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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 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 (ICC) at the fiftieth session of the Commission,⁸ and this year the Commission is being asked by the ICC to endorse Incoterms® 2020 (see [A/CN.9/1028](#)). 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. For this 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 Secretariat's coordination efforts in the reporting period have been severely limited by measures taken around the world to contain the Coronavirus disease 2019 (COVID-19) pandemic. Most activities originally planned to take place after March 2020 have since been affected. In a few cases, it has been possible to carry out the activity remotely via videoconference. In most cases, however, the activities have been cancelled or postponed to dates yet to be determined. Where the new dates have already been set, this is indicated below.

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 will attend the Unidroit Governing Council, originally scheduled to take place in Rome from 6 to 8 May 2020, and tentatively rescheduled for 23 to 25 September 2020.

10. The Secretariat jointly with the Unidroit Secretariat hosted a joint Workshop on Harmonization of Secured Transactions Law and Implementation of Reforms in Latin America (Cartagena, Colombia, 14 Feb 2020) at the margins of the Third Conference on International Coordination of Secured Transactions Law Reforms (see para. 27 below). The Secretariat also participated in an expert group meeting hosted by Unidroit on the preparation of a Model Law on Factoring (Cartagena, Colombia, 11 February 2020) and on a joint Unidroit-UNCITRAL workshop on warehouse receipts (26 March 2020, remote participation) (see para. 14 below and [A/CN.9/1014](#)).

Hague Conference on Private International Law (Hcch)

11. The Secretariat attended the meeting of the Council on General Affairs and Policy (CGAP) of the Hcch (The Hague, the Netherlands, 3–6 March 2020). The two main subjects of direct interest for the Secretariat were the approval of the

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.

first three chapters of the Legal Guide to Uniform Legal Instruments in the Area of International Commercial Contract law (with a focus on sales) (see para. 14), and the cooperation between the HccH Permanent Bureau and the Secretariat in the organization of a colloquium on applicable law in insolvency proceedings (see para. 15).

12. In addition to that, the CGAP also considered both ongoing projects and proposals for future work by the HccH that may touch upon areas in which UNCITRAL has worked or is likely to undertake work in the future. The CGAP took note of a study commissioned by the Expert's Group on the Cooperation and Access to Justice for International Tourists (Tourism and Visitors Project), which, inter alia, identified "online dispute resolution (ODR) and LegalTech as the two principles with the biggest potential impact for the protection of international tourists".⁹ The CGAP was aware of the work carried out by UNCITRAL in the area of ODR, in particular the Technical Notes on Online Dispute Resolution (2016),¹⁰ and was informed by the UNCITRAL representative of the proposal submitted by the Governments of Israel and Japan for possible future work by UNCITRAL in the field of dispute resolution in international high-tech related transactions (A/CN.9/997) and the decision taken by UNCITRAL, at its 52nd session, that any exploratory work on that area should be combined with the Secretariat's exploratory work on the legal issues arising in the digital economy (A/74/19, para. 215). The CGAP welcomed the offer of UNCITRAL to assist the work of the HccH Experts' Group.¹¹ In response to a proposal by the Permanent Bureau, the CGAP invited the Permanent Bureau, subject to available resources, to monitor developments with respect to the private international law implications of distributed ledger technology (DLT).¹² The representative of the Secretariat informed the CGAP that the exploratory work being done by the Secretariat on legal issues arising in the digital economy also considered legal issues related to DLT applications.

Joint activities with Unidroit and HccH

13. The Secretariat will participate remotely at the tripartite coordination meeting of UNCITRAL, Unidroit and HccH, hosted by HccH, at which current work of the three organizations, areas of mutual interest and possible joint activities will be discussed (The Hague, 28 May 2020).

