 2017), the Commission noted the importance of a proposal by the Comité Maritime International (CMI) for possible future work on cross-border issues related to the judicial sale of ships (A/CN.9/923). The CMI proposal drew attention to problems arising around the world from the failure to give recognition to foreign judgments ordering the sale of ships.¹ It was stated that a short, self-contained instrument along the lines of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards could provide a solution to those problems by enabling clean title to vessels to be recognized across borders. While swift resolution of the questions raised by the proposal was encouraged, it was agreed that additional information in respect of the breadth of the problem would be useful.²

6. The Commission therefore requested CMI to develop and advance the proposal by holding a Colloquium so as to provide additional information to the Commission and allow it to take an informed decision in due course.³ The Commission further agreed that UNCITRAL, through its secretariat, and States would support and participate in the Colloquium and to revisit the matter at a future session.⁴ To that end, following a request from the Government of Malta, the UNCITRAL secretariat extended a formal invitation to all Member and Observer States of UNCITRAL to participate in a high-level technical Colloquium in respect of the cross-border judicial sale of ships.

7. The Colloquium, which took place in February 2018, resulted in a number of findings. It was agreed that the “lack of legal certainty in relation to the clean title which a judicial sale is intended to confer on a buyer” led to problems in the de-registration process in the country of the former flag.⁵ It was also agreed that the lack of legal certainty created obstacles in respect of the clearance of all former encumbrances and liens, which in turn created a risk of costly and lengthy proceedings, thereby interrupting trade and shipping. Finally, there was broad agreement that the gap could be filled from a legal perspective by providing an instrument on the recognition of judicial sales of ships.

8. At its fifty-first session (New York, 25 June – 13 July 2018), the Commission considered a proposal from the Government of Switzerland, “Possible future work on cross-border issues related to the judicial sale of ships” (A/CN.9/944/Rev.1), which included the outcomes and conclusions of the Colloquium and requested that

¹ *Official Records of the General Assembly, Seventy-second Session, Supplement No. 17 (A/72/17)*, paras. 456–465.

² *Ibid.*, para. 464.

³ *Ibid.*

⁴ *Ibid.*, para. 465.

⁵ See A/CN.9/944/Rev.1, Annex.

UNCITRAL undertake work to develop an international instrument on foreign judicial sale of ships and their recognition.

9. In support of the proposal, it was noted that the lack of recognition of the judicial sale of ships had the potential to affect many areas of international trade and commerce, not simply the shipping industry, with several examples of that impact being provided. In support of work being undertaken by UNCITRAL, various parallels were drawn between the work being undertaken in Working Group V on recognition of insolvency-related judgments and a possible instrument on the judicial sale of ships.⁶

10. The Commission considered the proposal together with other suggestions for future work in the context of its deliberations on its work programme at its fifty-first session. After discussion, it was agreed that the topic of judicial sale of ships should be added to the work programme of the Commission.⁷

11. At its thirty-fifth session, the Working Group is expected to start work on preparation of a draft instrument on the judicial sale of ships on the basis of the CMI proposal, taking into account the outcomes and conclusions of the Colloquium.

(b) Documentation

12. The Working Group will have before it a copy of the CMI proposal (A/CN.9/WG.VI/WP.81), as well as a note by the Secretariat transmitting the draft convention prepared by CMI on the recognition of foreign judicial sale of ships (A/CN.9/WG.VI/WP.82).

13. UNCITRAL documents are posted on the UNCITRAL website (www.uncitral.un.org) upon their issuance in all the official languages of the United Nations. Delegates may wish to check the availability of the documents by accessing the Working Group's page in the "Working Documents" section of the UNCITRAL website.

Item 5. Adoption of the report

14. The Working Group may wish to adopt, at the close of its session, a report for submission to the fifty-second session of the Commission, scheduled to be held in Vienna, from 8 to 26 July 2019. The main conclusions reached by the Working Group at its ninth meeting (Friday morning) will be summarily read out for the record at the tenth meeting (Friday afternoon) and subsequently incorporated into the report.

IV. Scheduling of meetings

15. The thirty-fifth session of the Working Group will last for five working days. There will be ten half-day meetings available for consideration of the agenda items. The Working Group may wish to note that, consistent with decisions taken by the Commission at its thirty-fourth session,⁸ the Working Group is expected to hold substantive deliberations during the first nine half-day meetings (that is, from Monday to Friday morning), with a draft report on the entire period being prepared by the Secretariat for adoption at the tenth and last meeting of the Working Group on Friday afternoon.

16. The Working Group may wish to note that its thirty-sixth session is tentatively scheduled to be held in Vienna from 18 to 22 November 2019.

⁶ *Official Records of the General Assembly, Seventy-third Session, Supplement No. 17 (A/73/17)*, para. 243.

⁷ *Ibid.*, para. 252.

⁸ *Ibid.*, *Fifty-sixth Session, Supplement No. 17* and corrigendum (A/56/17 and Corr.3), para. 381.