14. 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.¹³ The draft Legal Guide to Uniform Legal Instruments in the Area of International Commercial Contracts (with a focus on sales) has been substantively completed and submitted to the UNCITRAL for consideration and approval (A/CN.9/1029). As of the date of this writing, the HccH Council on General Affairs and Policy has already approved the first three chapters of the Legal Guide, whereas the Governing Council of Unidroit, which was expected to consider and approve the Legal Guide at its 99th session (now postponed), has been asked to do so through a remote procedure. Another area of cooperation with Unidroit concerns warehouse receipts, an area in respect of which the Commission request the Secretariat to proceed with its preparatory work and to convene a colloquium with other organizations having relevant expertise, with a view

⁹ See HccH, CGAP, Meeting of 3–6 March 2020, Prel. Doc. 1 of February 2020 - Report of the Experts' Group on the Cooperation and Access to Justice for International Tourists (Tourism and Visitors Project) (available at www.hcch.net/en/governance/council-on-general-affairs).

¹⁰ See https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/v1700382_english_technical_notes_on_odr.pdf.

¹¹ See *ibid.*, Conclusions and Decisions, para. 4 (www.hcch.net/en/governance/council-on-general-affairs).

¹² *Ibid.*, para. 15.

¹³ *Official Records of the General Assembly, Seventy-first Session, Supplement No. 17 (A/71/17)*, para. 281.

to considering the questions of scope and nature of the work discussed at the current session and possibly advancing the preparation of initial draft materials (see [A/74/17](#), para. 196). In response to that request, the Secretariat has invited Unidroit to participate in that work and both organizations have organized an expert group meeting hosted by Unidroit (Rome, 26 March 2020) at which UNCITRAL participated remotely (see also [A/CN.9/1014](#)).

15. The Secretariat is also cooperating with the Permanent Bureau of the HccH and the European Commission in the preparation of an international colloquium on applicable law in insolvency proceedings, as requested by the Commission at its 52nd session (see [A/74/17](#), para. 206).

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 the partnership on rule-making led by the Organization for Economic Cooperation and Development (OECD)¹⁴ and contributes to the ongoing project to develop the basis for a compendium of the practices of international organizations for effective international rule-making;

(b) The Secretariat made a presentation on the working methods of UNCITRAL and other issues of common interest before the Working Party on Civil Law Matters (General Questions) of the Council of the European Union (Brussels, 4 November 2019);

(c) The Secretariat participated in the Policy Dialogue on Secured Transactions organized by the APEC Economic Committee (Puerto Varas, Chile, 26–27 August 2019) and the Workshop on Investment and Sustainable Development organized by the APEC Investment Experts' Group (22 August 2019). UNCITRAL has a three-year guest status for both the APEC Economic Committee and the Investment Experts' Group;

(d) On 29 January 2020, the Secretariat held a meeting with legal and programme representatives of the WTO Secretariat. The Secretariat recalled the status of UNCITRAL electronic commerce texts, including their reference in recently concluded trade and digital trade agreements as international standards for domestic legal frameworks on electronic transactions. The meeting also offered an opportunity to present current work of UNCITRAL on Identity Management (IdM) and trust services and exploratory work by the Secretariat on legal issues related to the digital economy and other topics of joint interest, including public procurement. The Secretariat continues to cooperate with the WTO secretariat in sharing information on the respective work programmes of UNCITRAL and the WTO on electronic commerce.

Rule of Law

18. 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

¹⁴ www.oecd.org/gov/regulatory-policy/a-partnership-for-effective-international-rule-making.htm.

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 2020 IATF report.¹⁵

19. The Secretariat also contributed to the 2019 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)

20. 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 a virtual meeting of the focal points for the Model Law on Simplified Corporations of the Organization of American States (OAS) on 28 August 2019.

(b) Dispute settlement

21. In supporting the current work of Working Group II (Dispute Settlement) on expedited arbitration, the Secretariat coordinated with the Permanent Court of Arbitration (PCA) and the International Council of Commercial Arbitration (ICCA) to provide relevant information on relevant issues. In addition, the Secretariat coordinated with twenty-four arbitral institutions to provide an overview of the different roles undertaken by those institutions in administering expedited arbitration.

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

23. 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 African Union, 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 and the International Development Law Organization (IDLO).

(c) Electronic commerce

24. The Secretariat cooperated with the Organization for Security and Cooperation in Europe (OSCE), which has a mandate with regard to connectivity and trade facilitation, on legal standards to enable trade facilitation. The Co-ordinator of OSCE Economic and Environmental Activities (OCEEA) carries out a regional project to support the National Trade Facilitation Committees of several OSCE member States in their efforts to comply with the WTO Trade Facilitation Agreement (WTO TFA) and other international standards. The Secretariat illustrated the possible and actual use of UNCITRAL texts on electronic transactions and electronic signatures for the implementation of free trade agreements, as well as the relationship to the current work on identity management systems (IdM).

¹⁵ https://developmentfinance.un.org/sites/developmentfinance.un.org/files/FSDR_2020.pdf.

¹⁶ See document A/74/139 and paras. 59 and 60 therein as related to UNCITRAL legislative activities.

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

25. In the context of the finalization of the UNCITRAL Legislative Guide on Public-Private Partnerships,¹⁷ the Secretariat engaged in consultations with the World Bank and regional development banks, the United Nations Economic Commission for Europe (UNECE) and the OECD, among others.

26. The Secretariat has, in particular, followed the preparation of the OECD draft Recommendations on Infrastructure Governance,¹⁸ which are expected to be approved by the OECD Council. The Secretariat has agreed to contribute to the development of toolkits for the implementation of the recommendations, which will provide legislative and regulatory input to States wishing to establish a conducive legal framework for PPPs and infrastructure development.

(e) Security interests

27. The Secretariat joined representatives of Unidroit, OAS, EBRD, the World Bank and IFC at the Third Conference on International Coordination of Secured Transactions Law Reforms co-sponsored by the Kozolchyk National Law Centre (NatLaw), the International Insolvency Institute, the Universidad Externado and hosted by the Universidad de los Andes (Cartagena, Colombia, 14 February 2020). The Secretariat has also provided comments on a number of publications issued by the World Bank/IFC in the field of secured transactions.

(f) Insolvency

28. The Secretariat coordinates the current work of UNCITRAL Working Group V (Insolvency Law) on the insolvency of micro and small enterprises (MSEs) with the work of the World Bank Group on amendment to the World Bank Principles for Effective Insolvency and Creditor/Debtor (ICR) Regimes (“the ICR Principles”). The proposed amendment will relate specifically to the insolvency of MSEs 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. The Secretariat participated in the Expert Consultative Group for the Amendment to the ICR Principles (Washington D.C., 3 June 2019) and made oral comments on the World Bank’s draft in the light of the outcomes of the 55th session of Working Group V (Insolvency Law) (New York, 28–31 May 2019). The Secretariat had been invited to attend the meeting of the Task Force, which was scheduled to take place on 8 May 2020, when the Task Force was expected to continue the discussion of the MSE insolvency-related amendments to the ICR Principles, with a view to finalizing them. Due to the COVID-19 related measures, the Task Force meeting was postponed, and the World Bank requested Task Force members, including the UNCITRAL secretariat, to submit written comments on the draft MSE Principles (in lieu of convening the Task Force formally).

30. Representatives of the World Bank Group actively participated at the 55th (New York, 28–31 May 2019) and 56th (Vienna, 2–5 December 2019) sessions of the Working Group and during the inter-sessional consultations held by the Working Group. The comments of the World Bank Group as well as comments of the International Monetary Fund (IMF) on the working papers prepared by the Secretariat were considered by the Working Group in both formal and informal settings. A close collaboration with those organizations is expected throughout the MSE insolvency project. At its fifty-second session, in 2018, the Commission took note of and

¹⁷ See *Official Records of the General Assembly, Seventy-fourth Session, Supplement No. 17 (A/74/17)*, para. 71 and annex I.

¹⁸ www.oecd.org/governance/budgeting/draft-recommendation-on-the-governance-of-infrastructure.htm.

¹⁹ See the reports on the “Treatment of MSME Insolvency” and “Saving Entrepreneurs, Saving Enterprises: Proposals on the Treatment of MSME Insolvency” (both available at <http://documents.worldbank.org/curated/en/home>).

encouraged such close collaboration (see [A/74/17](#), paras. 178, 183, 224 and 231). The Commission may expect to receive at a future session a request from the World Bank for a formal endorsement by UNCITRAL of the MSE insolvency-related amendments to the ICR Principles once they are finalized.

31. The UNCITRAL Colloquium on Civil Assets Tracing and Recovery²⁰ was held in Vienna on 6 December 2019, in conjunction with the fifty-sixth session of the Working Group (for the report of the Colloquium, see document [A/CN.9/1008](#), which is before the Commission at its fifty-third session). Representatives of the United Nations Office on Drugs and Crime (UNODC), the World Bank, HccH and Unidroit actively contributed to the Colloquium. A close collaboration of the UNCITRAL secretariat with those organizations is expected if the topic is taken up by the Commission (for the cooperation with HccH, see para. 15).

(g) Legal issues related to the digital economy

32. At its fifty-first session, the Commission asked the Secretariat to “compile information on legal issues related to the digital economy, including by organizing within existing resources and in cooperation with other organizations, symposiums, colloquiums and other expert meetings, and to report that information for its consideration at a future session”.²¹ The request to carry out exploratory work in that field, including in cooperation with Unidroit, was renewed at the Commission’s fifty-second session.²²

33. Accordingly, the Secretariat has organized several meetings, including in cooperation with other international organizations. Those meetings include: (a) the workshop on legal issues arising from the use of smart contracts, artificial intelligence and distributed ledger technology, jointly organized with Unidroit under the patronage of the Ministry of Foreign Affairs and International Cooperation of Italy (Rome, 6–7 May 2019); (b) the regional conference on legal issues relating to the digital economy jointly organized with the Ministry of Information and Communication Technology of Colombia, in cooperation with the Organization for American States (OAS) and the Inter-American Development Bank (Bogotá, 5 June 2019); and (c) an expert group meeting jointly organized with Unidroit to develop a legal taxonomy of key emerging technologies and their applications (Vienna, 10–11 March 2020). The substantive outcome of those meetings is reported in the Note by the Secretariat on the progress made in its exploratory work on legal issues arising from digital economy, including high-tech dispute resolution ([A/CN.9/1012](#)).

34. In addition to those meetings, the Secretariat has held consultations with the WTO, 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.

(h) Possible future work on railway consignment notes

35. Following the Commission’s request to conduct exploratory work by researching legal issues related to the use of railway or other consignment notes in international trade, in coordination with other relevant and interested organizations ([A/74/17](#), para. 219), the Secretariat has participated at the High-Level Symposium on the Use of Railway Consignment Note and the Future Legal Framework in International Trade sponsored by Ministry of Commerce of the People's Republic of China (MOFCOM) (Chongqing, China, 11–12 December 2019).

36. The Secretariat has thereafter convened via teleconference, on 15–16 April 2020, an Expert Group Meeting on Possible future work by UNCITRAL on negotiable transport documents, with the participation of MOFCOM, the National Railway

²⁰ <https://uncitral.un.org/en/assettracing>.

²¹ *Official Records of the General Assembly, Seventy-third Session, Supplement No. 17 (A/73/17)*, para. 253(b).

²² *Ibid.*, *Seventy-fourth Session, Supplement No. 17 (A/74/17)*, para. 211.

Administration of China, UNECE, UNCTAD, the Intergovernmental Organisation for International Carriage by Rail (OTIF), the ICC Banking Commission, the International Rail Transport Committee (CIT), the Comité Maritime International (CMI) and the International Federation of Freight Forwarders Associations (FIATA)(see [A/CN.9/1034](#)).
